



Office of
the Schools
Adjudicator

Determination

Case reference: VAR877

Admission authority: London Borough of Southwark for Phoenix Primary School

Date of decision: 18 October 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 the London Borough of Southwark for Phoenix Primary School for September 2020.

I determine that for admissions in September 2020 the published admission number shall be 90.

The referral

1. The London Borough of Southwark (the local authority) has referred a proposal for a variation to the admission arrangements for Phoenix Primary School (the school) for September 2020 to the Office of the Schools Adjudicator. The school is a community primary school for children aged 3 to 11.
2. The proposed variation is that the published admission number (PAN) is reduced from 120 to 90 for admissions in 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) 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 sent on 2 July 2019, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2020 and the proposed variation to those arrangements;
 - c. a copy of the local authority’s most recent booklet for parents seeking admission to schools in the area in September 2020;
 - d. evidence that the local authority has consulted the governing board of the school;
 - e. a map showing the location of the school and other relevant schools;
 - f. a copy of the email notifying the appropriate bodies about the proposed variation; and
 - g. a previous determination following a request to vary the determined arrangements (case reference: VAR826).

The proposed variation

7. Prior to submitting this proposed variation, the local authority proposed a variation to the arrangements for the school for 2019, again that the PAN should be reduced from 120 to 90 for admissions that year. My determination, (case reference VAR826), published on 15 April 2019, said *“The variation is not approved because it was proposed at a very late stage of the admissions process after parents had made their preferences, and some children would not be admitted to the school, which was their highest preference school with places available to them, if the PAN were reduced. The circumstances do not justify the variation proposed.”*
8. The local authority has now proposed that the PAN should be reduced from 120 to 90 for admissions in 2020. The local authority said that the major change in circumstances since the arrangements for 2020 were determined on 22 January 2019 is *“the continuing falling numbers of applications and reception rolls in the*

immediate area around Phoenix (and borough wide) there are currently, 179 reception places available at schools within a mile radius of Phoenix, and also that Phoenix's buildings and classrooms are not sufficient to accommodate 120 (4FE) [forms of entry] children year on year, as the original school expansion plans were aborted before completion."

9. 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.
10. 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 of the proposed variation sent to all primary schools across Southwark on 23 July 2019 and to Lambeth Council on 24 July 2019. The headteacher wrote on 17 July 2019 "*The governors and I have been consulted for this proposal and we are in full support in the reduction of Pupil Admission Numbers for September 2020 and beyond.*" I find that the appropriate procedures were followed and the relevant parties notified.

Consideration of proposed variation

11. The local authority has made the case for a reduction in the PAN at the school on two grounds: falling rolls in the area and insufficient capacity at the school to accommodate 120 children in each of its seven year groups. I shall first consider the number of applications and first preferences expressed for places at the school for admission in 2019. At the time the local authority applied for a reduction in PAN for 2019, parents had already expressed their preferences for school places for that year. The local authority expected to make 90 offers of places based on a proposed reduction to a PAN of 90 but told me that another 26 families had expressed a preference for the school and would be allocated a place at the school if the PAN remained at 120, that is a total of 116 children. I did not approve the reduction as I took into account that parents would not have known that the local authority intended to apply for a reduction in the PAN of the school at the time they decided on their preferences. They may have made a different decision if they had known about the application to reduce the number of places available. In the event, and subsequent to this new proposed variation, the local authority has told me that 119 children started in reception (YR) at the school in September this year and there were 106 YR children on the census date of 3 October 2019.
12. The number of preferences expressed for the school have changed over the last few years.

September	PAN	Number of first preferences	Number of places allocated
2016	120	105	111
2017	120	81	86
2018	120	73	86
2019	120	87	116

The local authority has forecast that 90 places will be required at the school in each of the next three years.

13. The local authority groups schools in planning areas across the authority; the school is in Planning Area 2 – Bermondsey and Rotherhithe – which has a total of 20 schools. The local authority has sent me helpful and detailed information about other schools in this area which has helped me gain a picture of the places overall. I am concerned primarily to ensure that the local authority can meet its duty to provide sufficient places for children in the area. The table below shows the sum of the PANs of the 20 schools in the planning area, the number of children admitted in previous years, the surplus number of places in YR and the level of surplus places as a percentage of the total number of places.

