

DETERMINATION

Case references: VAR/000477- 487

Admission Authority: Sheffield City Council

Date of decision: 10 March 2011

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by Sheffield City Council which it has requested for each of the eleven schools listed in paragraph 9 of this determination.

I determine that for admissions in September 2011 the admission number for each of the schools shall be as set out in paragraph 9 of this determination.

The referral

1. Sheffield City Council (the Council) has referred a variation to the Adjudicator about the admission arrangements for a group of eleven primary schools (the schools), all of which are community primary schools, for September 2011. An increase in the previously determined admission number is being sought for each school.

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 documents I have

considered in reaching my decision include:

- the Council's letter of referral of 13 December 2010 and supporting documents;
- the determined arrangements for 2011/2012 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 2011;
- a copy of the letter consulting the relevant bodies about the proposed variation and responses to that letter;
- reports considered by the Council's Cabinet on 12 May 2010, 10 September 2010 and 8 December 2010;
- an e-mail received from the Headteacher of one of the schools which is the subject of one of the variation requests dated 2 February 2011 and subsequent related correspondence with the Council.

Background and consideration of factors

5. On 12 May 2010, officers of the Council reported to its Cabinet that a rapid increase in Sheffield's birth rate meant that by the start of the 2011/12 school year approximately 240 additional reception year places would be needed in six identified areas within the city, over and above the additional places which would be available using existing school capacities in other localities. In that report, an area by area analysis of the need for additional places in the body of the report indicated an approximate total of 206 new reception places being required. An appendix gives slightly different figures totalling an approximate need for 220 new places.

6. The report goes on to describe proposals for achieving the necessary increases in capacity following an option appraisal process involving stakeholders in each area. Proposals resulted from the projected demand in each area, the feasibility of expanding on the different school sites and the achievability of this physical expansion. Schools which gave the best fit taking all these factors into account were identified and the proposals collectively involved the expansion, either temporarily or permanently, of eleven named primary schools with effect from September 2011, giving an additional 255 reception places and 1,545 additional pupil places in total over seven years (fewer by 240 than would otherwise have been the case because the expansion at two of the schools will be for three intakes only). Cabinet was also informed that the Council had been allocated £13.8m in Basic Need Safety Valve (BNSV) funding toward the cost of permanent construction at the eleven schools.

7. The Council then carried out an extensive formal consultation process between 17 May and 23 July 2010 concerning the proposals that had emerged from the options appraisal process, which included meetings for parents, staff and Governors at each of the schools where expansion was proposed. The consultation was reported to the Council's Cabinet on 8 September 2010, when approval was given for the publication of statutory notices and for the preparation of detailed design plans for the eleven sites. I have noted that consultees had commented in particular about the speed with

which the proposals were being implemented, but also expressed concerns about the size of the schools being created in some cases and attendant problems such as car parking and traffic congestion.

8. Statutory notices dated 16 September 2010 were published by the Council in respect of the eight schools for which the scale of the proposed expansion made this a requirement under the relevant regulations. Responses were reported to its Cabinet on 8 December 2010, when the notices were determined. This report contained two lists of proposed new admission numbers for the eleven schools – one list within the body of the report and another as part of the statutory notice appended to it. These differ in the figure given for two of the eight schools, but this discrepancy is not referred to or explained. The schools in question are Abbey Lane primary school and Lowfield primary school, and in both cases the proposed new admission number stated in the statutory notice is lower than that given in the report. The report notes that a request to the Schools Adjudicator for an in-year variation to the admission arrangements for the eleven schools would be made.

9. The Council wrote to the Schools Adjudicator on 13 December 2010 requesting variations to the admission arrangements for the 11 schools by increases in the admission number for September 2011, and explaining that the request was for an in-year variation as a result of the timing of the Council's decision-making process which had not given final approval to the changes until 8 December (the "major change in circumstances"). The Council had not been able to determine amended admission arrangements prior to the publication of its composite prospectus in September 2010, which had nevertheless shown as a footnote against each of the schools the Council's intention to expand it, and giving the anticipated new admission number.

The requested variations were as follows:

School	Existing admission number	Requested new admission number
Abbey Lane primary	60	90
Abbeydale primary	45	60
Carfield primary	75	90
Greystones primary	60	90
Lowedges primary	30	60
Lowfield primary	45	60
Longley primary	60	90
Mosborough primary	45	60
Mundella primary school	40	60

Walkley primary	45	60
Westways primary	60	90

These are the same figures as those given in the body of the report received by the Council's Cabinet on 8 December 2010, and the new admission numbers are those which the Council consulted on in the period May – July 2010 (see paragraph 7 above).

