



Office of
the Schools
Adjudicator

Determination

Case reference: VAR1173

Admission authority: Kent County Council for Birchington Church of England Primary School

Date of decision: 19 August 2020

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 Kent County Council for Birchington Church of England Primary School for September 2021.

The referral

1. Kent County Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for Birchington Primary School (the school), to the Office of the Schools Adjudicator. The school is a Church of England voluntary controlled school for children aged 4 to 11 in Thanet, Kent. The school is within the Diocese of Canterbury (the diocese).
2. The proposed variation is that the published admission number (PAN) for Reception (Year R) be 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 sent on 28 July 2020;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. comments from the diocese about this proposed variation;
- d. a copy of the local authority’s booklet for parents seeking admission to schools in the area in September 2020;
- e. confirmation that the local authority has consulted the governing board of the school;
- f. a map showing the location of the school and other relevant schools; and
- g. a copy of the letter dated 19 June 2020 notifying the appropriate bodies about the proposed variation.

The proposed variation

7. The local authority has applied for a reduction in the PAN from 90 to 60 at the school from September 2021. In 2016 the local authority increased the school’s PAN (with the support of the school) from 60 to 90 because of anticipated housing growth in the area. The developments have been delayed, with the result that the anticipated increase in pupils in the area has not materialised. The PAN reduction will allow the school to operate within its budget. The school has said that it is agreeable to the local authority increasing the PAN in the future when the housing developments begin to bring more children to the area.

8. Paragraph 3.6 of the Code permits an admission authority to propose a variation to its determined arrangements if there is a major change in circumstances. The admission authority for this voluntary controlled school is the local authority. Such proposals must be referred to the Schools Adjudicator for approval. I will consider below whether the variation requested is justified by the change in circumstances.

9. Paragraph 3.6 of the Code also requires that appropriate bodies 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 the appropriate procedures were followed.

Consideration of proposed variation

10. The local authority reports that the number of births in Thanet district has declined from 1,650 in 2012 to 1,577 in 2018. At the same time, the house building in Thanet has not come forward as predicted in Thanet District Council's draft Local Plan (July 2018). It indicates provision of 17,140 additional homes (2011-2031); however, this requires an average of 857 homes to be built per year and during the period 2013-2018 there was only an average of 334 built per year. As a result of these two factors, the primary pupil population has declined over the past two years.

11. The school was expanded from two to three forms of entry in September 2016 based on predicted growth in the pupil population related to planned housing and growth from families settling in the area from Eastern Europe. Since becoming a three form of entry school, it has not filled to its capacity. Housing has not materialised and the inward migration into the area from Eastern Europe has reversed as families now return home or have now moved to settle elsewhere in Europe. In addition to the reduction in pupil numbers, the school faces the need to decant more than 50 per cent of the school into temporary mobile accommodation on site whilst emergency replacement works to the roof of the main building are undertaken.

12. The local authority provided a table showing the PANs of the schools in the area as follows:

Planning Group	School	Year R PAN					
		2022	2021	2020	2019	2018	2017
Birchington and Thanet Villages	Birchington CE Primary	90	90	90	90	90	90
	Minster CE Primary School	60	60	60	60	60	60
	Monkton CE Primary School	15	15	15	15	15	15
	St. Nicholas at Wade School	30	30	30	30	30	30
Total Planning area Year R PAN		195	195	195	195	195	195
Westgate-on-Sea	Garlinge Primary School	120	120	120	20	120	120
	St. Crispin's Community Infant	90	90	90	90	90	90
	St. Saviour's CE Junior	n/a	n/a	n/a	n/a	n/a	n/a
Total Planning area Year R PAN		210	210	210	210	210	210
Total for Westgate and Birchington planning area		405	405	405	405	405	405

13. The next table shows the number of children admitted to these schools in the last three years at the usual point or points of admission with the totals for the planning area:

Planning Group	School	Year R admission number Sept			
		2020	2019	2018	2017
Birchington and Thanet Villages	Birchington CE Primary School	64	76	74	70
	Minster CE Primary School	49	58	52	51
	Monkton CE Primary School	15	16	12	14
	St. Nicholas at Wade CE Primary	25	30	26	28
Total Planning area Year R PAN		153	180	164	163
Westgate-on-Sea	Garlinge Primary School	117	80	112	97
	St. Crispin's Community Infant	89	87	90	88
	St. Saviour's CE Junior School	n/a	n/a	n/a	n/a
Total Planning area Year R PAN		206	167	202	185
Total for both planning areas		359	347	366	348

14. The forecast numbers to be admitted to these schools at each normal point of entry for the coming two years with totals for the planning area are shown in the next table:

Planning Group	School	Forecast Year R number		
		2021	2022	2023
Birchington and Thanet Villages	Birchington CE Primary School	73	80	87
	Minster CE Primary School	48	53	58
	Monkton CE Primary School	13	15	16
	St. Nicholas at Wade CE Primary	27	29	32
Total Planning area Year R PAN		161	177	193
Westgate-on-Sea	Garlinge Primary School	103	103	106
	St. Crispin's Community Infant	82	83	86
	St. Saviour's CE Junior School	n/a	n/a	n/a
Total Planning area Year R PAN		185	186	192
Total for both planning areas		346	363	385
Total PANs for both planning areas current		405	405	405
Surplus capacity across 2 planning areas		59	42	20

15. If the PAN is reduced to 60 at Birchington Primary School, it is forecast that there would therefore be 13 pupils for 2021; 20 pupils for 2022 and 27 pupils for 2023 who would not gain a place at the school and would in consequence have to attend a school their parents would prefer less than Birchington. The local authority is satisfied that there is sufficient capacity in the area to accommodate these children. The local authority also points out that there are high levels of inward and outward migration across the area. The local authority reports that across the area there are high levels of in and out migration across the primary planning groups and a percentage of children resident in each planning do not attend a school in their planning area but attend school in a neighbouring planning area or further afield. The table below shows the travel flows for pupils living in the Birchington and Villages planning area to planning areas of their school. (October 2019).

