

DETERMINATION

Case reference: VAR/000596

Admission Authority: Hertfordshire County Council

Date of decision: 27 November 2012

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by Hertfordshire County Council

I determine that for admissions in September 2013 the published admission number for Greenway First and Nursery School shall be 30.

The referral

1. Hertfordshire County Council (the Council) has referred a variation to the Adjudicator about the admission arrangements for Greenway First and Nursery School, Berkhamsted, (the School), a maintained first and nursery school, for September 2013. The published admission number (PAN) for the School is 60 for 2013. The Council is seeking to lower the PAN from 60 to 30 for September 2013.

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”.

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, 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 September 2012 and supporting documents;

the determined arrangements for the School 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 and 2013 ;

a copy of the letter notifying the appropriate bodies about the proposed variation;

letters from parents opposing the proposal; and

letters from schools supporting the proposal.

In addition, on 10 November 2012 I went to Berkhamsted. I visited St Mary's First School, Victoria First School, Thomas Coram Middle School and the School and I held a public meeting at the School. I have noted the information and the views put forward at the meetings I held at the schools and at the public meeting as well as additional letters sent to me by parents following that meeting.

Background

4. Berkhamsted has been through a turbulent period with school admissions. All schools in the town are rated good or outstanding and it is therefore seen as a desirable place in which to raise a family. Rising prices in the local housing market have meant that fewer families have moved from flats to houses as they would have done in the past. This has increased the overall demand for school places. In addition, significant numbers of families with school-aged children have relocated from London to Berkhamsted. Traditional forecasting methods based on GP registrations did not take account of these changing patterns and in 2009 Reception place demand peaked. Bulge classes had to be put in place. At this time, the School increased its PAN from 45 to 60 on a permanent basis.
5. Between 2009 and 2012, the situation continued to be difficult. At one point early in 2011, there was a proposal to enlarge the School so that it could take three forms of entry. The Governors opposed this and it was clear that there would be planning and highways issues. The proposal was shelved but the School took an exceptional entry of 90 in September 2012.
6. Realising that the situation in the town was unsustainable, the

Council and local schools sat down together to try and develop a workable system for the future. Forecasting was reviewed to take account of a changing context and forecasts now include projected movement in and out of the town as well as new or proposed housing.

7. The PAN at the School was originally set at 60 as part of the annual admission process. The consultation on the PANs for all community and voluntary controlled schools in Hertfordshire ran from 3 January to 28 February 2012. The arrangements were determined by the Council on 27 March 2012.
8. On 6 February 2012, the Council started a public consultation on proposals to provide additional school places in Berkhamsted where there is a permanent forecast deficit of around two Reception age forms of entry. This followed ten months of work with a group of local head teachers and chairs of governors. The consultation presented two options. Option A involved a move from three tier to two tier by creating a mix of primary, infant, junior and secondary schools in the town. Option B retained three tiers and created additional places by extending the age range of Bridgewater Middle School. Option A proposed that the School would become a one form entry primary school, meaning its PAN would reduce from 60 to 30. Under Option B, the School would continue as a first school admitting 60 pupils per year group.
9. Thus at the time the School's PAN was determined for 2013/14, the outcome of this public consultation was not known. In order to avoid any suggestion that the outcome of the public consultation was being pre-empted by the Council, the PAN for the School was set at 60, which is the substantive PAN for the school.
10. Eight hundred and thirty three people responded to the consultation. Of these, 81 per cent favoured Option A. The Council and the governing bodies of the five own admission authority schools in the town therefore agreed to publish a joint statutory notice on 18 July 2012. During the statutory notice period one objection was received from a parent at the School about the reduction of its PAN from 60 to 30.
11. The Council's cabinet approved the proposals on 24 September 2012. Prior to this and in parallel, the Council applied to the OSA to lower the PAN at the School. It also notified those originally consulted. The processes of going to cabinet and applying to the OSA were undertaken in parallel in order to ensure that the PAN reduction decision was taken in time to inform parents making application decisions for reception places in 2013/14. Had Cabinet rejected the proposals, the application to lower the PAN would have been withdrawn.

Views of interested parties

12. A group of parents oppose the application to reduce the PAN for a number of reasons.

13. Their arguments are as follows.

- the consultation document stated that the 2013 PAN would be 60 and the School's parents largely agreed to support the proposals on the basis of that figure. The Council then put the figure of 30 on the statutory notices together with a statement to the effect that building work would be needed at the School should the reduction in PAN not take place. Statutory notices were issued during the summer period when many parents were away. In short, the parents in question believe that the Council sought unfairly to bypass the proper processes.
- parents of children at the school were notified of the request for a variation. Other parents in the area were not and nor were those whose children will start at the nursery in January. The reduction will create uncertainty and grave difficulties for parents. In particular, working parents will find it very hard to manage if siblings do not obtain places in the same school. Additional traffic will be generated if siblings have to go to different schools. With a limited number of places in the system as a whole, parents will have no choice and will have to send their children to the schools that have places available.
- sixty children are currently attending or due to attend the School's nursery in January 2013. Many of these will not obtain places in the School and this will have a negative impact on them at a crucial moment in their school lives.
- the School will need additional accommodation whether or not it reduces the PAN.
- increasing the School's intake to 90 in one year and then back down to 30 the next is not sensible. On past form, the accuracy of the Council's forecasts is questionable.

