

DETERMINATION

Case reference: VAR591

Admission Authority: St James' Church of England Primary School,
Bermondsey

Date of decision: 24 October 2012

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the variations to the admission arrangements determined by the governing body of St James' Church of England Primary School, Bermondsey.

I determine that for admissions in September 2013 if the school is oversubscribed the maximum number of places for which priority will be given to children who meet the school's denominational criteria shall be 20.

I further determine that the distance tie breaker shall be changed to permit distance to the parental home to be measured from the nearer of the two sites used by the school.

The referral

1. The Governing Body of St James' Church of England Primary School Bermondsey has referred a variation to the Adjudicator about the admission arrangements for St James' (the school), a Church of England voluntary aided primary school for September 2013.
2. The school amalgamated with Alma Primary School (a community primary school) in 2011 with an agreement that the new two form entry school would limit the number of places offered on denominational grounds to 20. For reasons explained below this change to the admission arrangements (the arrangements) for 2013 was not determined in time by the governing body and they are seeking a variation in order to permit this change to be effective.
3. In order to reflect the dual site of the school the governors also seek a variation to the distance criterion.

Jurisdiction

4. 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".

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

6. In addition to considering the matters raised for the variation, I have also used my power under section 88I of the Act to review the admission arrangements as a whole and have used my powers under the Act to indicate to the school where further changes to the arrangements are required to achieve compliance with the School Admissions Code (the Code).

Procedure

7. In considering this matter I have had regard to all relevant legislation, guidance and the Code.

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

- a. the completed referral form of 16 August 2012 and supporting documents;
- b. the determined arrangements for 2013/2014 and the proposed variation to those arrangements;
- c. a copy of Southwark Council's, the local authority, (the LA) booklet for parents seeking admission to schools in the area in September 2013;
- d. papers relating to the consultation with relevant bodies about the amalgamation of the two schools and the proposed variation;
- e. minutes of the LA cabinet meeting regarding the amalgamation;
- f. a letter and an email of support from the LA;
- g. minutes of the meeting of the governing body on 18 March 2012 at which the arrangements were determined; and
- h. a map of the area.

I have also taken account of the information I received during a meeting I convened on 16 October 2012.

Background and consideration of Factors

9. At the request of the LA in January 2011 the school governing body agreed to consider amalgamating with Alma Primary School to form a two form entry voluntary aided primary school on two sites. Consultations took

place following the making of statutory proposals to close Alma Primary School and to enlarge St James' to a two forms of entry voluntary aided school on two sites. The amalgamation was agreed by the LA as decision maker in July 2011. During the consultation the governing body of St James' gave a commitment to seek to serve children from the local area. Therefore they agreed to restrict the number of places offered on denominational grounds to 20, and in their oversubscription criteria to measure distance to either school site.

10. Following the amalgamation, which took place after the deadline of 15 April 2011 for the determination of the school's admission arrangements for September 2012, the governing body requested from the Office of the Schools Adjudicator a variation to the arrangements for 2012 to 2013. This request was not received and, in the absence of any determination, the school continued with its original determined arrangements save for the increase in the Planned Admissions Number (PAN) to 60.

11. The arrangements for 2013 to 2014 were drafted to reflect changes in the Code and also to include the alterations that had been agreed and to which commitments had been made following the original amalgamation consultations.

12. Unfortunately the arrangements presented to and determined by the governing body did not include the changes outlined above in paragraph 11 nor even the variations originally desired. For whatever reason, the governors failed to notice this and the faulty arrangements were duly determined on 18 March 2012.

13. The mistake was noticed only early in the summer. As a result of what the governors perceive as a 'major change in circumstances', the governing body are requesting a variation. They are strongly supported by the LA and the Diocese of Southwark (the Diocese).

14. There has clearly been a chapter of accidents in what was hoped to be a creative process, enabling an outstanding school to amalgamate with a school nearby in order to help raise standards. I have seen the papers presented to the LA cabinet on 19 July 2011 referring to the consultation, which show that the proposal had significant local support. The willingness of the governing body to limit the number of children being admitted on denominational grounds was accepted as evidence of their determination to provide the best possible education for local children whilst retaining distinctiveness as a Church of England school.

15. The school is obviously embarrassed by its failure to check the arrangements it was determining. Given that mistake and the fact that this change was first agreed in 2011 and was expected to be made effective for the 2012 admissions, I accept that a variation is needed to ensure that another year's delay is avoided.

