



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR876

**Admission authority:** Bradford Council for Low Ash Primary School, Shipley, Bradford, West Yorkshire

**Date of decision:** 19 August 2019

## Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Bradford Council for Low Ash Primary School for September 2020.

I determine that the published admission number will be 60.

## The referral

1. Bradford Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 for Low Ash Primary School (the school), to the Office of the Schools Adjudicator. The school is a community primary school for children aged 3 to 11 in Shipley, West Yorkshire.
2. The proposed variation is that the published admission number (PAN) for reception year (YR) is reduced from 90 to 60.

## Jurisdiction

3. 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”.*

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

## Procedure

5. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

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

- a. the referral from the local authority dated 28 June 2019, supporting documents and further information provided at my request;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school has been consulted;
- d. a map showing the location of the school and other relevant schools;
- e. a copy of the letter notifying the appropriate bodies about the proposed variation and comments received on the proposed variation from the appropriate bodies; and
- f. a previous determination for this school (case reference: VAR853 published 3 June 2019).

## The proposed variation

7. The local authority increased the PAN for the school from 60 to 90 for 2019 with the intention of increasing the size of the school over time from a 420 place school (seven year groups of 60) to a 630 place school (seven year groups of 90). This was in response to planned housing developments which were expected to increase the number of children in the area. However, the housing developments have not yet begun to be built and so the demand for school places in the area has not increased. As the school is a popular school, the effect of increasing the PAN to 90 is that more children could be admitted to the school and consequently fewer children may be admitted to other local schools.

8. In April 2019 the local authority requested that the arrangements for 2019 should be varied so that the PAN for the school was reduced from 90 to 60. I was the adjudicator for the case. Because the request to lower the PAN was made after parents had already stated their preferences and there were 77 first preferences for the school, I decided that the change in circumstances did not justify denying parental preference at that point in the admissions year. I therefore did not approve the variation.

9. The local authority has made the same argument as it did for 2019 to support its request to reduce the PAN for 2020, that is that other schools would have a high number of surplus places if the PAN remains at 90. On this occasion the request for a variation has been made at an early stage and so, if I agree the variation, parents would be aware of the lower PAN before applications were made by the closing date of 15 January 2020 for admission in September 2020.

10. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

11. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The local authority has provided me with a copy of its notification on the proposed variation and the list of schools and other bodies to which it was sent. I have seen confirmation from the school's governing board that it supports the request for the variation. I am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

## **Consideration of proposed variation**

12. There is no requirement for a consultation as required by the Code for a change to admissions arrangements when the change is made through a variation. This is because a variation is to meet a major change in circumstances since the arrangements were determined. Parents therefore do not get an opportunity to express any views on the proposed variation. Once the PAN has been set, nobody, except the governing board of a community or voluntary controlled school, can object if the PAN remains the same. I have therefore scrutinised the data in detail to try to make sure that the change is justified.

13. I will consider first whether that there will be sufficient places for local children in the area if the PAN is reduced and then the reasons which might justify the reduction in the number of places.

14. The local authority has a duty to make sure that there are sufficient school places and the local authority forecasts the need for school places to support the process of fulfilling this duty. It does this based on groups of schools known as planning areas. The two key factors in forecasting the number of reception places needed is birth data from the relevant years as provided by the NHS and historical trends showing how any given number of births translates into a particular level of demand for places. The NHS data in isolation would show that there were insufficient school places in the area, but previous patterns show that many children are admitted to schools either in other planning areas or other local authority areas. This is possible as the school has eight schools within one mile admitting children to YR and approaching 80 such schools within three miles.

15. I have therefore considered, as has the local authority, a wider area than the planning area for the school. On this basis the calculations made by the local authority show that across the wider area there would be surplus capacity of around 50 places being available if the PAN were reduced to 60 which would be nearly five per cent of the whole. I am therefore assured that if the PAN for the school were reduced to 60 for 2020 then there would be enough places for local children.

16. As explained above, the local authority has told me that it wishes to reduce the PAN because the school is popular and, as the number of children has not increased as anticipated, the PAN of 90 will have a detrimental effect on other schools which would have surplus places as a result. I would not necessarily deem this in itself a sufficient justification to reduce the PAN through a variation which would be likely to frustrate parental preference.

17. However, the school expressed its wish for the PAN to be 60 as it feared uneconomic numbers and difficulties in class organisation as, with the PAN at 90, it might attract numbers over 60 but considerably fewer than 90. Schools are, of course, funded on the basis of pupil numbers. Infant children cannot be taught in groups of more than 30 with only one qualified teacher (except in limited and exceptional circumstances). This means that an intake of say, 65, is likely to mean that the school would need to employ three teachers for YR but the income generated by 65 children would be unlikely to cover the cost of three teachers (taking into account other costs). It would be open to the school to consider mixed age classes but this is unlikely to be something a relatively large primary school with a previous PAN of 60 would wish to do.

18. There is a further important factor in this case which concerns the school's buildings. The school also told me that the effect of retaining the PAN of 90 for 2019 meant that there had been a need for "*hastily constructed accommodation, which could potentially have a negative effect on teaching and learning.*" The school expressed grave concerns about the effect if there were to be another year group of 90. Originally, based on the expectation of significant house building, there had been plans for major investment in the school to expand it in order to accommodate the higher PAN of 90 and so I asked about the current situation regarding build and capital costs.

19. The local authority explained that a review of its forecasting methods had meant that it believed that the demand for places was reducing overall. The local authority no longer intends to expand the school to a three form entry school (based on a PAN of 90) and plans to consult on setting the PAN at 60 for 2021. The local authority also explained, which was not a matter it had raised at the time of the previous determination that, "*Proposed works to accommodate the PAN of 90 in 2019 as the cohort moves through the school are estimated to cost £709,000. An additional £300,000 is estimated to be required to provide additional teaching space for another class if the PAN for 2020 is to remain at 90, although there are some potentially problematic ground conditions which could lead to a significantly higher cost.*"

20. Unnecessary capital spend is not good use of the public purse and this is a powerful justification for the variation. I note that:

- 20.1. the accommodation for a PAN of 90 for 2020 does not already exist and would I am told cost a minimum of £300,000 to provide;
- 20.2. there are sufficient existing places available for the children in the area;
- 20.3. the school has concerns about the effect on teaching and learning if the PAN remains at 90; and
- 20.4. parents will be able to make their applications for 2020 in the knowledge of how many places are available.

21. In this situation, based on the evidence provided to me, I approve the proposed variation that the PAN should be 60.

## **Determination**

22. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Bradford Council for Low Ash Primary School for September 2020.

23. I determine that the published admission number will be 60.

Dated: 19 August 2019

Signed:

Schools Adjudicator: Deborah Pritchard