



Determination

Case reference: ADA 3490

Objector: The governing board of Bewdley Primary School,
Bewdley, Worcestershire

Admission authority: Worcestershire County Council

Date of decision: 21 March 2019

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2020 determined by Worcestershire County Council for Bewdley Primary School, Bewdley.

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 the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by the governing board of Bewdley Primary School, (the objector), about the admission arrangements (the arrangements) for Bewdley Primary School (the school), a community primary school for children age 4 -11 for September 2020. The objection is to the Published Admission Number (PAN) of 45 that has been determined for this school by the local authority. The school would like the PAN to be increased to at least 54.
2. The local authority (LA) for the area in which the school is located is Worcestershire County Council. The LA is a party to this objection.

Jurisdiction

3. These arrangements were determined by Worcestershire County Council, which is the admission authority for the school on 31 January 2019. The governing board first submitted its objection to these determined arrangements on 11 January 2019. The

objection at that time was out of jurisdiction because the arrangements had not been determined. When the arrangements were determined on 31 January 2019, the governing board asked that the objection be once again considered. 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

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) the objector's form of objection dated 11 January 2019;
 - b) the LA as the admission authority's response to the objection and supporting documents;
 - c) the LA's composite prospectus for parents seeking admission to schools in the area in September 2019;
 - d) a map of the area identifying relevant schools;
 - e) confirmation of when consultation on the arrangements last took place;
 - f) copies of the minutes of the meeting at which the LA determined the arrangements; and
 - g) a copy of the determined arrangements.

The Objection

6. The school currently has a PAN of 45 which is set by the LA as the admission authority for the school. The governing board would like this to be increased to at least 54 and the LA has refused this request. The objection is that the LA has refused to increase the school's PAN as requested by the governing body.

7. The Code in paragraph 1.3 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. 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.*"

Background

8. This is a case where the school governing board is in disagreement with the LA because the LA has set the PAN for the school at a level that is lower than the governing board would like.

9. The governing board argues that the existing PAN of 45 means that the school has to operate with mixed age classes whereas it considers that single aged classes would better support the learning of the pupils. Over the last two years, the school has been restructured so that Reception, Key Stage 1 and Years 5 and 6 have been taught in single age groups. The school has used a budget carry forward to do this as the governing board believed it was in the best interests of the children. The governing board believes that this has been beneficial to the education of the children and would like to continue this arrangement and apply the same single aged class structure to all year groups. However, in order to make this financially viable for the future, the governing board needs to increase the PAN to at least 54 and ideally to 60. The governing board says that there is sufficient classroom space for a PAN of up to 60 without needing extension to the building or additional capital funding for classrooms.

10. This school in common with other schools in Worcestershire is located within a group of primary schools that are associated with one or more secondary schools. The groups of schools are described in the LA's admission information for parents as "pyramids" of schools (although in the case of the secondary school nearest to Bewdley Primary School at least, attendance at the primary does not afford any priority for a place at the secondary). These pyramids are also referred to by the LA as planning areas. The schools all have catchment areas and the LA's website can be used to enter a property's postcode to identify which primary and secondary phase school catchment areas the property is within. Admission arrangements for individual schools give priority to children who live within the school catchment area. The school and the LA recognise that some parents may have a preference to send their child to a school out of their catchment area and the LA plans for some surplus places within the system to take account of such parental preferences. The Bewdley High School pyramid comprises five primary schools which are Bewdley Primary School, St Anne's Primary School, Bayton C.E. Primary, Far Forest Lea Memorial C.E. Primary and Upper Arley C.E Primary. The map provided by the LA shows that St Anne's and Bewdley are schools within the town of Bewdley and the other primary schools are between three and five miles from Bewdley and located in or near different villages. I note that some other primary schools are actually closer to Bewdley Primary but located in other planning areas and I return to this matter later.

11. The governing board reports that for the past two years, the LA has agreed to increase the PAN to 50 on a temporary basis for Reception and that this has worked successfully. The governing board asked the LA to maintain this PAN on a permanent basis but the LA has declined to do so on the grounds that there were sufficient places in the local area to meet demand for places. The governing board, however, argues that there has always been a greater demand for places at the school than the places available if the PAN is set at 45. In the last admission round there were 53 parents seeking a place for their child. There is a nursery at the school for two and three year old children which attracts families from both within and outside its catchment area. Some of the families from outside the catchment area would like their children to continue through the rest of the school as they feel settled in this school environment. The governing board would like to be

able to offer these families the opportunity to continue to attend Bewdley Primary School but for some this is not possible with a PAN of 45.

