



Office of
the Schools
Adjudicator

Determination

Case reference: VAR908

Admission authority: London Borough of Lambeth for Kingswood Primary School, London

Date of decision: 20 February 2020

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lambeth for Kingswood Primary School for September 2020.

The referral

1. The London Borough of Lambeth (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 for Kingswood Primary School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged 3 to 11 in the area of the London Borough of Lambeth.
2. The proposed variation is that the published admission number (PAN) be reduced from 120 to 90.

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 8 January 2020, supporting documents and further information provided in response to my enquiries;
 - 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 and a letter from the school providing further information on the proposed variation;
 - d. maps showing the location of the school and other relevant schools; and the home location of those attending YR at the school as at December 2019;
 - e. the local authority's booklet for parents seeking admission to schools in the area in September 2020;
 - f. information available on the websites of the local authority and the Department for Education;
 - g. a copy of the letter notifying the appropriate bodies about the proposed variation; and comments received on the proposed variation from the appropriate bodies.

The proposed variation

7. The school is one of six primary schools in the local authority area for which reductions in the PAN have been requested through a variation at this time. Three of these schools, including the school, are part of the Gypsy Hill Federation and share an executive headteacher and governing board. The co-chairs of the governing board wrote to the local authority on 26 September 2019 asking that the PAN for the school should be reduced from 120 to 90 for admissions in 2020. In the same letter there were also requests that the PANs of two other schools in the federation should also be reduced.

Consideration of proposed variation

8. 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 consider below whether the variation requested is justified by the change in circumstances.

9. There is no requirement for public consultation as required by the Code for a change to most aspects of 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 and others with an interest therefore do not normally have an opportunity to express any views on the proposed variation. Moreover, once the PAN has been set for a community school such as this one, the only body that can object if the PAN remains the same in subsequent years is its governing board. 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 years beyond 2020. This is because a reduced PAN – which has been set without the consultation which would be required by the Code if the PAN were to be reduced in accordance with normal procedure – would be able to continue without scope for future challenge. It is important to consider in that context whether the places removed might be wanted in future years and, if so, if there are good reasons to justify their removal. I note that in this context that the local authority has consulted on setting the PAN at 90 for 2021.

10. 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 120 to 90; and 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. The timing is also pertinent as parents have already stated their preferences for admissions to YR in 2020 (the closing date was 15 January) on the understanding that the PAN was 120.

11. I questioned the local authority regarding the proximity of the date of the request for a variation (8 January 2020) and the closing date for applications and the local authority told me, *“In accordance with the guidance, as part of the period of notice, the school, and the Local Authority made the information available that the school had applied for a reduction in the PAN, therefore the parents would have been making an informed choice.”*

12. The local authority explained that it had asked the school to provide information on its website for parents on the proposed reduction. A copy of this was provided to me. The document was described as a consultation although it would not fulfil the requirements of the Code as a consultation but, as discussed above, no consultation is required for a variation. The same notice was placed on the local authority’s website and said that the consultation ran between 15 November and 13 December 2019 and responses could be made in that four week period; none were received. This is a worthy attempt to make sure that parents were aware of the proposed variation.

13. However, I think it is likely that some parents would have relied on the information provided in *“Starting primary school in Lambeth: 2020/21”* which is the local authority’s booklet for parents seeking admission to schools in the area in September 2020 which stated that the PAN was 120. In addition, parents could have started applying for a place from 1 September 2019 and so some may have applied in advance of this notice; others may not have looked at the websites; and others may not have understood the implications

for their application. I remain of the view that some parents at least may well have made their preferences unaware of the proposed reduction in PAN.

14. I will consider first the need for school places in the area. The local authority area comprises a densely populated part of inner London. The surrounding local authority areas of Croydon, Westminster, Southwark and Merton are similarly urban. There are large numbers of primary schools potentially within reach of those living in the local authority area and in its neighbouring authorities.

15. 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 in the planning area known as the Norwood planning area (the planning area) which contains seven primary schools admitting children to YR. The other five community schools for which reductions in PANs are being proposed are in different planning areas.

16. Table 1 below shows data provided to me on the planning area: the sum of the PANs of the primary schools, the number of children in YR in recent years, the local authority's forecasts for the number of children requiring a place in YR in 2020 and 2021 and the difference between the places available and the sum of the PANs and the forecasts as appropriate.

17. Table 1: the number of children and places available in the planning area

	2017/18	2018/19	2019/20	2020/21	2021/22
Sum of PANS of the schools in the planning area	600	630	600	600	600*
Number of children in YR at date of relevant census	572	589	552	537 (forecast)	555 (forecast)
Difference between the places available and the number of children (the number of vacant places)	28	41	48	63	45
Difference shown as a percentage of the whole (the percentage of vacant places)	5%	7%	8%	11%	8%

*figure for 2021 as provided by the local authority on 8 January 2020

18. Table 1 shows a small increase in 2020 in the number and proportion of vacant places since admissions in 2017. The 11 percent vacant places forecast for 2020 is a generous proportion of vacant places. If the number of places were reduced by 30 as proposed through the variation then there would be 33 vacant places in 2020 which would reduce the percentage to six per cent. This is a reasonable proportion and so I am

confident that if the PAN at the school were to be reduced by 30 places then there would be sufficient places for all the children in the area.