16. The process of applying for places in 2013 has begun, but the LA in its booklet for parents 'Starting Primary School in Southwark 2013/14' already contains the main proposed changes, highlighted with a note explaining that

these are subject to a determination by the schools adjudicator.

16. So I turn now to the two major proposals themselves.

17. Limiting the number of denominational places to 20.

The amalgamation of an outstanding one form entry voluntary aided school with a one form entry community school which was in special measures and had been served with a Notice to Improve at its last Ofsted inspection was agreed after consultation as a means of formalising a “soft” federation between the two schools that had already led to improvements at Alma Primary School. The two schools served the same neighbourhood.

18. Although the original St James’ could offer all its places on denominational grounds, in practice it was able to offer a mix of denominational and community places. Alma offered only community places. It was agreed that to limit denominational places to 20 in the new school, were it to be oversubscribed, would preserve the same balance as before.

19. I accept that this was a significant part of the amalgamation agreement, and that it is unfortunate that for reasons outlined above it has yet to be implemented. By agreeing to the variation I can enable this to take effect for admissions in 2013.

20. Using distance to either school site as tie breaker.

The new school is on two sites, with Key Stage 1 using the former St James’ site and Key Stage 2 using the former Alma site. It is logical that the distance criterion should relate to either site, and it is essential that this should be spelt out in the arrangements, as the School has asked in its variation request.

21. At the meeting which I convened with the School, the LA and the Diocese it was agreed that for 2013 distance should be measured by the straight line distance from the postcode of the child’s home to the postcode of the nearer of the school sites. The tie-breaker remains the drawing of lots.

22. At the same time as seeking the two variations above, the school had also requested permission to add a sentence to the introduction to the arrangements spelling out the fact that the school is on two sites. This seems sensible and was accepted during the discussions outlined below.

Other matters

23. In reviewing the determined 2013 arrangements at the meeting, I raised other aspects of the arrangements that appeared to contravene the requirements of the Code, and which would need to be amended if these were to achieve the purpose intended:

- a. The definition of ‘looked after or previously looked after children’ had already been corrected in earlier versions but was omitted in the version the governors had determined.
- b. Paragraph 1.8 of the Code states that oversubscription criteria

must be reasonable, clear, objective, procedurally fair, and include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated. At the meeting on 16 October 2012, I consulted the school concerning new wording that:

- i) brought the information about the Common Application Form into line with the LA's brochure for parents;
- ii) clarified issues relating to the Supplementary Information Form (SIF) and the process of submitting it;
- iii) defined 'main residence' clearly and in line with the LA's brochure for parents.

24. The suggested wording was considered and agreed by the school at the meeting on 16 October 2012.

25. For the same reasons, I have also subsequently consulted the school on:

- i) the wording of the arrangements which describes the relationship between the places for which priority is given on denominational grounds and the other places, which I considered insufficiently clear, and
- ii) the need for the arrangements to include a statement concerning deferred entry, as required by paragraph 2.16 of the Code.

26. The suggested revised wording concerning both matters has been considered by the school has been accepted by it in correspondence. As all the additional matters raised are intended to achieve compliance with the Code the school can make the necessary amendments immediately.

Conclusion

26. The School leadership and governors have understandably been focussed on ensuring that their new school becomes effective in raising the quality and standard of the children's education. In addition there have been building issues with which they have had to grapple. They admit that as a result the processes of determining appropriate and legal arrangements first for 2012 and then for 2013 were not robust, and that significant confusion reigned.

27. I am persuaded that the formal variation requests are justified and reflect agreement reached after proper consultation, particularly with the Diocese and the LA.

28. I have also considered the arrangements as a whole and for the reasons set out above have discussed with the school the further changes it needs to make to achieve compliance with the Code. These are described above.

Determination

29. In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the variations to the admission arrangements determined by the governing body of St James' Church of England Primary School, Bermondsey.

I determine that for admissions in September 2013 if the school is oversubscribed the maximum number of places for which priority will be given to children who meet the school's denominational criteria shall be 20.

I further determine that the distance tie breaker shall be changed to permit distance to the parental home to be measured from the nearer of the two sites used by the school.

Dated: 24 October 2012

Signed:

Schools Adjudicator: Dr Stephen Venner