12. The governing board confirms that it does not require any capital financial support to undertake these changes. Its financial forecasts indicate that an increased PAN makes the school financially more viable and the resulting single aged classes have the potential to improve the standards within the school. The governing board has consulted with its school community and has received support for the proposal.

13. The governing board observes in correspondence that a primary school in a neighbouring planning area has recently taken a decision to increase its PAN. It was permitted to do this without consultation under the provisions with paragraph 1.3 of the Code because it is its own admissions authority. The governing board points out that if it was not a community (or, as it happens, a voluntary controlled) school it, too, would be permitted to increase its PAN without consultation. It feels that it is being penalised in this matter for being a community school.

14. The LA's view on this matter is based around two main arguments. The first argument concerns pupil number forecasts and the number of surplus places in its planning area for Bewdley and the neighbouring planning areas of Kidderminster and Stourport. The LA reported that there is a dip in the number of Reception age children coming into schools in the Bewdley area for 2019, before the number rises for 2020 and then comes down again in 2021. This means that there are sufficient places in the Bewdley area. In the neighbouring area of Kidderminster area Reception numbers peak in 2019 and there are around 60 surplus places in that area for 2019. The numbers drop in the area for 2020 and again in 2021 with the result that, for both of those years, there are likely to be around 100 surplus places. In the other local area of Stourport, pupil numbers show a similar trend to those in Bewdley with a dip in reception numbers in 2019, an increase in 2020 and a further dip in 2021. Stourport will just about have sufficient places for 2020 but for 2021 there will be a surplus of 40 places.

15. The LA provided the following table that shows the forecasts for schools in the Bewdley pyramid of schools. The LA provided a map that showed that this group of schools cover a relatively large rural area. Using the map I was able to see that both Bewdley Primary School and St Anne's Primary school are located within the town of Bewdley and that the other three schools are in villages. I estimate from the map that these villages and their schools are situated between three and five miles away from the town. Using the same map, I was able to estimate that some of the primary schools in the Kidderminster and Stourport planning areas are located two miles or less from Bewdley Primary School. Thus they are much closer to Bewdley Primary School than are some of the schools which are in the same planning area as Bewdley Primary. I note this as it seems to me that the schools likely to be affected by changes to Bewdley Primary's PAN will be those close to that school whether or not they are in the same administrative grouping or even the same secondary school catchment area. The LA says that there is very little anticipated housing growth in the Bewdley planning area.

A table showing the number of children expected to be admitted to Year R in each school

| School Name | PAN | 2019 | 2020 | 2021 | 2022 |
|--------------------------------------|------------|------------|------------|------------|------------|
| Bayton C.E. Primary | 15 | 7 | 10 | 8 | 5 |
| Far Forest Lea Memorial C.E. Primary | 20 | 19 | 12 | 19 | 18 |
| St Anne's C.E. Primary | 45 | 39 | 45 | 29 | 37 |
| Upper Arley C.E Primary | 15 | 12 | 12 | 16 | 10 |
| Bewdley Primary | 45 | 38 | 44 | 31 | 40 |
| Totals | 140 | 115 | 123 | 103 | 110 |

16. The LA has provided the table above and suggested that that if the PAN was increased to 60 it would increase the number of primary places in the Bewdley planning area by just over ten per cent, which would result in an over-supply of places across the area. It considered that it is unlikely that the school would fill each year group up to an increased PAN unless it drew children from out of its own catchment area, which would represent a risk to one or more neighbouring schools in respect of pupil numbers and potentially financial viability. Some of these schools would be within the LA's Bewdley planning area and others might be in Stourport or Kidderminster. The LA noted that in 2017 the school admitted 50 children into Reception. The school admitted 37 of the 45 children living in its catchment area that year, along with 13 children from out of its catchment area. The LA said that while it would expect some movement between catchment schools due to varying parental preference, the decision to admit 50 children in 2017 resulted in the net loss of five pupils from other schools. A sustained loss of this level or greater would have significant impact on the viability of one or more of the small schools. The table below was provided by the LA to illustrate its point. Some of these schools are within the Bewdley planning area and others are in the neighbouring areas of Stourport and Kidderminster.

