



Office of
the Schools
Adjudicator

Determination

Case reference: VAR891

Admission authority: The governing board for Maids Moreton Church of England School, Maids Moreton, Buckinghamshire

Date of decision: 04 December 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 governing board for Maids Moreton Church of England School for September 2020.

I determine that the published admission number will be 15.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

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. The board of governors for Maids Moreton Church of England School (the school) has referred a proposal for a variation to the admission arrangements for September 2020 for the school (the arrangements) to the adjudicator. The school is a voluntary aided primary school for children aged four to seven and situated in Maids Moreton in the local authority area of Buckinghamshire County Council (the local authority). The Diocese of Oxford (the diocese) is the religious authority for the school.

2. The proposed variation is that the published admission number (PAN) is reduced from 30 to 15.

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

4. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention. I will determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

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 on behalf of the school dated 23 September 2019, supporting documents provided following that date and information provided by the local authority and the school subsequent to my enquires;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. maps showing the location of the school and other relevant schools; the catchment area for the school; and indicating the areas where children attending the school live;
- d. information available on the websites of the school, the local authority and the Department for Education; and
- e. information on the notification of the appropriate bodies about the proposed variation including a summary of the responses received.

Consideration of the arrangements

7. When I considered the arrangements, I raised with the school and the local authority that the method of defining the home address may not be fair. Paragraphs 14 and 1.3 of the Code are relevant.

The proposed variation

8. The school is located in the village of Maids Moreton which is on the northern edge of the town of Buckingham. The school is what is sometimes known as an infant school as education is provided for children from reception year (YR) until the end of Year 2 (Y2) only. The school uses a catchment area in its oversubscription criteria. The school is on the southern edge of its catchment area which extends mainly to the school's east and north and is largely rural. The school is named as a feeder school in the admission arrangements for Buckingham Primary School which admits children to Year 3 (Y3), as well as YR, to accommodate children leaving the school. There has been discussion of changing the organisation of schools in the area including extending the age range for the school so that it becomes a school for those aged 4 to 11, or to put it another way, from YR to the end of Year 6 (Y6). Such a change of age range would be through another and different statutory process.

9. The local authority, acting on behalf of the school and with its authority, provided the documentation and information for the proposed variation. The diocese supports the proposed variation.

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 the notification of the proposed variation and the list of schools and other bodies to which it was sent. 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.

12. I was concerned when I first read the papers that the proposed variation might inappropriately anticipate possible future changes to the school's age range which as I say above would be subject to a different statutory process. My concerns were that reducing the PAN for the school at this point, in advance of any decision following the statutory process to extend the age range of the school, created financial risks to the school and to the proper conduct of that statutory process. I therefore raised this point with the parties as I will discuss below.

Consideration of proposed variation

13. There is no requirement for a consultation as required by the Code for a change to most aspects of admissions arrangements made in the normal admissions round 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 and others with an interest therefore do not normally have an opportunity to express any views on the proposed variation. Once the PAN has been set for voluntary aided schools such as this one, no body can object if the PAN remains the same. My jurisdiction is for the arrangements for 2020. However, the PAN has not yet been set for 2021 and in these circumstances, it is appropriate to consider other future years. This is because a reduced PAN – which has been set without a consultation as required by the Code if this change were not via a variation – should not be able to continue without scope for future challenge if there is possibility that the places removed might be needed or wanted unless there are very good reasons to justify such a situation. I have therefore scrutinised the data to try to ascertain if there will be sufficient school places in the local area if the PAN is reduced from 30 to 15; considered the demand for places at the school and the effects on parental preference of such a change; the reasons given for the change; and whether the change is justified in these circumstances.

14. I will consider first the need for school places in the area. The local authority has a duty to make sure that there are sufficient school places and, to do this, plans on the basis of planning areas. The school is one of seven schools admitting children to YR in what is known as the Buckingham planning area (the planning area). The town of Buckingham is the centre of the planning area and it is surrounded by a largely rural hinterland with some villages with schools.

15. As table 1 shows, the sum of the PANs for these seven schools for YR was 292 for 2019. The number of places of children admitted to YR in 2019 was 241. This means that there were 51 surplus places across the planning area which is over 17 per cent. Table 1 also shows it is anticipated that there will be a reduction in the number of surplus places in YR in the planning area in future years.

Table 1: pattern of admissions and forecast admission in the planning area based on school's existing PAN of 30

	September 2017 actual	September 2018 actual	September 2019 actual	September 2020 Forecast	September 2021 forecast
Sum of PANs for YR for schools in the planning area	289	289	292	292	292
Number admitted	230	225	241	257	269
Number of surplus places	59	64	51	35	23

16. If the PAN were to be reduced then the forecast number of future surplus places would also reduce. This would make the forecast of surplus places 20 for 2020 and eight for 2021 if the PANs of all the other schools were to remain the same. This does not provide much flexibility for those moving into the area. I also note that the rural nature of much of the planning area means that if a child's nearest school does not have places then they may have to travel some distance to another school with places.

