



Office of
the Schools
Adjudicator

Determination

Case reference: VAR865

Admission authority: London Borough of Waltham Forest for Thorpe Hall Primary School, Walthamstow

Date of decision: 20 June 2019

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the London Borough of Waltham Forest for Thorpe Hall Primary School for September 2020.

I determine that for admissions for the academic year commencing September 2020 the published admission number shall be 60.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements for admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

The referral

1. The London Borough of Waltham Forest (the local authority) has referred a proposal for a variation to the admission arrangements for Thorpe Hall Primary School (the school), for September 2020 to the Office of the Schools Adjudicator. The school is a community primary school for children aged 3 to 11 in Walthamstow in north east London.
2. The proposed variation is that the published admission number (PAN) determined for admissions in 2020 is reduced from 90 to 60.

Jurisdiction

1. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that: *“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”*.
2. I am satisfied that the proposed variation is within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the referral from the local authority received 16 May 2019, supporting documents, further information provided at my request and responses to my queries;
 - b. the determined arrangements for 2020 and the proposed variation to those arrangements;
 - c. evidence that the local authority consulted the governing board of the school;
 - d. a map showing the location of the school and other relevant schools;
 - e. a copy of the letter notifying the appropriate bodies about the proposed variation;
 - f. information available on the websites of the local authority and the Department for Education; and
 - g. the previous determinations requesting variations to the determined arrangements (case references: VAR737 and VAR813).

Other matters

5. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the local authority. These matters were (with the relevant paragraph of the Code in brackets):

- a) The arrangements for 2020 on the local authority's website use the term 'proposed' when they have been determined. Labelling them 'proposed' may cause confusion and thus make the arrangements unclear (14).
- b) The arrangements do not inform parents of children starting school below compulsory school age of their right to part-time education or to defer admission until children reach compulsory school age (14 and 2.16).
- c) The arrangements do not make it clear how distance is defined as it does not *"include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent."* (14 and 1.13)
- d) The priority given to children of staff may be unclear (14 and 1.39).
- e) It may not be clear that, *"All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school must be admitted."* (14 and 1.6)

The proposed variation

- 6. The school is in an urban area with eight state-funded primary schools admitting children to reception year (YR) within one mile and around 60 such schools within three miles. The local authority set the PAN at 90 for admissions in 2017 and 2018 and then requested reductions in the PANs for both years from 90 to 60; both were agreed by the adjudicator. The local authority again set the PAN at 90 for 2019 and then again made a request that the arrangements be varied so that the PAN was 60. I was the adjudicator for that request and my determination was to agree the variation so the PAN for 2019 is 60.
- 7. On 26 February 2019 the local authority set the PAN for the school at 90 for admissions in 2020. On 16 May 2019 the local authority requested the PAN be varied so that it is reduced from 90 to 60 for admissions in 2020. The local authority said that, *"Waltham Forest is currently experiencing a decrease in primary demand due to a number of factors. The local planning area has sufficient surplus places to enable 1FE (one form of entry or around 30 children) to be removed and also result in a cost saving for the school which is essential for budgeting."*
- 8. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed if there is a major change of circumstance or certain other limited and specified circumstances. The local authority has told me that there has been a reduction in demand for places at the school. I will consider below whether the variation requested will deal with the change in circumstances of the school.
- 9. Paragraph 3.6 of the Code requires that relevant parties are notified of a proposed variation. The local authority has provided me with a copy of its notification on the

proposed variation and the list of admission authorities, schools and other bodies to which it was sent. I have seen confirmation from the school that it supports the request for the variation. I am satisfied that all relevant bodies have been notified and that any views expressed have been taken into consideration. I find that the appropriate procedures were followed and the relevant parties notified.

Consideration of the case

10. I explained in my previous determination that it is desirable that a reduction in PAN is consulted on and determined in the normal way. This gives the opportunity for parents and others to give their view on the reduction. The requirements for consultation are set out in paragraphs 1.42 to 1.45 of the Code. The local authority has not consulted on the reduction in the PAN for admissions in 2017, 2018 and 2019 because on each occasion it has instead requested a variation.
11. Applications for admission to YR will start to be made from September 2019 for 2020 so I know that if I agree the variation at this stage, parents will be in a position to make their applications in the knowledge of how many places are available at the school.
12. Local authorities forecast the number of children likely to seek admission to schools in order to fulfil their duty to make sure that there are sufficient school places. For admissions to YR the local authority will take into account a variety of factors including the number of births in the relevant year, previous patterns of school admissions and the number and type of new dwellings being created. The local authority will make its forecasts on the basis of planning areas which are smaller geographical areas than the whole local authority area.
13. I wished to be sure that there would be sufficient places for children living locally if the PAN were to be reduced as proposed. I therefore asked the local authority to provide me with the information on the planning area which included the school (the planning area). This information included the names of the schools in the planning area, the PANs, the number of children admitted in recent years and the local authority's forecasts for admissions in 2020 for these schools. Table 1 below provides the most relevant data.