| | 2017 | | |
|------------------|------------------------------------|--|---------------------------------|
| Catchment school | Children attending Bewdley Primary | Children living in Bewdley Primary catchment | Overall impact on other schools |
| Bewdley Primary | 37 | 37 | 0 |
| St Anne's CofE | 5 | 2 | -3 |

| | | | |
|-----------------------|-----------|-----------|-----------|
| Sutton Park | 2 | | -2 |
| Upper Arley CofE | 2 | | -2 |
| St Bartholomew's CofE | 1 | | -1 |
| St John's CofE | 1 | 1 | 0 |
| Birchen Coppice | 1 | | -1 |
| Far Forest | 1 | 1 | 0 |
| Franche Primary | | 2 | +2 |
| Holy Trinity | | 2 | +2 |
| Total | 50 | 45 | -5 |

17. It was also noted that the school shares a catchment boundary with Birchen Coppice Academy which is a 10 minute drive away and which is in the Kidderminster planning area. Birchen Coppice is its own admissions authority and has recently increased its PAN from 45 to 60 which the LA has pointed out will lead to an over-supply of places in the Kidderminster planning area.

18. The LA's second argument is that the LA does not have additional capital funding for classroom space available and it advised the school that *"for a permanent increase to be approved the school must demonstrate it has sufficient accommodation to meet the increase when this rolls out over the whole school in which case the governors must clearly state they will not be seeking additional class bases funded by the County Council. With scarce capital the County Council cannot be manoeuvred into providing capital for additional class rooms without agreeing a Basic Need in the area."* In order to agree a "basic need" there would need to be an increase in the number of children in the area and a requirement to create additional places to meet this need.

19. The LA warned the school that if the governing board said that it has sufficient accommodation and resources to have an increased PAN and moved to single age classes, the LA would not be able to defend requests for admission up to 30 in a class if the classroom sizes allowed 30 basic workplaces. The LA therefore considered that a PAN of 60 would generally be more desirable to deal with this point (compared to the PAN of at least 54 requested by the school); however, it did not wish to support this in the context that the additional places are not required in the area.

20. The LA said that it has a duty to ensure there is a sufficiency of places for all children resident in Worcestershire using Basic Need funding to increase capacity where necessary and there is also a duty to ensure that there is an element of choice to support parental preference. The LA considers that the current PAN set at Bewdley Primary of 45 supports

both of these requirements and therefore there is no basis for an objection to this PAN. The LA said that it had noted the points presented by the school's governing board about the budgetary concerns and the preference to provide single age classes, and took this into account in its decision to remain with the existing PAN of 45. The LA said that where possible it supports any 'Good' or 'Outstanding' School to increase capacity, Bewdley Primary School was judged to be good in the Ofsted inspection in May 2015. However, at present there is no need to create additional places in this area as all children currently have a place available within their own catchment school if they wish one. Moreover, an increase at the school to a PAN of 54 would result in a capacity surplus in the Bewdley planning area of between 12 and 22 per cent over the next four years. LA policy supports a surplus of 5 per cent in any of its Planning Areas to allow for parental preference between schools, therefore this increase would result in an over-supply of places that exceeds the requirements necessary to support parental preference.

21. The LA also commented that the school had mentioned the popularity of their early years provision and the desire of parents to keep their children at the school after attending the nursery. The LA observed that there is no basis within the LA or national policy to guarantee that a child in a nursery class will be given a place in the reception class of the same school, especially since nursery classes often serve an area which extends beyond the catchment area of the school. The LA pointed out that admission to a nursery class is completely separate from admission to the main school and many schools across the county run nursery provision where children then attend a different schools for their subsequent primary phase of education. The LA's admissions policy is clear on this point.

Consideration of Case

22. In my consideration of this case I have balanced the school's argument that it wishes to increase its PAN because this will allow it to move to single age classes against the LA's argument that the additional places are not required in the area and that an increase in numbers at this school could lead to other local schools losing children with the associated potential risks to finance and organisation in these schools. I note that the governing board has confirmed that it has sufficient space in the school and that it does not require any additional classroom space or modifications to accommodate an increase in PAN that requires the LA to provide capital funding. The LA has not provided any evidence that the school would not be able to accommodate the higher numbers without capital expenditure so I cannot put much weight on the LA's concerns about pressures on its capital budget.

