

## DETERMINATION

**Case reference:** VAR/000551

**Admission Authority:** London Borough of Sutton

**Date of decision:** 4 January 2012

### **Determination**

**In accordance with section 88E of the School Standards and Framework Act 1998, I approve the requested variation to the admission arrangements of Brookfield Primary School in the London Borough of Sutton. I determine that for admissions in September 2012 the published admission number for the school shall be 60.**

### **The referral**

1. The London Borough of Sutton Council (the Council) referred, on 17 November 2011, requests to the Adjudicator for variations of the admission arrangements of four primary schools in the Borough. One request was for Brookfield Primary School (the School), a community school. This request is a result of the need to expand provision within the area to meet an increasing demand for places in schools across the Borough. The requested variation is that the published admission number (PAN) for the School for September 2012 be increased from 30 to 60.

### **Jurisdiction**

2. 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”.*
3. I am satisfied that the proposed variation is within my jurisdiction.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:

- the Council's letter of referral of 17 November 2011 on behalf of the School's governing body and supporting documents;
- the determined arrangements for 2012/2013 and the proposed variation to those arrangements;
- a copy of the Council's booklet for parents seeking admission to schools in the area in September 2012 ;
- a copy of the minutes of a meeting held on 25 May 2011 to hear about and comment upon the proposed expansion;
- a copy of the minutes of the governing body of the school approving the request to vary the PAN;
- copies of the Council's committee papers discussing and approving statutory proposals for change;
- a copy of the public notice to enlarge the school;
- copies of the notes from consultation meetings; and
- maps showing the location of the school.

### **Other matters**

5. When considering the requested change to the admission number I looked at the current admission arrangements. I observed that the wording which describes the use of the distance tiebreaker within each of the oversubscription criteria could be clarified. I explained why I believed this to be the case in a letter to the Council dated 2 December 2011. The Council has responded and agreed that it will take my comments into account when determining future admission arrangements.

### **Background**

6. In common with some other London Boroughs, the demand for school places in Sutton is increasing. Meeting the demand for new places can be achieved by opening new schools or expanding existing ones. In the autumn of 2010, the Council consulted with schools where expansion was considered to be feasible. Following this preliminary consultation, it held further consultations about proposals to expand four of these schools, one of which was the School, and subsequently published formal statutory proposals in September 2011 to build new classrooms at each of the four schools. In the period between 22 September and 20 October 2011 no representations were received concerning the School and in consequence, on 21 October 2011 the Council conditionally approved the proposal for the School subject to the conditions that:

(i) planning permission for the building work was approved by 1 April 2012

(ii) the PAN for the School for September 2012 was increased through a variation which had the approval of the Schools Adjudicator by 1 April 2012.

7. As set out in the Code, the admissions authority, in this case the Council, can make changes to its determined admission arrangements, but only in certain prescribed situations. The Council, as required, determined the arrangements for admissions in September 2012 by 15 April 2011. It is now seeking to make a change that requires a variation to be approved by the Schools Adjudicator.

The decision to expand the school and the consequential alterations to its premises was included in the Council's consultation and determination of the statutory proposal.

8. The Council has taken the decision to expand schools to meet growing demand. The need to expand the School within the year constitutes a "major change in circumstances" in the Council's view and justifies the requested variation to increase the PAN to allow the School to admit pupils up to its new intended capacity.
9. The Council notified the community associated with the School about the proposed increase in the PAN as part of the statutory consultation on the enlargements of the School.

### **Consideration of Factors**

10. The case for the expansion of the School's premises to facilitate an increase in PAN, background information and comments received in the consultations were forwarded to me as part of my consideration of the requested variation. The proposal for expanding the School has been determined by the Council and I have no reason to review this decision. I do, however, have to decide whether the requested variation to the admission arrangements for the School should be approved. In doing this I have to be satisfied that the change is necessary in the light of demand for school places and that the School will be in a position to accommodate the additional pupils.
11. I can see from the data provided that additional places are needed in the area. The data shows that the Council needs more places and I am satisfied I should approve the increase in the School's PAN to provide some of the places that are required in the area.
12. I note that the decision to expand the school was made conditional on both my decision to alter the admission number and planning permission being secured. The imposition of the planning condition does raise a potential problem. If planning permission is not granted but I have agreed the variation requested for September 2012 there is a risk that the admission number will have been changed and the necessary building work has not be carried out with the outcome that there would be insufficient accommodation available for the pupils. The Council has reassured me on this point and states that it has every confidence that as a result of careful discussion and consultation with the planning department through the design process they feel that potential issues have been addressed and they are optimistic about the outcome of the planning process. As part of the risk management process the Council has also made contingency plans for the possibility that planning permission is not granted in the necessary time frame so that the School would still be in the position to take the increased numbers of pupils in 2012 and subsequent years. As a result it does not seem necessary to postpone making a determination until the point that planning permission has been obtained as this would leave schools and parents who are seeking places with uncertainty about the arrangements for longer than is necessary. Furthermore to delay in making a determination would take the time

past the Council's closing date for primary applications which is 15 January 2012. The Code at paragraph 4.26 says a variation should only be made at that stage if it is unavoidable.

### **Conclusion**

13. The decision to increase the capacity of the School has already been taken by the Council. All matters relevant to this expansion were fully explored through the consideration of the statutory proposal. I have identified no factors that would lead me to do anything other than approve the consequential request to increase the PAN.

### **Determination**

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the requested variation to the admission arrangements of Brookfield Primary School in the London Borough of Sutton. I determine that for admissions in September 2012 the published admission number for the school shall be 60.

Dated: 4 January 2012

Signed:

Schools Adjudicator: David Lennard Jones