Pupils resident in Birchington and Villages Planning Area									Total pupils in PA schools	% of pupils in PA schools	% of resident pupils
School planning area name	Year R	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total			
Birchington and Thanet Villages	132	131	120	132	135	113	135	898	1,175	76.4	71.1
Westgate-on-Sea	7	13	5	17	18	17	24	101	1,427	7.1	8.0
Ramsgate	6	9	10	12	14	14	19	84	3,245	2.6	6.7
Broadstairs	14	12	7	10	11	13	6	73	2,395	3.0	5.8
Margate	5	5	6	5	6	5	15	47	2,868	1.6	3.7
Ash and Wingham	0	2	3	2	3	2	5	17	504	3.4	1.3
Sandwich and Eastry	0	0	6	2	2	2	2	14	717	2.0	1.1
Herne Bay	1	1	2	0	3	5	1	13	2,878	0.5	1.0
Marshside	0	1	2	2	0	1	2	8	678	1.2	0.6
Schools in planning areas receiving less than five pupils	0	0	1	2	1	2	2	8	-	-	0.6
Total	165	174	162	184	193	174	211	1,263	-	-	100.0

Of those pupils resident in the Birchington and Villages planning group 71.1 per cent attend a school in that area whilst 28.9 per cent attend other schools in Thanet and further. Of the pupils attending a Birchington and Villages school 76.4 per cent live in the planning area whilst 20.2 per cent live in another area in Thanet. The local authority shared a map with me that showed where all the pupils who attend this school live. It is clear that while most children are clustered around the school, some of the children travel a fair distance and pass other schools on their journey.

16. The diocese has offered its full support to the proposal and comments that although the numbers for the school frequently tip the school into requiring a third form of entry, it is only marginally so and this leads to serious concerns around viability of those additional places. The infant class size regulations require schools to limit class sizes to a maximum of 30 pupils apart from a small number of exceptions. In consequence, a small increase over 60 pupils will normally require the school to create an additional class and fund the additional staff required. Schools are funded per pupil so the small increase in pupil numbers leads to a relatively small budget increase to cover the larger cost for the school in creating an additional class. The diocese reports that the school has already responded to this challenge with a revised budget and has restructured to deal with the financial pressures. Within the immediate locality, the diocese considers that there is capacity to absorb any displaced places within the area where the majority of children attending the school are drawn from. It also comments that as the school is undertaking major emergency building works, a reduction in numbers will enable the school to manage this project safely while the school remains open with children on site. Following the proposed reduction in PAN, the diocese also thinks that the school will also be in a better position to react as and when housing developments are eventually progressed in Birchington.

17. In coming to a decision about this proposal, I must consider if this variation is necessary in response to a major change in circumstances. The local authority and the

school have shown that they were prepared for housing growth but that this has come slower than had been forecast. At the same time emergency repairs on the school roof are required. I am satisfied therefore that the variation is being proposed appropriately.

18. If the reduction in PAN is approved then there are two further considerations. The first is whether there will be sufficient places available across the area. The tables provided by the local authority demonstrate clearly that this is the case and the local authority has provided confirmation that it is satisfied that it can provide sufficient places in the area to meet demand. The second consideration is whether children will be able to attend this school if they wish to. The evidence is that there may be children on the basis of the forecasts who would not gain a place at the school. However, given that the data shows that in the current school population nearly 30 per cent of the school role come from outside the immediate area of the school and have access to schools that are closer to their homes, these numbers will be difficult to forecast and the children will have access to other schools close to their homes. I am satisfied therefore that there will be sufficient places available in the area and although there will be children who might have wanted to attend this school, they have not yet applied for places and there is time for the school and the local authority to inform parents of the change and those living at a distance to the school can make decisions about whether to apply for a place or not when they express their preferences.

19. When a PAN is reduced in the normal course of determining arrangements, there must be consultation before determination and there is scope for making an objection to the adjudicator once a lower PAN has been determined. In this situation, where a variation is sought as the means of reducing a PAN, there is no requirement for consultation and no possibility of objecting to the adjudicator. I am considering this variation before the arrangements for 2022 have been determined and if the PAN of 60 is retained there will not need to be a consultation for that year also. I know that in this case the governing board did conduct a four week consultation on the matter and received over 20 responses. Of these the majority were in favour of the proposal to reduce the PAN. This is a helpful indicator of other views on the proposal. It does not entirely mitigate the loss of ability for a parent to object to the reduction in PAN but in the circumstances it is the best that could have been done.

20. I have considered whether the change of circumstances justifies the proposed variation and have concluded that the explanation about delayed housing developments and urgent roof repairs do justify a proposal for a variation to the determined arrangements. I have satisfied myself that if this reduction in PAN takes place that there will be sufficient places in the area. Lastly I have considered whether or not children will be displaced by this proposal and concluded that there are likely to be some who would have applied if the PAN was 90 and who would have gained a place but who may not gain a place if the PAN is 60. However, I am satisfied that there are more than sufficient places for these children in the area and that some of them may be able to attend schools that are closer to their homes. These considerations have led me to conclude that I can agree this variation to reduce the PAN at the school from 90 to 60.

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 Kent County Council for Birchington Church of England Primary School for September 2021.

Dated: 19 August 2020

Signed:

Schools Adjudicator: David Lennard Jones