19. Table 2 shows the number of children in YR at the school in recent years and the forecast made by the local authority for 2020 and 2021.

Table 2: Numbers of children at the school

	2017/18	2018/19	2019/20	2020/21	2021/22
PAN for the school	120	120	120	120	120
Number of children in YR	115	104	98	100 (forecast)	103 (forecast)
Difference	5	16	22	20	17

20. Table 2 illustrates that more than 90 children, 90 being the proposed PAN, have been admitted to the school to YR each year since 2017. Furthermore, the forecast is that more than 90 children would be admitted to the school if the PAN were to remain at the determined level of 120. As discussed above I am aware that parents have already made their applications for admissions in 2020. In these circumstances, and given the level of demand expressed for places at the school in recent years there would need to be a strong justification to reduce the PAN to 90 as there is no doubt about the school's physical capacity to accommodate up to 120 in each year group.

21. I note that the number of first preferences made for the school for admission in 2018 and 2019 was considerably below 90. However, more than 90 children were admitted each year which means that the school was the highest preference that could be met for 104 and 98 children in 2018 and 2019 respectively. A reduction in PAN is likely to mean that some children will have to go to a school that their parents would have preferred less than they preferred Kingswood Primary School.

22. I asked the local authority to provide me with further information on the justification to reduce the PAN in these circumstances. The local authority explained that birth rates have been reducing for some years and this affects the number of children likely to be seeking a place in YR in due course. The local authority provided a map which shows the home addresses of those in YR now and this shows that children admitted to the school often live closer to other schools and pass them to travel to the school. It would be those children who live further away who would not get a place at the school if the PAN were reduced to 90. There is no doubt that there are other places available to them in easy distances of their homes. Equally, however, there is little doubt that there are parents who would prefer this school who would have to be disappointed if the PAN were reduced.

23. Infant class size regulations mean that for infant aged children, there must not be more than 30 children to a single school teacher (except in limited circumstances). In addition, in a normal year of entry a school must admit all those who apply up to the PAN. A PAN of 120 could thus mean that just over 90 children are admitted to the school and the school having, because of infant class size regulations, to provide four teachers to teach them. I can see that this happened in 2019 when 98 children were admitted to YR. Four classes would mean around 24 or 25 children in each class. The forecast is 100 children being admitted in 2020 so again, there are likely to be around 25 children to a class if the PAN remains at 120. A PAN of 90 would mean that the school could have three classes for YR rather than four.

24. If 120, or close to 120, children are admitted then a school can organise YR provision in four classes each containing 30 or nearly 30 children. Given that schools are funded primarily on the basis of pupil numbers, this is financially efficient. If the PAN is 120 and far fewer children, but more than 90, are being admitted to the school then this can lead to financial problems. The context includes reducing numbers in all year groups adding to financial pressures although of course it is possible to have more than 30 children to a teacher for junior aged children. However, my jurisdiction is for admissions to YR in 2020. The school said, *“For the 2019 - 20 academic year we have been obliged to open four reception classes, however there are currently 25 in year vacancies. Similarly in the current Year 1 there are four classes and 22 in year vacancies. This is financially very challenging.”*

25. The school further explained that it has been able to manage reducing numbers because of the flexibility that its federation gave it as it could move staff between schools but that, as the numbers were reducing in Lambeth overall, this flexibility will diminish. In addition the school said, *“Unless the proposed variation in admission is agreed, the financial stability at Kingswood will be compromised. Without the stability that a reduction in pupil admission numbers to two forms of entry (sic) will bring planning for future provision for pupils will become very difficult. This is highly likely to affect academic standards.”*

26. I have considered this point seriously. However, the size of the school gives it more capacity overall to manage such challenges than might be the case in a smaller school. There are, across the country, to my knowledge, many schools that have infant classes that have classes of 25 children or fewer although I recognise that schools make different decisions over how to manage their resources for the best effect. The financial effects of running four classes of around 25 children needs to be weighed against the effect on parental preference, at this point in the school admissions year, of reducing the PAN to 90. On balance, I do not think that the variation is justified in these circumstances.

27. I have taken account of all the information provided to me. The school has sufficient space to admit 120 children and the evidence provided to me indicates that it is likely that more than 90 children would be admitted to the school if the PAN remained at 120 as determined and parents have already made their applications for 2020. In these circumstances I have decided that the variation is not justified by the circumstances.

Determination

28. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lambeth for Kingswood Primary School for September 2020.

Dated: 20 February 2020

Signed:

Schools Adjudicator: Deborah Pritchard