



DETERMINATION

Case reference: VAR652

Admission Authority: The governing body of Ashton Church of England Middle School

Date of decision: 28 November 2014

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing body of Ashton, Church of England, Middle School for September 2015.

I approve the variation to the determined admission arrangements to reduce the published admission number to zero to remove provision for admission to Year 5 at Ashton Middle School in September 2015.

The referral

1. The governing body as the admission authority for Ashton Church of England (CofE) Middle School (the school), has referred, via its local authority (LA), Central Bedfordshire Council, a request for a variation to its admission arrangements (the arrangements) to the Office of the Schools Adjudicator (OSA). The variation is to reduce the published admission number (PAN) of 155 for Year 5 (Y5), which is the normal year of entry for the school, to zero for September 2015. The school is due to close in August 2016, the school does not wish to admit children to Y5 in the preceding September.

Jurisdiction

2. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 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 (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 and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:

- a. an email from the school's governing body confirming it wished the LA to act on its behalf to refer a request for an in-year variation to the OSA, dated 5 November 2014;
- b. the LA's request, to the OSA for an in-year variation, dated 4 September 2014 and the accompanying email;
- c. reports and minutes from Central Bedfordshire Council's executive committee (with appendixes and maps) concerning the closure of the school dated 4 February 2014, 27 May 2014 and 19 August 2014;
- d. the consultation document on the proposed closure of the school, dated 24 February 2014;
- e. the LA's statutory notice to close the school published by the LA, on 9 June 2014;
- f. the governing body's determined admission arrangements, including a PAN of 155, published on the school's website, for admission in September 2015;
- g. the LA's composite prospectus for parents seeking admission to schools in central Bedfordshire in 2015 dated September 2014; and
- h. the notice which the LA sent to the appropriate bodies to inform them of the intention to seek a variation to the arrangements and an invitation to comment

Background and consideration of factors

- 6. The school is a voluntary aided (VA), middle, deemed secondary, school for pupils aged 9–13 years, situated in the town of Dunstable. The school thus caters for children from Y5 until Year 8 (Y8).
- 7. Education in central Bedfordshire has been significantly reorganised over the past few years to change from a largely lower, middle and upper school system to a primary and secondary school system. By the summer of 2014 the majority of academies and maintained schools serving the area of Dunstable and Houghton Regis, where the school is situated, had changed or were in the process of changing their age ranges, from supporting a three tier system, to support a two tier model of primary and secondary schools. The closure of the school was proposed as part of a wider council plan for the closure of three middle schools situated in the southern part of central Bedfordshire.
- 8. By January 2014 the school was just over 75 per cent full, with 468 pupils on roll against a capacity of over 620. In addition, few families were seeking places at the school for their children; against a PAN of 155 only 38 requests and 38 offers were made for admission to Y5 in September 2014.

9. On 24 February 2014 the LA began to consult on a proposal to close the school with a view to making a final decision in August 2014. Consultation ended on 7 April 2014 and the LA published the statutory notice to close the school on 9 June 2014. The statutory four week period of representation, as prescribed under section 16(2) of the Education and Inspections Act 2006 and Schedule 3 paragraph 5 the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2013, followed and ended on 7 July 2014. Central Bedfordshire Council's executive committee determined to close the school on 19 August 2014. The closure was to be staged in the manner set out in the consultation document. No new pupils were to be admitted in 2015 and following the gradual transfer of pupils to other schools the school would close on 31 August 2016.
10. Admission authorities are required by regulation 17 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) and paragraph 1.46 the Code to determine admission arrangements each year by 15 April. The governing body was legally required to determine arrangements for the school including a PAN for admissions in 2015 notwithstanding the fact that the LA was already consulting on proposals to close the school. Not to have determined the PAN would have been to pre-empt the statutory processes which govern the closure of schools. The governing body accordingly determined arrangements for the school for September 2015 including a PAN of 155 (which was the same PAN as had applied in previous years).
11. On 4 September 2014, the LA requested a variation to reduce to zero the PAN for Y5, which is the normal year of entry for the school, for September 2015. As the school is a VA school and its admission authority is, accordingly, its governing body a request has to be made by the governing body. Requests for variations to determined arrangements are governed by the Regulations which provide that such requests can be made only by admission authorities and not by LAs in the case of schools for which they are not the admission authority. Therefore the request for a variation needed to come from the school. On 5 November the governing body confirmed, in writing, that it wanted the LA to refer the variation on its behalf. The school has decided that the closure of the school is a major change in its circumstances which warrants a variation to its admission arrangements. It has taken the view that for children to start at the school in September 2015 only to have to move to a new school the following year when the school closes would not be sensible.
12. The LA, acting on behalf of the school, therefore informed the relevant persons and organisations, including the Diocese of St Albans, of its request to the OSA to remove the possibility of admission to Y5 and invited comment. Families who had requested a place at the school were contacted individually. All admission authorities in the area and governing bodies of community and voluntary-controlled schools were informed via a

notice in the LA's academy and school newsletter. Luton Borough Council and Hertfordshire County Council who are adjoining neighbouring authorities were notified via email.

13. In September 2014, the LA published its composite prospectus for admission to all state funded schools in central Bedfordshire and, because the variation had not yet been considered, details about admission to Ashton originally had to be included in the prospectus; however, sensibly, a message alerted parents to the change in circumstances. It said *'following the decision at the Executive on 19 August 2014, Ashton Middle School will close in August 2016. As a result there will be no intake of pupils into Y5 in the Transfer to Middle 2015 admission round. The school can appeal to the Office of the Schools Adjudicator against the decision and if the OSA reverses the decision then the school could have a Year 5 intake.'* The decision was not appealed.
14. I have considered the circumstances of the school and the actions that have been taken before the governing body sought a variation to the school's arrangements. I am satisfied that the requirements for notification have been met. The school acted properly in determining admission arrangements for 2015. Although the request for a variation was made after the national closing date for middle, deemed secondary, school applications for 2015, the school has fulfilled its responsibility. My role is simply to consider the proposed action that is a response to the agreed closure of the school. I accept that for children to join the school for one year only and then to have to move again is not in the interests of their education. I conclude that I should approve the variation to reduce to zero the PAN for 2015 for the school.

Conclusion

15. I have concluded that the proposed variation to the arrangements is an appropriate response to the school's changed circumstances and planned closure.

Determination

16. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing body of Ashton Church of England Middle School for September 2015.
17. I approve the variation to the determined admission arrangements to reduce the published admission number to zero to remove provision for admission to Year 5 at Ashton Church of England Middle School in September 2015.

Dated: 28 November 2014

Signed:
Adjudicator: Christine Herring