14. The Council has argued as follows.

15. The change in circumstances which has led to the request for a variation in the PAN is the decision, based on the results of the consultation, to move to a two tier system. This is a major change. Without it, no change in PAN would have been required. The re-organisation has been designed to ensure a closer match between the supply of places and demand in the future. For the School, the public consultation focused on the proposal for it to become a primary school from 2014, not 2013. Had this not been agreed, there would have been no need to change the age range at the School.

16. However, the question of the implications for the PAN in 2013 was highlighted by the School throughout the process. The possibility was also raised at local drop in sessions, which were widely advertised, as part of the consultation. When the consultation was launched in February 2012, the School had recently been told that it would need to take an additional class of Reception children in September 2012. At this point the issues of pupil numbers and transitional arrangements were very much in their formative stages. A reduction in PAN had been mooted, but legal advice was needed to determine whether or not the Council could legally seek a reduction in PAN and the following year have a change to the age range of the School.

17. The issue remained high on the agenda for the governing body of the School and on 20 April 2012, parents were provided by the school with a copy of the governing body's response to the consultation which highlighted at paragraph 2.3 that:

"Clarification is being sought from HCC as to whether Greenway will have changes made to its published admissions numbers for September 2013. Currently it is unclear whether Greenway would have one or two classes of Nursery and one or two classes of Reception children commencing in September 2013. Under the current documentation seen by Governors it would seem that Greenway will only have one form of entry of both Nursery and Reception children commencing in September 2013...." Copies of all correspondence and governing body responses to the Council are and have been publicly available on the School website.

18. Some responses to the consultation did raise the issue of the potential PAN reduction at the School. This was therefore reported as a key issue in the Council's report proposing that an application should be made to the OSA to reduce the PAN from September 2013 in order to help manage pupil transition across the town and match places closely to demand. Following approval by Cabinet and the governing bodies of the own admission authority schools in the town, statutory proposals were published. Within the full proposal for the School which was available on the Hertsdirect website from 18 July 2012 for a six week period, the intention to make the application to reduce the PAN was stated very clearly.

19. All the Hertfordshire schools within three miles or less of the School were full or over PAN in September 2011 but the re-organisation has been designed to ensure that places in the town's good or outstanding schools are available for all local children from 2013 onwards. At the same time, the schools and the Council are anxious to avoid a scenario in which unfilled places in the town are taken up by children from elsewhere whose entry then guarantees places to siblings, resulting in a rerun of the 2009 school places crisis for children who live in the town.

20. The six monthly forecast on which the original re-organisation consultation was based was for autumn 2011. This indicated a

forecast of 316 pupils for 330 places with a PAN reduction at the School and 360 places with no reduction. The most recent forecast for 2013/14 indicates a slight increase to 321 pupils. Were the School's PAN to remain at 60, there would therefore be over ten per cent of surplus places, that is to say more than one form of entry. Forecasts suggest a future reduction in demand with a figure of 303 in 2014/15 dropping to 298 in 2018/19.

21. Between 2009 and 2012, the School admitted 60 children per annum. In 2012, at the request of the Council, it admitted 90 children on a temporary basis in order to ensure that all local children had local school places. Some parents are now extremely concerned about the possibility of siblings not securing places at the School and families being split. Accordingly, the governing body has carried out a survey through the Parent Forum. These figures are indicative as the response rate, though high, was not 100 per cent. Additionally, some families may move.
22. The survey shows that 23 children with siblings within the School may be seeking reception places in 2013. Should the PAN be reduced to 30 and all of these children with siblings be admitted, there would be seven reception places for children without siblings at the School. The survey has also looked at the nursery intake and calculated that, were all those currently in the nursery and projected to enter in January to seek places at the School, there would be 37 children competing for the seven reception places available. These figures are stark and compelling, but there is of course no guarantee that nursery attendance will lead to admission to Reception in the School.
23. The School has 12 classrooms. Eleven of these are class bases and one is a nursery classroom. In effect, as a primary school, the School has eleven classrooms. As a primary school and without a reduction in PAN for 2013, the School would require 11 classrooms in 2013, 12 in 2014, 13 in 2015 and 12 in 2016. In 2017, 11 would be needed and the figure then reduces.
24. As a primary school and with a reduction in PAN for 2013, the School would need 10 classrooms in 2013, 11 in 2014 and 12 in 2015. In 2016, 11 would be needed and the number would then reduce. Thus with a reduction in PAN to 30 for September 2013, there would be a peak for one year only. This has been discussed and it is thought temporary arrangements could be made for one year.
25. The alternative scenario of not lowering the PAN would result in three years of demand for additional classroom space. Additional accommodation would have cost and planning implications, particularly in relation to traffic.
26. Government funding to schools has undergone some changes recently. It is unlikely that the Council will be in a position to offer