17. However, the school and the local authority anticipate several changes to schools in the area. In fact, because of planned house building in and around Buckingham, it is anticipated that more rather than fewer places will be needed. Potential future changes affect both Buckingham Primary School and the school. In the case of the school, as it has been described to me, the intention is to reduce the PAN to 15, then to change the age-range of the school so that it provides education for children from YR to Y6. Reducing the PAN would allow the school to accommodate children across the full primary age range within its existing accommodation. Later, if the demand justifies it, there would be the possibility of increasing the PAN again, possibly to 30, so that the school can eventually accommodate 30 children in each year group. I can certainly see that if the PAN were reduced to 15 for 2020 then the changes planned for the school's organisation might be easier to manage. However, it does not seem likely that the school's PAN would increase again to meet potential demand in 2021.

18. Given the figures I have set out above, there would seem at first sight to be a risk of a shortage of places in 2021. However, the local authority also told me that its projections of demand for places include around 15 to 30 children who live outside the planning area but have taken a place at one of the schools in the planning area as this reflects the pattern of parental preferences in previous years. The local authority is therefore of the view that if the school were to be oversubscribed then these children could be admitted to schools nearer to their homes. The local authority further explained that some of these children live in the neighbouring local authority area of Northamptonshire and a larger proportion live in the Buckinghamshire planning area of Winslow. I was provided with data on the number of places in the planning area of Winslow and the take-up of places. This data showed a considerable number of surplus places in that area. The children living in these areas may be travelling around six miles to attend the school. I consider below whether reducing the PAN is justified when there is a possible reduction in meeting the parental preferences of those living some distance away from the school.

19. Table 2 below shows the number of children admitted to YR at the school. In 2019 this was 14 children. This is less than the PAN proposed for 2020 and less than half of the PAN of 30 set for that year. However, the numbers fluctuate as 22 children were admitted to YR in 2018 which is obviously above the PAN of 15 proposed for 2020. A small proportion of these children live in the catchment area for the school, some outside the catchment area but quite close to the school and some live some distance away.

20. In recent years the number of children from the rural catchment area for the school actually attending the school is very low. In 2018 two children who lived in the catchment area had the school as their first preference and four in 2019. This is partly due to the low numbers of children living in the catchment area (seven for 2018 and 17 for 2019). Another potential factor in the low number of children attending the school from the catchment area is that some parents will prefer a school where there is no need to move school at the end of Y2. Furthermore, the map of the catchment area shows that some children living in the catchment area may live nearer to other schools than the school. The number of children living in the catchment area for the school who were admitted to YR at the school, in both 2018 and 2019, was below five.

21. There were eight births in the catchment area in the years relevant to admissions in 2020, 2021 and 2022 which indicates that the future numbers of children living in the catchment area would be below the proposed PAN of 15 if no other factor was taken into consideration. Overall, there is evidence that reducing the PAN to 15 would not prevent those children living in the catchment area from attending the school.

22. However, some children do live close to the school even if they do not live in the catchment area, and some of these have previously been admitted. Some living further away also have chosen to attend the school. Table 2 shows that the numbers in YR have been above the proposed PAN of 15 in most years (although not in 2017 or 2019). There may be some parents, living some distance from the school, whose preference for the school will be frustrated if the PAN is reduced to 15. As explained above, the local authority has explained that if this did arise that there would places available at schools nearer to the children's homes. Clearly, some parents believe it is worth their child travelling further than their nearest school in order to attend this school.

23. The school is the only school in the planning area where children have to leave at the end of Y2. The school believes that the need to move schools at the end of Year 2, most often to Buckingham Primary School, has two negative effects on the number of children at the school. One is, as above, that parents may be less likely to choose the school for their child in the first instance as they will have to change schools at the end of Y2. The second is that some parents choose the school initially then move their children before the end of Y2 to a primary school that offers education for the whole primary age group. This means that some children may leave the school during Year 1 and Y2 which makes it harder for the school to operate efficiently and leads to reduced funding.

Table 2: number of children in each year group for admissions 2015 to 2019

Census date	Reception	Year 1	Year 2	Total
May 2016	16	30	26	72
May 2017	17	14	24	55
May 2018	11	17	12	40
May 2019	21	10	17	48
October 2019	14	21	8	43

24. Table 2 shows that overall the total number of children at the school has been reducing and that there is sometimes a reduction in the number of children in a year group between when they join the school in YR and the end of Y2. The combination of these factors has led to the proposal that the school expands its age range so that children can stay at the school until the end of Y6. The reduction in PAN would allow the school buildings to accommodate this, without physically expanding them until probably 2023.

25. However, the school and the local authority brought a more pressing problem to my attention when I raised my concern that a variation at this stage would inappropriately pre-empt a statutory proposal. The school explained, *“in 2015 we had an intake of 15, with 17 in 2016, 13 in 2017, 22 in 2018 and 14 in 2019. It is no longer financially viable for us to run 3 classes with such small numbers but infant class size legislation prevents us from merging the classes where the total number of pupils exceeds 30.”* The Code explains in paragraph 2.15 that *“Infant classes (those where the majority of children will reach the age of 5, 6 or 7 during the school year) **must not** contain more than 30 pupils with a single school teacher.”* In practice, a PAN of 30 and the varied numbers being admitted (and some leaving) means that while year groups can be combined, the numbers are so volatile that this is disruptive to pupils and their learning and to staffing levels.