23. In correspondence with the LA, the school acknowledged that there are probably insufficient children in its catchment area to fill these proposed new places but argues that parents who send their children to the nursery at the school may wish their children to attend the school having become familiar with it. It therefore thinks that it will attract out of catchment applications from these families. These applications would be from families who expressed a preference for this school over other local schools. The school has also observed that if it was a type of school where its governing board was the admissions authority, rather than a community school, the Code would permit it to increase its PAN without the need for the LA to approve such an increase.

24. 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.*” In considering these arguments, then, I must strongly presume in favour of an increased PAN unless there is in this case some convincing reason against increasing the PAN. The argument put forward by the LA is about the number of places available in the area and the possible impact that more children attending this school will have on other schools in the area. The LA points out that some of these schools are small schools where reduced numbers can have a greater proportional impact. The LA is also concerned that if it agrees to an increase in the school’s PAN, it could receive a request for capital expenditure to provide additional classroom space.

25. I have considered this argument and can see that that there are currently more school places than there are children to fill them in the areas near the school and this situation is not forecast to change. In such a situation each school will be concerned about maintaining pupil numbers to ensure stability of the individual school finances and class organisation. I can also understand the LA’s concern that it does not wish to have to fund additional classroom space where there is no need for additional places although as noted above, I have been provided with no evidence that this would be necessary and the governing board has assured me that it would not be requesting such funding.

26. The LA comments that some of the schools in the area are small schools and suggests that the impact of losing children is greater in a small school. I accept the argument about the impact on a small school but where children whose parents apply for places at Bewdley might live is to some extent a matter for speculation. The figures I have been given and which are set out above show that some children living in Bewdley’s catchment area actually go to other schools and it attracts some children from outside its catchment area and from outside the Bewdley planning area. I looked at the map that was supplied to me and observe that the small schools shown there are further from the school than some of the larger schools in the nearby towns of Kidderminster and Stourport or the closest school which is in Bewdley and which also has a PAN of 45. There are three small schools mentioned, Bayton where the LA has not provided information about the impact in 2017, Far Forest where there was one child gained and one child lost to Bewdley, and Upper Arley where two catchment children gained a place at Bewdley. Overall, if this school is permitted to increase its PAN, the impact on other schools is unknown and may be significant or it may not be significant on other schools. The table shows the impact of an increase in PAN in 2017 and this was spread across more than one other school. This does not make a convincing reason for me to reject the strong presumption in favour of the increased PAN.

27. I can see that it is likely that if the school is permitted to have an increased PAN it will gain some pupils. It is less clear how many pupils it will gain and whether it will reach the PAN that is agreed and whether pupil numbers in the school will be maintained if the size of the pupil cohorts in the area and in neighbouring areas in the future reduce. This is, however, not a sufficient reason to reject an objection to the PAN set.

28. Having set out my reasoning above, I conclude that, in taking account of the Code's requirement that I must approach this matter with a strong presumption in favour of an increase in a PAN, I must uphold this objection that the LA as the admissions authority for this school will not agree to the governing board's request for an increase in the PAN to at least 54. The LA must now engage with the school and amend the school's admission arrangements in the light of this decision. It will need to discuss how best to do this with the school's governing board.

Summary of Findings

29. I have looked carefully at the arguments presented by the school governing board and the LA in this matter. I have explained that the Code in paragraph 1.3 imposes a strong presumption in favour of agreeing an increase in PAN. I have accepted that the reasons the LA gives for opposing the increase on the grounds that there are sufficient places for children in the area and that increasing the PAN has the potential to reduce pupil numbers in other schools are valid. I understand the argument that the LA does not want to commit capital resources to a school where there is no basic need for additional places but note the confirmation from the school's governing board that additional capital resources are not required. However, while valid I am not persuaded that these arguments provide me with convincing evidence of the impact of the increase in PAN which would lead me to override the strong presumption that I must exercise in favour of the increase. Accordingly, I uphold this objection.

30. The Code requires an admission authority to revise its admission arrangements within two months of the date of this determination. In order to achieve this the LA will need to discuss how best to achieve this with the governing board of the school.

Determination

31. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2020 determined by Worcestershire County Council for Bewdley Primary School, Bewdley.

32. 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 the date of the determination.

Dated: 21 March 2019

Signed:

Schools Adjudicator: David Lennard Jones