



Determination

Case reference: VAR2101

Admission authority: London Borough of Lambeth for Kingswood Primary School

Date of decision: 1 March 2021

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lambeth for Kingswood Primary School for September 2021. I accordingly determine that the PAN will remain at 90.

The referral

1. The London Borough of Lambeth (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for Kingswood Primary School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged 3 to 11 in Gipsy Hill.
2. The proposed variation is that the published admission number (PAN) be reduced from 90 to 60.

Jurisdiction

3. 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*”.

4. I am satisfied that the proposed variation is within my jurisdiction.

Procedure

5. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

6. The documents I have considered in reaching my decision include:

- a. the referral from the local authority dated 15 January 2021, supporting documents and further information provided in response to my enquiries;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school has been consulted;
- d. a letter from the interim co-executive headteachers (the headteachers) of the school;
- e. the local authority's booklet for parents seeking admission to schools in the area in September 2021;
- f. maps showing the location of the school and other relevant schools, and the home locations of children admitted to the school in September 2020;
- g. details of the numbers on roll at the school and other local schools and the forecast demand for places;
- h. details of the notification of the appropriate bodies about the proposed variation; and
- i. two determinations of the adjudicator of requests to vary the admission arrangements of the school, issued in February and March 2020 (case references VAR908 and VAR917 respectively).

The proposed variation

7. In the determined arrangements for admission to the school in September 2021, the PAN was set at 90. The PAN was reduced from 120 to 90 for admission in September 2020, following the adjudicator's approval of a variation request in March 2020 (VAR917). The adjudicator has previously not approved that request (VAR908). The local authority has requested that the PAN be reduced to 60 for admission in September 2021, due to "continuing falling numbers of applications and reception rolls at the school (and boroughwide)." The school operates over two sites, which are approximately half a mile apart.

8. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

9. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation and that the local authority as admission authority consult the governing board. The local authority has provided me with a copy of its notification of the proposed variation and the list of schools and other bodies to which it was sent. I refer to this notification below. The co-chairs of governors have confirmed that the school's governing board supports the request for the variation. I am satisfied that all relevant bodies have been notified or consulted as the case may be and that the appropriate procedures were followed.

Consideration of proposed variation

10. According to the local authority, in the past five years the number of births in Lambeth has not followed the expected pattern. Overall, Lambeth has seen a drop of almost 25 per cent in the number of births since 2014. Births in the Gipsy Hill ward, where the school is located, fell by 12 percentage points in 2019. Schools in Lambeth were presented with the outcome of a review into primary school place planning in the borough, which the local authority says, "gave evidence of the need for a reduction of places." In response, "Kingswood School volunteered to reduce their PAN." The local authority comments,

"This supports the need to ensure all children have access to a local school, by allowing a redistribution of places across the borough. By reducing the number of places in more "popular" schools, schools with previously lower intakes are more likely to see growth."

11. Before proceeding further, I should comment that I consider a request for a variation to be an inappropriate way of achieving a "redistribution of places across the borough." The local authority appears to envisage a strategic re-organisation of the provision of primary school places in its area. Variations, however, are intended to allow admission authorities to respond to a "major change in circumstances" at an individual school. I will therefore restrict my consideration to whether the circumstances of Kingswood Primary School justify the variation that has been requested.

12. In its request for a variation, the local authority refers to the "financial pressure" the school faces. It says,

"In the long-term it is financially unviable for a school if it doesn't fill up so long term value for money will be achieved by ensuring that the school is the right size to reflect local demand."

The headteachers report that the school carried forward a deficit of some £436,424 into the 2020-2021 financial year. They say that the deficit has been “much reduced over the past three years.” However, a deficit budget was set for 2020-2021, “meaning that without significant changes the financial problems will worsen.” The falling roll and the fixed overheads in running two sites are mentioned as reasons for the challenging financial situation. The headteachers state that,

“In reducing to a PAN of 60 we intend to relocate over 2 – 3 years to house all classes and a nursery on one site thus reducing these overheads...Relocating on one site with class sizes as close to 30 as possible will make budget setting easier and accelerate progress towards reducing deficits.”

13. In respect of the determined PAN of 90, the local authority says that the school “have not been able to recruit up to number.” In September 2020, 82 children were admitted into the reception year (YR). Parents of 67 children made the school their first preference, 53 of whom were Lambeth residents. Parents of another 14 children who were admitted listed the school as a lower preference. For admission in September 2021, 44 Lambeth residents made the school their first preference; at the time the variation request was made, figures for preferences expressed by those living outside the local authority area were not known.

14. Taking these figures into account, I recognise the concerns that both the local authority and the headteachers have expressed and the benefits of restricting admissions to 60. Pupil numbers in YR and key stage 1 cannot exceed 30 in each class taught by a single qualified teacher due to the regulations relating to the size of infant classes. A reduction in the school’s PAN from 90 to 60 is likely to mean that it would be fully subscribed and probably oversubscribed. The school would be able to plan to operate with two classes for children in YR in September 2021, with two teachers. If the PAN were to remain at 90 and the number of children allocated places in YR exceeded 60, even by a relatively small margin, three qualified teachers would be required for pupils in YR unless the school adopted a class organisation model of mixed year groups – something which may be challenging and would be unlikely to be popular with parents or staff. As schools are funded principally on the basis of the number of pupils on roll, running with three YR classes and just over 60 pupils could add to the financial challenges the school faces.