26. The school explained to me that it sought a PAN of 15 so that it could plan on the basis of two classes – most probably combining years 1 and 2 into one class. It described the current situation thus: *“Very occasionally, the numbers would have potentially allowed us to merge the year groups, e.g. the 2016 and 2017 intake, but this would have entailed making a member of staff redundant and merging the two classes, then needing to recruit the year after and separate the classes again. This is cost prohibitive as well as very disruptive.”*

27. I was told that the school’s financial modelling shows, *“we could run 2 classes with more stable numbers, as it is the fluctuations in pupil numbers that is our biggest challenge. Our projections show, that without taking the necessary step to reduce our PAN from 30 to 15, we will grow an unsustainable deficit without a coherent recovery plan.”* Both the school and the local authority have described the reduction in the PAN as a way to make a small school sustainable as there is a risk of closure otherwise. I note that the current number of children in the school is 43 which makes it a very small school to manage the evident fluctuations in pupil numbers. This provides strong evidence to justify the proposed variation and justifies the risk of children who live some distance from the school and outside the catchment area not being admitted. In this context, as parents do not need to apply for places at primary schools in September 2020 until 15 January 2020, there is time for the change in PAN to be publicised locally before the deadline for applications.

28. I explained above that it is not necessary to consult on a variation to a PAN. It is necessary, as paragraph 3.6 of the Code says that: *“Such proposals [to vary the admission arrangements] must be referred to the Schools Adjudicator for approval, and the*

appropriate bodies notified.” The appropriate bodies to be notified are those listed in paragraph 1.44 of the Code as those who **must** be consulted when a consultation is required with the exception of parents of children between the ages of two and eighteen and the addition of all governing bodies for community and voluntary controlled schools in the relevant area.

29. In this instance, because this proposed variation is part of a wider change and a bigger strategy, the school and the local authority jointly held a public consultation. This met the requirements for the notification as detailed in paragraph 3.6 of the Code. The public consultation ran between 3 June and 22 July 2019. The local authority provided a list of those informed of the consultation and this included parents of school children and those in early years education. The detail of whether this went wider than those directly linked to the school is not clear to me but I have not asked as it is not necessary to notify parents at all of a proposed variation.

30. I was told that *“The school received a total of 197 responses to the consultation. 192 or 96% of those responding were in favour of the proposed change.”* This is a far higher response than is normally received to a notification.

31. The figures provided to me of past numbers and forecast demand for school places show me that children living in the catchment area are likely to be able to attend the school if they so wish if the PAN is reduced. Children living some distance away from the school and not in the catchment area may not be able to be admitted. However, there are school places available nearer to these children’s homes and the change to the PAN is presented as vital to the sustainability of the school. In these circumstances the proposed variation is justified and I therefore approve the proposed variation.

Consideration of the arrangements

32. I wrote to the school to bring another matter to its attention as a part of the arrangements may not be compliant with the Code. This matter related to paragraph 1.13 of the Code which says, *“Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the ‘home’ address will be determined and the point in the school from which all distances are measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.”*

33. The arrangements do address how the home address is determined generally. With regard to provision for cases where parents have shared responsibility for the child, the arrangements say, *“To avoid doubt where a child lives with parents with shared responsibility, each for part of a week or month, the address where the child lives will be determined by:*

1) *Confirmation of the registered address to which Child Benefit is currently being paid, or, if child benefit is not received then the address from which the child in question is registered with the doctor.*

2) *If 1) above is not applicable then the parent with whom the child spends the greater proportion of the school week from Sunday evening to Thursday evening.”*

34. Paragraph 14 of the Code says, “*admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*” I am aware that it is possible that where child benefit is paid may not be where the child spends the majority of his or her time. For example, a child could normally live with one parent and stay with the other parent, who is in receipt of child benefit, one weekend in two. It is not reasonable to establish the home address on this basis as it does not necessarily establish where the child spends the majority of their time in the school week and this factor should be the basis of admission decisions. This only has to be stated for it to be seen to be true. Similarly, a child may be registered with a doctor with an address that is not where they spend the majority of their time and the same principle holds.

35. In some instances, children spend an equal amount of time with both parents or there are other complications. It is reasonable in these circumstances to expect the parents to agree which address may be counted as the home address. If this were not achieved then it may be reasonable to consider other evidence.

36. The school has chosen to determine arrangements which are similar to those determined by the local authority. The local authority said, “*This is the methodology used by the local authority and if the adjudicator feels that it is unfair please advise and we will arrange for the paragraph to be amended.*” I do believe that the arrangements are unfair in this regard and not in conformity with the Code. I welcome the willingness to amend the arrangements.

Determination

37. 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 governing board for Maids Moreton Church of England School for September 2020.

38. I determine that the published admission number will be 15.

39. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

40. 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: 04 December 2019

Signed:

Schools Adjudicator: Deborah Pritchard