



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2844

Objector: The Governing Body of Templars Primary School, Coventry.

Admission Authority: Coventry City Council

Date of decision: 21 May 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Coventry City Council for Templars Primary School.

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 this decision.

The referral

1. Under section 88H(2) of the Schools Standards and Framework Act 1998, (the Act), an objection has been referred to the Adjudicator by the governing body of Templars Primary School, the objector, about the admission arrangements (the arrangements) for Templars Primary School (the school), a community primary school for pupils aged 3-11 years for September 2016. The objection is to the published admission number (PAN) of the school which is 75 which the governing body wishes to be increased to 90.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by Coventry City Council, the local authority, which is the admission authority for the school. The objector submitted an objection to these determined arrangements on 27 March 2015. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it 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 objector's form of objection dated 27 March 2015 and supporting documents;
 - b. the local authority's response to the objection and supporting documents;
 - c. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - d. maps of the area identifying relevant schools;
 - e. confirmation of when consultation on the arrangements last took place; and
 - f. a copy of the determined arrangements.

The Objection

5. The school's governing body objects to the local authority's decision not to increase the PAN of the school. This objection is permitted by paragraph 1.3 of the Code, which says "*Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish.*" The governing body argues that the PAN should be increased because: it would mean an end to vertical grouping (mixed age classes) and allow for a more precise curriculum to be delivered; 150 new houses are being built close to the school in addition to a large housing estate which is also being constructed close to the school; the local authority is anticipating a growth in the number of pupils; the school will be able to plan financially more effectively as there would not be so many pupils entering mid year after successful appeals for places; and parents are choosing the school as other schools nearby have been found to be 'requiring improvement' when inspected by Ofsted and for the arrangements the school has for out of hours child care.

Background

6. The school is in the south west sector of the City of Coventry, designated by the local authority as planning area 8. The school currently has a PAN of 75, meaning that it should admit two and a half forms of entry each year. It is more usual for a PAN to be in whole forms of entry that is multiples of 30: there are 42 primary schools in the local authority of which 35 have PANs that are whole forms of entry and seven such as the school which admit half forms of entry. In some schools where there are half forms of entry, the classes are organised so that there are children of more than one age group in the class, this mixed age teaching is called 'vertical grouping'.

7. The school has organised its classes so that there is no vertical grouping. There has been building work at the school that has enabled the school to form three classes of each year group, albeit with classes of fewer than 30 pupils.

8. In recent years the school has been oversubscribed and admitted additional pupils following successful appeals by parents. The school has had correspondence with the local authority over the last two years seeking consent to raise its PAN.

Consideration of Factors

9. When considering this case, the Code requires, again at paragraph 1.3, that *“There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection”*. The factors I have considered include the following: the present capacity and organisation of the school; projected number of pupils in the area; impact of the arrangements on other schools; and levels of oversubscription at the schools in question.

10. The school argues that it is organised as a three form entry school. It has undertaken building works to increase capacity and has further works planned. It is staffed with three classes per year group from year R to year 6. It states that it has done this to *“avoid the need for vertical groupings within school which have the risk of impacting negatively on children’s progress and attainment.”* It says that a PAN of 90 would *“help secure the financial stability of the school and ensure the single year group organisation can continue in the future without having to make cuts in resources.”*

11. The local authority confirms that the school currently *“operates as a 3 FE school to negate the need for vertical grouping across classes”* and that building work has been undertaken. It *“commends the governing body and the school leadership team for the hard work and positive approach which is being undertaken to ensure that children are receiving a good education”*.

12. I can see from the plans and the class organisation submitted that the school has the capacity to operate as a three form entry school. I note that as a result of these arrangements there are fewer pupils per class than there would be if 90 pupils were admitted annually. As a school’s income depends to a large extent on the number of pupils, an increase in the number of pupils would make these arrangements more affordable.

13. The school argues that there will be need for these places as there has been, and continues to be, significant housing development in the area. It has provided data which show future housing and planning applications immediately adjacent to the school and in nearby areas.

14. The local authority agrees that there is a major housing development in the area that has the capacity for 1065 houses, 635 of which have already been built and the remainder are to be completed in the next five years. A site for a new primary school has been secured if needed. However, it argues that it over estimated the number of places needed. It expects that local demand for places will increase but is concerned about the roll at a neighbouring school,); *“in the short term any loss of pupils to Templar School could seriously undermine its future viability as a 1.5 FE primary school”*.

15. The parties do not agree on the number of new places likely to be required in the area. However, both the school and the local authority have provided evidence that there are new dwellings being built and planned for the future, and the local authority has secured a site for a potential new primary school, which may be required. It is reasonable then for me to conclude that *“local demand for places will increase”*.

16. The local authority has indicated its main concern in this matter is the impact of increasing the PAN on other neighbouring schools. It is particularly concerned about a nearby school which is undersubscribed in the neighbouring planning area 7. I note that that school recently had an inspection by Ofsted and was found to be ‘good’. The school reports that parents are exercising a preference for admission at its school rather than other nearby schools.