15. However, in my view, this request for a variation has not been made at an opportune time; it was submitted at the national closing date for applications for admission in September 2021. This raises two matters of concern. First, when making applications, parents could not be certain what the PAN would be. Second, the demand for places at the school cannot be definitively established until the process of co-ordination of admission applications, including the exchange of information between local authorities, has been completed. I consider these issues in turn.

16. The local authority provided me with a copy of a “notice” that was posted on its website and the school’s website, and was circulated to other appropriate bodies. The notice explained that the local authority intended to seek approval for a reduction in the

PAN from 90 to 60. The views of “everyone who feels they might be affected by this proposed reduction to the Published Admission Number” were sought, but no responses were received during what was described as the “consultation period” (20 November 2020 to 5 January 2021). The notice made no reference to the possibility of one of the school’s sites closing in due course.

17. It is not, in fact, a requirement for admission authorities to undertake a consultation prior to making a request to vary determined admission arrangements. The Code lists bodies that must be notified of a proposed variation. These do not include parents, so, in one sense, the local authority went further than was required in making known its intention to seek a reduction to the school’s PAN. Nevertheless, it is important that parents making applications for admissions, have access to all relevant information about schools, including their PANs, when making decisions about their preferences. The local authority’s admissions booklet for parents, “Starting primary school in Lambeth 2021/22”, correctly states that the determined PAN of the school is 90.

18. The adjudicator in VAR908 considered a similar set of circumstances in February 2020, when the request was made to reduce the school’s PAN from 120 to 90. She concluded,

“I think it is likely that some parents would have relied on the information provided in “Starting primary school in Lambeth: 2020/21” which is the local authority’s booklet for parents seeking admission to schools in the area in September 2020 which stated that the PAN was 120. In addition, parents could have started applying for a place from 1 September 2019 and so some may have applied in advance of this notice; others may not have looked at the websites; and others may not have understood the implications for their application. I remain of the view that some parents at least may well have made their preferences unaware of the proposed reduction in PAN.”

I take the same view. This is not, of itself, a sufficient reason for me not to approve the variation, but I do consider it significant that parents were neither consulted nor informed of the proposal to reduce the school’s PAN by the time the window for making applications opened. In fact, by contrast, the local authority has consulted on reducing the PAN for admission in September 2022 from 90 to 60, according to the timescales set out in the Code.

19. Turning to the likely demand for places at the school in September 2021, the information the local authority is able to provide is incomplete. In addition to the 44 first preferences expressed by Lambeth residents, due to the school’s location close to the boundary of the borough there will almost certainly be first preferences expressed by parents from outside Lambeth (there were 14 for admission in September 2020), but the number is not yet known. Moreover, an additional 127 other preferences were expressed for the school by Lambeth residents, including 41 second preferences. As noted above, 14 places were allocated for September 2020 to children who made the school a lower

preference. Again, it is too early to say how many applicants there will be with a “live” lower preference for the school, that is, when their higher preference(s) cannot be met.

20. In summary, for admission in September 2020, there were 53 first preferences for the school expressed by Lambeth residents and 82 places were eventually allocated. For admission in September 2021, 44 first preferences have been expressed by Lambeth residents. Taking into account the pattern of allocations for admission in September 2020, I consider it to be a reasonable assumption that the demand for places will ultimately prove to be greater than 60, quite possibly by a significant margin.

21. The local authority appears also to accept this possibility. It says, “In 2020, pupils who lived between 1.2km and 3.2km from the school were offered places. There are many schools with vacancies in that radius.” It has named alternative schools that are likely to be undersubscribed for admission in September 2021 that could accommodate children “displaced” from Kingswood Primary School. Two of these schools are in the neighbouring boroughs of Croydon and Southwark, respectively.

22. The availability of alternative places in other schools does not, in my view, necessarily justify a reduction in the school’s PAN by way of a variation. As the adjudicator put it in VAR908,

“A reduction in PAN is likely to mean that some children will have to go to a school that their parents would have preferred less than they preferred Kingswood Primary School...There is no doubt that there are other places available to them in easy distances of their homes. Equally, however, there is little doubt that there are parents who would prefer this school who would have to be disappointed if the PAN were reduced.”

Conclusion

23. The falling numbers both of applications for places at the school and admissions to YR undeniably represent a major change in the circumstances of this school and a reduction in PAN is likely, in time, to improve its financial position, perhaps helping to expedite the consolidation on one site. However, at this stage, it appears highly likely that demand for admission in September 2021 will exceed 60. Furthermore, many parents will have made their applications believing that up to 90 places would be allocated. For these reasons, I do not consider that the diminution in the satisfaction of parental preference that a PAN reduction would bring is justified by the change in the school’s circumstances. I do not approve the variation request.

Determination

24. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lambeth for Kingswood Primary School for September 2021. I accordingly determine that the PAN will remain at 90.

Dated: 1 March 2021

Signed:

Schools Adjudicator: Peter Goringe