



Office of
the Schools
Adjudicator

Determination

Case reference: VAR882 and VAR883

Admission authority: South Tyneside Council for Mortimer Community College and Boldon School

Date of decision: 12 September 2019

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation with modification to the admission arrangements determined by South Tyneside Council for Mortimer Community College and Boldon School for September 2020.

I determine that catchment areas of the two schools will be as shown on the map appended to this determination.

The referral

1. South Tyneside Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 (the arrangements) for Mortimer Community College and Boldon School (the schools), to the Office of the Schools Adjudicator. The schools are community schools for children aged 11 to 16.
2. The proposed variation is to extend the catchment areas of the two schools to incorporate the catchment area of South Shields School which will close on 31 August 2020.

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 was concerned that the minute of the meeting of the local authority's cabinet at which the arrangements were determined record *"That delegated authority is granted to the Corporate Director Children, Adults and Health, in consultation with the Leader, Deputy Leader and the Lead Member Children, Young People and Families to take whatever decisions are required to determine fully the admission arrangements for Community and Voluntary Controlled schools and any related matters for pupil admissions in September 2020."* The reason for this decision is stated to be *"Giving delegated authority to the Corporate Director Children, Adults and Health, in consultation with the Leader, Deputy Leader and the Lead Member Children, Young People and Families where indicated, will allow any outstanding or unforeseen minor issues to be resolved speedily."*

5. The Act and the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) require that admission arrangements are determined by 28 February every year and once determined, they may only be varied in limited circumstances. These circumstances are also set out in paragraph 3.6 of the School Admissions Code (the Code). The local authority have confirmed that no changes have been made to the arrangements since they were determined

6. After consideration of the local authority's response to my enquiries, I am satisfied that the arrangements have been properly determined and that the proposed variation is within my jurisdiction.

Procedure

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

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

- a. the referral from the local authority dated 11 July 2019 and supporting documents;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. evidence that the governing boards for the schools have been consulted;
- d. a map showing the location of the schools and other relevant schools;
- e. the local authority's composite prospectus for September 2019;
- f. a copy of the letter notifying the appropriate bodies about the proposed variation;

- g. comments received on the proposed variation from the appropriate bodies; and
- h. comments received from the schools on the modification.

The proposed variation

9. Following an adverse inspection by Ofsted a directive academy order was made for South Shields School; however, it did not prove possible to find an academy sponsor for the school. This was because of concerns about the viability of that school in relation to pupil numbers and financial sustainability. The Secretary of State for Education revoked the academy order on the condition that the local authority ceased to maintain the school. On 23 January 2019 the local authority determined a proposal to discontinue South Shields School with effect from 31 August 2020.

10. All children in the local authority live in a catchment area for a secondary school. Following looked after and previously looked after children and children who appear to have been in care outside of England, living in a school's catchment area is the highest oversubscription criterion. The closure of South Shields School would mean that children living in that school's catchment area would no longer have high priority for a place at any secondary school.

11. The local authority has requested that I approve the extension of the catchment areas of Mortimer Community College and Boldon School to incorporate the former catchment area of South Shields School.

12. The regulations require that relevant parties are notified of a proposed variation. The local authority has provided me with a copy of its notification of the proposed variation and the list of schools and other bodies to which it was sent. I have seen confirmation from the schools' governing boards that they support 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 the proposed variation

13. The 2020 admission arrangements for community schools in South Tyneside were determined by the local authority at a meeting of its cabinet on 20 February 2019. I have noted that this is after 23 January 2019 when the decision to discontinue South Shields School was taken. When I asked the local authority about the co-ordination of these decisions it said "*The Council accepts that the two processes overlapped and it is regrettable that it was not identified at that time that the arrangements specifically for the catchment areas for Boldon School and Mortimer Community College for 2020/21 would need to be modified if the proposal to close South Shields School with effect from 31 August 2020 was confirmed*".

14. Once the position of children living in the South Shields School catchment area became apparent to it, the local authority did undertake a thorough consultation on the new catchment areas between 17 May 2019 and 4 July 2019 and received 18 responses all of which were taken into consideration before applying for this variation. This exceeds the requirement in the Code to notify appropriate bodies about proposed variations.

15. The comments received during consultation mainly fall into two categories. The first are suggestions that the catchment areas for other named schools were also extended to incorporate part of the South Shields catchment area. The suggested schools however are academies where the local authority is not the admission authority so it cannot propose variations to the catchment area of those schools.

16. The other main area of concern was around the journeys to the schools from various addresses. According to the Department for Education Database 'Get Information About Schools', Boldon School and Mortimer Community College are 1.18 and 1.33 miles from South Shields School respectively. While distances along roads and footpaths will be greater than this they will not be unacceptable distances for children of secondary school age to walk or cycle. The local authority is also in discussion with the local bus operator about the implications of the change in the pattern of secondary schools in the area.

17. In my view extending the catchment area of the two schools to ensure that all children living in the closing school's catchment area continue to live in a catchment area for a secondary school is the right thing to do in principle. However, I was concerned with the way in which the local authority was proposing to do this for two reasons set out below.

18. The map of the new catchment areas provided by the local authority showed the catchment area of the closing school divided in two by a straight line equidistant from the two schools. Looking at the map it appeared that some roads were divided between the two schools in a way which may not make sense to residents. For example, the end few houses in a cul-de-sac fell into a different catchment area to the rest of the street and residents of the end houses would have to travel through the other catchment area to get to their catchment area school. The scale of the map made it difficult to see which houses fell which side of the dividing line and the line could pass through a house if that house was equidistant from both schools which some appeared to be. This would make the proposed catchment area unclear when paragraph 1.14 of the School Admissions Code requires that "*Catchment areas **must** be designed so that they are reasonable and clearly defined.*"

19. I also looked at the local authority's composite prospectus for September 2019 which was the latest available on its website. Data in this document shows that in the previous two years both Boldon School and Mortimer Community College were undersubscribed with the number of unallocated places across the two schools exceeding the number of children offered places at South Shields School. However, the two schools were not equally undersubscribed. In the two preceding years Boldon School had 96 and 82 unfilled places, while Mortimer Community College had 51 and 50 unfilled places. The area which the local

authority proposed to add to the Mortimer Community College catchment area was larger than the area it was proposing to add to the Boldon School catchment area.

20. I wrote to the local authority expressing the above concerns saying that I was considering using my power under section 88E(6)(b) of the Act to modify the proposed variation.

21. In response to this letter the local authority sent me a map showing a revised dividing line which followed roads rather than cut across them. It also set out a rationale for the inclusion of particular areas in the catchment for each of the schools. This rationale included the locations of, and pattern of admission to, a Catholic school and a Church of England school, existing bus routes and the location of industrial units. This seemed to me to be a modification which may address my concerns.

22. I asked both schools for their views on the modified proposal. Both confirmed they were in agreement with it, one saying they were "*happy with the content, proposals and rationale that have been given.*" I put considerable weight on this local knowledge.

23. I have therefore decided to approve the proposed variation to the catchment areas for Boldon School and Mortimer Community College with the agreed modification as shown on the map attached to the local authority's letter to me dated 29 August 2019. The map is attached as Appendix 1 to this determination.

Determination

24. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation with modification to the admission arrangements determined by South Tyneside Council for Mortimer Community College and Boldon School for September 2020.

25. I determine that catchment areas of the two schools will be as shown on the map appended to this determination.

Dated: 12 September 2019

Signed:

Schools Adjudicator: Phil Whiffing



South Tyneside Council

Draft School Catchment Areas Aug 2019