17. The data support this indication of parental preference; for September 2014, the school had 135 requests (first, second and third preferences) and was allocated 75 pupils. I note a nearby school had 47 requests for places (first, second and third preferences) and was allocated 31 pupils.

Allocations for September 2015 for the school are reported as:

	requested	Allocated	Waiting list
1 st Preference	79	66	13
2 nd preference	43	6	4
3 rd Preference	36	3	
Total preferences	158	75	

18. I see from the data provided that the school has 78 pupils in year R and 80 pupils in year 1. The school explains that it has admitted 13 pupils through the appeals process and there are another five appeals pending. As the school is organised for three forms of entry, pupils can be admitted after appeal as the infant class size regulations which limit infant class size to 30 pupils are not breached. The school suggests that parents are also motivated to seek places there because of the preschool, after school and holiday child care provision offered.

19. The local authority agrees that the current arrangements at the school *“are leading panels to uphold appeals for places at the school”*. The local authority explains its position as offering *“applicants alternative schools and the right of appeal. This provides a balance between meeting the needs of families for transferring their children to alternative schools and ensuring that less popular schools are not drained of pupils”*.

20. Admission appeals are not a mechanism by which admission authorities may manage admissions; an appeal is not an 'offer' of the local authority. Paragraph 15 f) of the Code explains it is the right of parents (and in some cases pupils) to appeal against the school place offered. *"The admission authority **must** set out.....that there is a right of appeal"*. A consequence of pupils entering the school after an appeal process is that pupils are not necessarily those with the highest priority in the oversubscription criteria but rather those families able or willing to undertake the appeals process and may be viewed by other parents as unfair if it is considered as part of the local authority's admission process.

21. The current situation is that of the 158 families who expressed a preference for the school for this September, 75 have been offered places but the school is organised so that 90 could be accommodated. This would mean a further 15 could have their preference met. The local authority's view is that this exercise of parental preference would deplete the roll of another school, making it unviable.

22. The local authority has a duty, under section 14 of the Education Act 1996, to ensure sufficiency of school places and therefore seeks to ensure this other school has sufficient pupils. It does this in a context of a likely increase in schools' rolls and present and future building development. It also has a duty to meet parental references wherever possible. Section 86 of the Act provides that the admission authority **must** comply with any preference expressed by a parent except where to do so would prejudice the provision of efficient education or the efficient use of resources. The PAN is usually taken to be a limit above which there would be this prejudice. In this case I do not consider that there would be prejudice if more than 75 pupils were admitted. I acknowledge that this may affect the numbers of pupils at other schools, but admission arrangements are not intended to compel parents to take up places in other schools when it is possible to attend the school they prefer. I consider that the capacity the school has created should be used to increase the PAN so that wherever possible parents may gain a place at a school for which they have expressed a preference.

23. Both the parties, in correspondence, have made reference to The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and the related guidance. This guidance says at Annex A.1:4 *"An expansion without a physical enlargement of the premises of the school does not require a statutory proposal. Increases in pupil numbers may be achieved through changes in the Published Admission Number under the School Admissions code"*. This matter was referred to me as an objection under the Code; I have therefore considered it as such and make no further reference to these other regulations.

24. The Code, again at paragraph 1.3 says: *For a community or voluntary controlled school, the local authority (as an admission authority) **must** consult at least the governing body of the school where it proposes either to increase or keep the same PAN.* I have considered the communication between the local authority and the school in this matter. The local authority considers it has consulted appropriately, the school thinks it has not. I accept there has been a dialogue between the school and local authority for some months,

indeed years, about this matter. I see from the papers submitted that the decision maker, the Cabinet Member for Education, was aware of the governing body's wish to increase the PAN when the admission arrangements for 2016 were determined. However, the information about the 2016 arrangements was provided in a newsletter to schools in November 2014. This makes no mention of the PAN nor has any invitation to respond; it gives advice to own admission authorities to consult if they are changing their arrangements. While I have seen evidence of on-going correspondence between the parties I am not convinced this would meet the test of consultation. However I do not consider this a determinative factor in reaching my decision.

Conclusion

25. The school is operating as a three forms of entry school, albeit with smaller classes than a three form of entry school would normally have. It seeks to respond to parental preferences and secure a more sound financial footing by admitting 90 pupils each year.

26. The local authority is concerned that should this school take additional pupils it will be putting another, smaller, less popular school at risk. While I acknowledge the possible risk identified by the local authority, I see that there is an increase of dwellings in the area, now and approved for the future and that the local authority has options to provide for the pupils in the area.

27. I am also mindful that the Code says that *"There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.* I have not been persuaded by the reasons put forward by the local authority for retaining a PAN of 75. I therefore uphold the objection to the PAN determined for the school for the reasons shown in the determination above.

Determination

28. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Coventry City Council for Templars Primary School.

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 this decision.

Dated: 21 May 2015

Signed:

Schools Adjudicator: Ms Jill Pullen