10. I sought additional information from the Council on 25 January following their request for the variations, which had given only a collective summary of responses received during the consultation process. As a result I am satisfied that each of the required schools and neighbouring local authorities had been individually consulted and I have been provided with copies of the three responses that were received. The only issue raised in this correspondence is a request from one of the High schools for which two of the listed primary schools are feeder primaries that the Council give consideration to the consequences of the expansion on its own admissions beyond 2017. The Council also informed me that it was its position that the capital funding for the required expansion of the premises of each of the schools has been secured and that the approval which has given to the statutory proposals were conditional upon for the approval of the requested variations, as allowed for in the relevant regulations (see Decision-makers' Guidance for expanding a mainstream school, Stage 4 paragraph 4.75g).

11. Each of the schools had been contacted by the Schools Adjudicator by letter on 14 December 2010 informing them that the variation request had been made by the Council, and seeking any comments they may wish to make. The Headteacher of Abbey Lane primary school responded on 2 February stating that the figures given for her school were incorrect and that the existing admission number was in fact 55 not 60, and that the increase to provide an additional class meant that the new admission number should be 85, not 90.

12. I informed the Council of this correspondence, seeking its view concerning the understanding expressed by the Headteacher of one of the schools about the figures to which I should be giving my consideration, and seeking confirmation as the accuracy of the figures which should apply to this and to the other 10 schools. I was informed by telephone on 4 February that the Council was now of the view that the figures provided in their variation request had been inaccurate for five of the schools and that the correct figures were as follows:

School	Existing admission number	Requested new admission number
Abbey Lane primary	55	86(previously 90)
Carfield primary	75	88(previously 90)

Longley primary	57(previously 60)	90
Lowfield primary	45	59(previously 60)
Walkely primary	40(previously 45)	60

In the case of Abbey Lane and Lowfield the revised figures are those which were stated in the statutory notices issued by the Council. The revised admission numbers were, I was told, those needed for the overall provision of additional places.

13. In the light of this request, I wrote again to the Council pointing out that, while making only minor changes in the number of additional places being created, the consultation which it had carried out had been on different revised admission numbers than those which it was asking me to approve for three of the schools. In view of the fact that it is essential that there is absolute clarity in the minds of all concerned, and perhaps particularly among local schools, as to the revised admission number being requested through an in-year variation, I asked the Council whether it proposed to carry out further consultation on the admission numbers that they now thought to be appropriate, or whether it was their expectation that the Adjudicator would use the powers available to him to modify the variation request without further consultation taking place. In this latter eventuality, I asked the Council to provide me with the specific reasons why it considered the new revised admission numbers to be more appropriate than those which it had already consulted on locally.

14. The Council replied that it was asking the Adjudicator to modify the variation request and that no further consultation was necessary because both sets of figures have been available publicly. It was the Council's view that in the three cases where a lower admission number was now being requested, the higher figure on which there had been consultation would prove to be the "de facto" admission number (since the Council would not defend at admission appeals the admission of children which did not produce classes of over 30), and so the situation locally was not materially changed. It provided me with copies of letters sent to the three schools (dated 14 February 2011) which it said clarified the position.

15. My view was that these letters, which referred to the previous, higher figures which had been the subject of local consultations still as the "requested admission numbers", did not set out the Council's revised position unequivocally for the three schools. I was concerned that the letters in fact set out cogent reasons for an admission number higher than the upper limit of the net capacity assessment for the school to be used, which was exactly what the Council was now proposing not to do. I communicated my view to the Council that as things stood, I was uncertain whether the three schools were likely to be able to understand that the admission number now being requested for September 2011 was that which conformed to their net capacity assessment and not the figure which had been consulted upon. I also pointed out that in the case of Carfield primary, since no statutory notices had been required, the revised (lower) admission number now being sought had not at

any previous time entered the public domain, and that the (higher) admission number originally requested did not conflict with any public notice. In consequence I was left without a cogent basis for the requested admission numbers as a whole.

16. The Council replied again on 16 February 2011 acknowledging that the original variation request had not been clear, that the three school communities “understood that the Authority’s intention was to operate the higher number when managing the admission procedures”, that while Abbey Lane primary had “expressed an interest in remaining at 86 in order to build in some spare capacity to allow for the placement of pupils through the appeals process” this was not a practice that the Council would have been able to defend and so in summary it was content for the variation request to be based on the originally submitted figures. This was, the Council agreed, consistent with its position set out in the letter dated 14 February to the three schools.