Table 1: patterns of admissions in the planning area for the school and the forecasts for 2020

Name of primary school	2018		2019		2020	
	PAN	admitted	PAN	allocated	PAN	forecast
Chapel End	90	69	90	80	90	76

Oakhill	30	29	30	30	30	30
Selwyn	90	79	90	90	90	85
Thorpe Hall	60*	57	60*	47	60**	54
Totals for the planning area	270	234	270	247	270	245
Surplus places		36		23		25

*PAN reduced to 60 from 90 following variation

**proposed PAN

14. Table 1 shows that there were 36 YR surplus places in the planning area in 2018, 23 YR surplus places are anticipated in September 2019 and 25 YR surplus places are forecast for 2020. In all these cases these numbers of surplus places exist with the PAN for the school reduced to 60. I am assured that there will be sufficient places for YR in the local area for September 2020 if I agree to the reduction in PAN.

15. Table 2 shows the number of children admitted to the school in 2017 and 2018 and allocated for 2019. This shows that the numbers admitted to YR were below the proposed PAN of 60 in 2017 and 2018 and the number allocated for 2019 is also below 60.

Table 2: Numbers admitted or allocated to the school

	2017	2018	2019 (allocated as at 22 May 2019)
Number admitted	58	57	47

16. The information in table 2 gives me assurance that if the PAN is reduced to 60 for 2020 then parental preference is unlikely to be frustrated unnecessarily. The minutes of the school's governing board for 22 May 2019 show that the school wishes to have a PAN that is more reflective of its intake so that it can plan accordingly. The information provided to me gives me assurance that the proposed variation meets the change in circumstances.

Other matters

17. I wrote to the local authority to bring other matters to its attention as they may not be compliant with the Code. I consider these matters below.

18. Admission arrangements must be determined by 28 February in the determination year, 2019 in this case for 2020. Paragraph 1.47 says that admission arrangements **must** be published once determined. The local authority has published the proposed admission arrangements, not the determined admission arrangements. This means

that the paper on the local authority's website purporting to be the admission arrangements for 2020 is, in fact, a committee paper which is designed for a different purpose and is rendered confusing by the use of the word, 'proposed' throughout. Paragraph 14 of the Code says, "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" In this case the published arrangements are not clear as they are labelled "*proposed*" and are unchanged from the proposals made to the relevant committee of the local authority. The arrangements do not conform with the Code in this regard.

19. Failure to comply with this requirement is not a mere bureaucratic slip with little or no consequence in the real world. Admission arrangements are required to be published after determination so that those with an interest, including parents, can see the arrangements and, if they wish, exercise their right to object to them. I am concerned in this determination only with Thorpe Hall School. However, the local authority's failure in this matter extends also to all other community and voluntary controlled schools in Waltham Forest for which it is the admission authority.
20. The Code states that certain things **must** be stated in the arrangements. These include:
 - a. informing parents of children starting school below compulsory age of their right to part-time education or to defer admission until the child reaches compulsory school age or the beginning of the last term of the school year for which the offer was made. These rights, and the requirement to tell parents about these rights, are set out in paragraph 2.16b of the Code; and
 - b. making it clear how distance is defined and including "*provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*" This is required by paragraph 1.13 of the Code.
21. I brought these matters to the attention of the local authority. It told me that this information was provided in its composite prospectus. The composite prospectus is clear on these matters but it is not the arrangements. I also note that the composite prospectus is published several months after the arrangements and it is published after the deadline for any objections with the result that anyone noticing from the composite prospectus that the arrangements did not appear to be lawful would be too late to object to them. The local authority does not comply with the Code in these matters.
22. Paragraph 1.39 of the Code says that it is permitted to give priority to children of staff. The arrangements says, "*Where the member of staff has been employed at*

the school for two or more years at the time at which the application for admission to the school is made, and/or the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.” The arrangements therefore echo the wording in the Code which permits the admission authority to give priority in both or either of these circumstances. However, by repeating the phrase “*and/or*” the arrangements do not make it clear how this priority would apply. This does not meet the requirement of paragraph 14 of the Code that arrangements are clear. The local authority has said that it will change the arrangements to make this matter clearer and this is welcomed.

23. Paragraph 1.6 of the Code says, “*All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school must be admitted.*” This is not stated in the arrangements so it does not meet the requirements of paragraph 14 of the Code, as above, to be clear. The local authority has said that in practice it does comply in this matter and that it will change the arrangements to make this matter clearer and this is welcomed.

Summary

24. The local authority has proposed a variation to the admission arrangements for the academic year commencing September 2020 which is that the PAN for the school should be reduced from 90 to 60. This is supported by the school’s governing board. There have been no concerns raised by those notified. I am assured that the variation will address the major change in circumstances.

25. There are other matters that do not comply with the Code as explained above. The Code requires the local authority to address these matters.

Determination

26. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the London Borough of Waltham Forest for Thorpe Hall Primary School for September 2020.

27. I determine that for admissions for the academic year commencing September 2020 the published admission number shall be 60.

28. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements for admission arrangements in the ways set out in this determination.

29. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 20 June 2019

Signed:

Schools adjudicator: Deborah Pritchard