Information on the numbers of pupils in YR in the planning area between 2017 and 2019 compared to the sum of the relevant PANs; and forecast number of pupils for YR in the planning area compared to the sum of the proposed PANs

	Sum of PANs of the schools in the planning area	Number of children on roll	The difference between the sum of the PANs and the number of children	The level of surplus places shown as a percentage
2017	990	888	102	10.3
2018	1020	927	93	9.1
2019	1020	949 (allocation)	71	7.0
2020	990*	918 (projected)	72	7.3

2021	990*	916 (projected)	74	7.5
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*Assumes that the PAN for the school is reduced to 90.

Note that John Keats Primary School opened in September 2018 with a PAN of 60

14. The table above shows that there would still be a considerable proportion of surplus places if the PAN for the school were to be reduced as proposed by the local authority. The local authority explained in its referral that *“There are 1,440 (48FE [forms of entry]) reception places (including Phoenix) within one mile of the school, and 390 (13FE) within 0.5 miles. Of these, 179 (6FE – 12%) are vacant within one mile, and 56 (2FE – 14%) are vacant within 0.5 miles. It should be noted that is also a brand new 2FE free school – John Keats Primary School – around 300m from Phoenix with 24 spare places at reception for September 2019. The LA is confident that the removal of 30 (1FE) places would be unlikely to have a material effect on primary reception provision locally and whilst Phoenix is a popular school, parental preferences will continue to be able to be met within the area.”*
15. I am therefore assured that if this variation is agreed then there will be sufficient places for children living in the area. I also note that the local authority’s booklet *“Starting primary school in Southwark 2020/21”* has indicated that the PAN for the school may be reduced to 90, alerting parents in advance and enabling them to make a preference for the school in the knowledge that there may be fewer places than in previous years.
16. The local authority has also submitted information about the physical capacity of the school. This includes details about two further temporary classrooms added to the site to accommodate the additional demand for pupils in September 2019. The local authority told me *“In recent years, Phoenix Primary School, was included in the council’s expansion programme and put forward for a programme of major building works in two phases that would eventually accommodate 120 pupils within each year group. After phase one of the programme, the LA advised a reduction in the PAN to 90 due to growing evidence of falling numbers in the area. It would be difficult therefore and inappropriate in terms of place planning and finances available to replicate this for September 2020, as neither the space nor the resources exist for the school to accommodate further 120 children into Reception.”* The local authority also wrote *“I do need to stress again that there is simply no further room on the site to accommodate an additional form of entry over and above the 3FE [that is 90 places] proposed.”*
17. The up to date net capacity assessment for the school, forwarded by the local authority, shows a YR capacity and an indicated admissions number of 90. The school had a PAN of 60 until 2016 when it was changed to 120, predicated on a capital works programme to support that number of places. I am informed, however, and as the quotes above suggest, as the numbers admitted in September 2017 and

2018 equated to only three forms of entry, the programme was amended in September 2017 to preclude further expansion at Phoenix beyond that already built which would support 90 but not 120 children in each year group.

18. While the school has admitted significantly more than 90 children into YR for the current academic year, it is clear that this cannot continue given the available accommodation. It is clear too that there a level of surplus places in the area that supports the local authority's view that it is not justifiable to expand the capacity of the school further.

19. I have to note that I regard it as very unfortunate that the local authority did not manage to make the change to the PAN for 2020 during the normal round for consulting on and determining admission arrangements. Because this change has been requested as a variation and this has been done before the arrangements are determined for 2021, the PAN for 2021 can again be set at 90 with no requirement for consultation.

Summary

20. I am reassured by the information provided by the local authority that there are sufficient school places in the area if the PAN is reduced to 90. Further, the school does not have the capacity, as, in the light of falling rolls, further building work was not undertaken to accommodate a PAN of 120.

Determination

21. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the London Borough of Southwark for Phoenix Primary School for September 2020.

22. I determine that for admissions in September 2020 the published admission number shall be 90.

Dated: 18 October 2019

Signed:

Schools Adjudicator: Lorraine Chapman