17. I am indeed happy now to consider the variations requested by the Council on that basis, but must point out before going on to do so that in my view were the Council to have operated on the basis of setting admission numbers which were in practice nominal only and which it would as a matter of course have intended to exceed, as it at one point effectively told me was its intention, it would have been paying insufficient regard to the requirements of the School Admissions Code concerning the clarity which must be present in admission arrangements (see for example paragraphs 1.5 and 1.71). I am grateful that the Council has acknowledged that it would not have been able to defend such practice. While the Code sanctions admission numbers being exceeded (see paragraphs 1.18 and 1.19) it also requires admission authorities which do so continually to consider the overall effect on the school, and in prescribed circumstances to determine a higher admission number at the next opportunity. In terms of the clarity which must be provided for parents about the number of places which are in fact available at different schools on which to base their expression of preference, admission numbers should be essentially unequivocal, and certainly treated as meaningful, if this is to be the case. Any other approach introduces inevitable unfairness and disadvantage into the admissions system.

18. I turn now to a consideration of the need for school places which has given rise to the requested variations. The six areas of the City identified in the Cabinet report of 12 May 2010, the projected need for additional places as variously set out in that report and the effect of the requested variations at schools in each area are:

Area	Places needed (paragraph 5)	Places needed (Appendix 3)	School proposals (additional places)
Netherthorpe	16 in 2010 64 in 2011/12	54 in 2011/12	Walkley 20 Westways 30

Meersbrook	31 in 2011/12	30 in 2011/12	Mundella 20 Carfield 15
South Sheffield	25 in 2011/12 45 in 2012/13	44 in 2011/12	Abbey Lane 35 Lowedges 30
Southey Green	17 in 2011/12	Minimum 17 in 2011/12	Longley 30
Mosborough	15 for this school in 2011/12	15 (no date given)	Mosborough 15
S.W.Sheffield	54 in 2011/12 43 in 2012/13	60 (no date given)	Abbeydale 15 Greystones 30 Lowfield 15
TOTALS	206 in 2011/12	220	255

In spite of the unfortunately somewhat uneven way in which it is reported, it is nevertheless possible to see from these figures how the proposals for the individual schools have derived from projections of the local need for additional school places. Overall, the Council is creating through these changes more places than those projected as necessary from its pupil forecast data, but only by about 12% - something which is unavoidable given the rounding-up effect of creating revised admission numbers which are multiples of 30. Some flexibility has in any case been built in to the programme, as the expansion of two of the schools (Longley and Greystones) is seen initially as a temporary measure, to be reviewed during 2011/12.

19. The outcome of the consultations set in train by this report were reported to the Council's Cabinet on 8 September 2010 when officers responded to concerns which had been expressed, amongst other things, about the pace of the expansion programme, the size of some of the schools that were being proposed, the support which would be provided to individual pupils having additional or special educational needs, the effect of additional buildings on available play space, traffic and road safety issues, and the planning for the expansion of secondary school provision that will be needed in due course. I believe that the Council has taken all of these issues raised by consultees seriously and has responded by establishing focus groups which include parent and school governor representation to consider some of them in further detail. Responses to the statutory notices issued by the Council were reported to the Council's Cabinet on 8 December, and appropriate responses given to the issues raised.

20. The deadline for making applications for a place in a primary school in Sheffield for September 2011 was 15 January 2011. I have considered the effect that there would be of making changes to the admission numbers of the eleven schools for that date after this deadline has passed, and am content

that this is unlikely to cause disadvantage or unfairness as the intention of the Council in this regard has been well known for some time and was expressly stated in its brochure for parents. The lateness of any such change will be unavoidable as it is a consequence of the timetable that the Council has needed to follow in making these long-term changes in response to changing demography in the City.

Conclusion

21. The requested variations are in line with the demand for additional pupil places shown in the Council's pupil projections, and have resulted from careful analysis of the available options for expanding schools in the areas where this is needed. Extensive consultations have been undertaken and have not resulted in any substantive arguments against any of the proposed school expansions. Concerns expressed by consultees have been responded to appropriately. Capital funding is available for the necessary building works to be carried out.

22. In spite of the Council's apparent uncertainty on this point, which I have described in paragraphs 11 to 17 above, it is of fundamental importance that admission numbers, once determined, are meaningful and robust if the admissions system is to operate fairly for all parents. The revised admission numbers which were originally requested, as set out in paragraph 9 above, have been properly identified and consulted upon, and are in my view appropriate for each of the eleven schools. I so determine.

Determination

23. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by Sheffield City Council which it has requested for each of the eleven schools listed in paragraph 9 of this determination.

24. I determine that for admissions in September 2011 the admission number for each of the schools shall be as set out in paragraph 9 of this determination.

Dated: 10 March 2011

Signed:

Schools Adjudicator: Dr Bryan Slater