



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** VAR833

**Admission Authority:** The Governing Board of Stallingborough Church of England Primary

**Date of decision:** 5 April 2019

### **Determination**

**In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the variation to the admission arrangements determined by The Governing Board of Stallingborough CofE Primary for Stallingborough CofE Primary, Stallingborough, Lincolnshire.**

### **The referral**

1. North East Lincolnshire Council (the local authority) has referred a variation to the Adjudicator about the admission arrangements for Stallingborough Primary School, a 4 to 11 voluntary controlled Church of England primary school in Stallingborough, Lincolnshire for September 2019. The referral requests a reduction in the Published Admission Number (PAN) from 19 to 15 for admissions in September 2019 and 2020.

### **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 (subject to the point below about notifications) 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 Code).
5. The documents I have considered in reaching my decision include:
  - a) the local authority's referral of 8 March 2019 and supporting documents;
  - b) the comments of the governing body, of the school and of the Diocese of Lincoln; and
  - c) the determined arrangements for the school.
6. The local authority have not provided evidence of notification of the proposed variation as required by paragraph 3.6 of the Code. However, it is important that my decision is made as soon as possible as National Offer Day for primary schools is 16 April 2019. As my decision is to not approve this referral, for the reasons set out here, it is not necessary to establish that the required notifications were made.

### **Background and consideration of factors**

7. The school is a 4 to 11 primary school in the area of North East Lincolnshire Council. The school is maintained by the local authority. Usually the local authority would be the admission authority for a voluntary controlled school. However it appears that it has delegated responsibility for determining admission arrangements to the governing board. The school's admission arrangements appear in the local authority's admissions booklet under the heading "*Admission Policies for Primary Academies and Voluntary Controlled Schools who follow their own policy*".
8. The referral seeks a decrease to the school's published admission number (PAN) from 19 to 15 for 2019 and 2020. Previously the school had a PAN of 15. In 2018 the governing board, against the advice of the local authority, determined a PAN of 19 for September 2019. In early 2019 (I presume as I do not have the exact date) the governing board determined a PAN of 19 for September 2020. I find that at all times the local authority were aware of the PAN being set and could, if it wished, have removed the delegation of its power to determine admission arrangements, but chose not to do so.
9. The school was inspected by Ofsted in September 2018 and was judged to be Good in all areas. The report records that at that time there were 128 pupils on roll at the school. This gives an average over seven year groups of 18 pupils. The report expresses no concerns about the use of space in the school. The government website "Get Information about Schools" gives a capacity for the school of 130 pupils

and records 127 pupils on roll. The local authority's net capacity survey, made in 2019, gives an upper limit of 119. An intake of 15 pupils in reception, if maintained through all year groups, gives a total of 105 pupils on roll. The equivalent figure for an intake of 19 is 133.

10. The suitability assessment provided by the local authority identifies eight areas as classrooms, oddly since there are seven year groups in the school. Of those eight no issues are identified for four. One has no issue grade but it is noted that possible problems with exiting the room "require monitoring". Two classrooms are rated B "Teaching methods inhibited" and one of those is noted to be "wholly unsuitable". The remaining one class space is rated C "management adversely affected".
11. The Suitability Summary notes "*School have a PAN of 19 and are choosing not to teach in mixed year groups, which would require 7 class bases, resulting in pupils being taught in wholly unsuitable spaces*". The same issue would arise if the school had a PAN of 15 and was "*choosing not to teach in mixed year groups*". Either way seven separate classrooms would be required, with the same pressure on the school's accommodation. The capacity assessment form for a PAN of 15 appears to show mixed level teaching over four classrooms with Y1 & Y2 and Y4 & Y5 taught together, reception taught in one room and one other room identified as a classroom. It is not clear where Y3 and Y6 are to be taught but presumably not in the same class. If 105 pupils are to be taught over four classes the number (if evenly spread) per class would be 25 or 26 pupils, if over five classes, 21 or 22 pupils.
12. As set out above it appears that there are five classrooms which are useable without major issues arising. Even with an intake of 19 pupils maintained through all year groups the number (if evenly spread) per class would be 26 or 27, below the infant class size limit of 30.
13. I accept that there are significant issues with accommodation at the school. For example the headteacher requires a private office, the school needs an adequate staffroom and, perhaps most pressingly, there must be adequate space for the requirements of children with special educational needs in the school.
14. However, I do not accept that reducing the PAN by way of variation is necessary to address these concerns. If the school continue to teach in separate year groups then seven discrete teaching spaces will be necessary whether the PAN is 15 or 19. If the school are prepared to mix age groups then the pupils could be accommodated in five classrooms whether the PAN is 15 or 19. I do not see any direct connection between the PAN of 19 and the problems with space.
15. I must also take into account that this is a referral of a variation, a process out of the normal procedure for changes to admission arrangements. The Code, paragraph 3.6, states "*Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances*". The major

change of circumstances here seems to be the appointment of a new headteacher in January 2019, whose concerns about the accommodation in the school led to the local authority surveys referred to above. I am not aware of any substantive recent change to the accommodation itself. Normally changes to admission arrangements, including decreases to PAN, follow the process set out in paragraphs 1.42 to 1.45 of the Code, including formal consultation. Once admission arrangements are determined (whether changed or unchanged) objections to those arrangements may be made to the schools adjudicator. However, once a PAN has been decreased there can be no further objection to the decreased number in future years (other than the special cases), as such objections are excluded. The effect is that if a PAN is decreased by variation, without formal consultation, it can remain at that decreased level indefinitely, without any opportunity for objections.

16. The local authority helpfully gave me details in a phone call of the potentials allocations to Reception for September 2019. The total number of preferences for the school was 38. Of these 19 are to be allocated a higher preference, leaving 19 remaining. If the PAN remains at 19 all of these can be offered places on National Offer Day. If the PAN is decreased to 15 four applicants will be displaced.
17. Of these potentially displaced, two put the school as their first preference, of which (if displaced) one will be offered their third preference school and the other (also not be offered their second preference) has entered "elective home education" if the first or second preference are not met.
18. The remaining two put the school as their second preference. In each case their first preferences are not met. They would not get a place at the school if the PAN is decreased to 15, and each would then be offered their third preference.
19. At the time each of the parents of those potentially displaced considered and made their applications the PAN was stated to be 19. I cannot know the extent to which that figure affected their choice but that was the information they had, and there was no indication that it might change.

## **Conclusion**

20. Any decrease of PAN by way of variation removes the opportunity to comment in a formal consultation and the opportunity to object to the decreased PAN once determined. The loss of opportunity to object extends into future years. A decrease in PAN after parents have expressed preferences gives rise to a real prejudice to those four pupils who would be displaced and offered lower preferences. Against this I have balanced the detriment to the school if the PAN is not reduced. I note that the actual numbers of pupils in the school (set out above) appear to exceed 105 (15 x 7) and are nearer to 133 (19 x 7). The schools capacity is variously stated but again by most estimates is

significantly above 105. My finding is that there are real pressures on accommodation in the school but that these are not addressed simply by a decrease in PAN from 19 to 15. The reasons given for proposing a variation do not outweigh the arguments against following the variation process and the prejudice to displaced pupils. For that reasons I find that the case for a decrease in PAN by way of variation is not made out and the referred proposal is not agreed. Of course it remains open to the admission authority to follow the formal process and to consult on a decreased PAN for 2021.

### **Determination**

21. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the variation to the admission arrangements determined for Stallingborough Primary School, Stallingborough, Lincolnshire.

Dated: 5 April 2019

Signed:

Schools Adjudicator: Tom Brooke