additional financial support to schools going through the process of change. Accordingly, all the schools in Berkhamsted have undertaken detailed financial modelling to assess the impact of the changes. The figures indicate that over capacity at the level projected without a PAN reduction at the School would leave other schools with such severe financial pressures that their current good or outstanding status would be threatened by the need to, for example, reduce staffing radically.

Consideration of Factors

27. The Council appear to have followed a proper process for setting the PAN at the School. The subsequent and separate consultation concerning re organisation was followed by due consideration of responses. Statutory notices were issued and the relevant bodies notified as required. All of this kept to the specified timescales. Throughout the consultation period the School's governing body was aware of the potential PAN issues and on 20 April 2012 parents of children at the School were alerted when they received copies of the governing body's response to the consultation. Parents were able to raise the issue at the drop in consultation sessions and some did.
28. I accept that parents of children not at the school or not yet of school age would not have been alerted and would have needed to be looking at the School's website or the Hertsdirect website to be alerted to the PAN issues. Often parents of pre-school age children in particular, who are new to the system, do not know where they should look to keep abreast of school organisation and admissions issues. I have been told that some parents of children at the School would have voted differently in the consultation if the lowering of the PAN in 2013 had been mentioned in the documentation and I accept that this may be the case. The consultation proposals could probably have been more specific, as the director of education said at the 10 November 2012 public meeting I convened. This does not however, amount to the Council seeking to bypass the proper processes.
29. Parents have raised the issue of the impact of the sibling rule on future admissions. This rule is intended to prevent the splitting of families, but in this case some parents fear that it may cause splitting. The figures from the parent forum survey show that reducing the PAN in 2013 would not have that effect, but it would greatly restrict the number of places available to those other than siblings.
30. This is of particular concern to parents whose children have just started in the nursery or are due to do so in January. It is clear that only a small number of these children will secure places in the School if the PAN is reduced. This is unfortunate for the children in question. Although the school's website does say that; "a place in Nursery does not necessarily guarantee a place in school" it adds,

“although most pupils do secure a place in Reception”. Parents who have read and accepted this are entitled to feel aggrieved when confronted by the figures arising from the survey. Inevitably, other parents living very close to the school who are most unlikely to gain places if the PAN reduction goes ahead are angry and disappointed.

31. However, the re-organisation proposals have been developed around improved forecasts and what is being proposed guarantees places in the town for all Berkhamsted children. Since all the schools in the town are good or outstanding, the children in question will all gain places in good or outstanding schools within reasonable distance of their homes.
32. As far as the question of accommodation is concerned, it is clear that taking in 60 children in 2013 would mean that additional accommodation would be needed from 2014 onwards. Planning permission for building on the site is problematic mainly because of highways issues. Reducing the PAN in 2013 would mean that additional accommodation would be needed for one year only and not until 2015. It is thought that a temporary solution could be found for one year.
33. Finally there is the question of the impact on other schools. Were the School's PAN to remain at 60, there would be considerable over capacity in the town. This could either be filled by children from outside the town, defeating the object of rationalising provision to ensure that all Berkhamsted children have places in Berkhamsted schools, or schools could be left with empty places. For small one form entry primary schools, this could be extremely difficult financially and threaten their viability and quality.

Conclusion

34. In this case, the implications of the consultation proposals could have been spelt out more clearly in some respects. As ever, communication with some groups could have been improved. But requirements were met. It does not appear that reducing the PAN will split families. It will however mean that quite a lot of parents will be unable to secure places at the School. Fortunately there are only good schools in the town. I understand why parents who had hoped for a seamless transition from nursery to primary school and now find that that is not likely to happen are disappointed. I also acknowledge the frustration of parents who may be unable to gain places at their nearest school. I am however confident that they will gain places in good schools in the town. Reducing the PAN at the School
35. will help to ensure that all Berkhamsted children do gain places at good schools in the town now and in the future. I therefore approve the variation to the PAN of Greenway First and Middle School.

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by Hertfordshire County Council

I determine that for admissions in September 2013, the PAN for Greenway First and Middle School shall be reduced to 30.

Dated: 27 November 2012

Signed:

Schools Adjudicator: Mrs Janet Mokades