



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2012

Admission authority: The London Borough of Waltham Forest for The Winns Primary School

Date of decision: 17 December 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 Waltham Forest Council for The Winns Primary School for September 2021.

I determine that the published admission number for 2021 will be 90.

The referral

1. Waltham Forest Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for The Winns Primary School (the school), to the adjudicator. The school is a community school for children aged three to eleven in Walthamstow.
2. The proposed variation is that the published admission number (PAN) for the school is reduced from 120 to 90 for admissions in 2021.

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 19 October 2020, supporting documents and further information in response to my enquiries;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school has been consulted and further information provided by the governing board in response to my enquiries;
- d. a map showing the location of the school and other relevant schools;
- e. information available on the websites for the local authority and the Department for Education;
- f. confirmation that the appropriate bodies have been notified about the proposed variation; and
- g. previous determinations following requests for variations to the PAN for the school: References: VAR758, VAR858 and VAR933.

The proposed variation

7. The school is in an urban area with over 40 primary schools within three miles of the school. This is the fourth request for a variation to reduce the PAN of the school from 120 to 90. The local authority has proposed that the PAN for the school should be reduced from 120 to 90 for 2018 (approved), 2019 (approved), 2020 (not approved) and 2021 (not approved). This is therefore the second time that the local authority has made the same request to reduce the PAN to 90 for admissions in 2021.

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. In each of the four previous requests for a variation so that the PAN is reduced from 120 to 90, the local authority has explained that the major change in circumstances is something similar to: "There is a surplus of places in the area and this has financial impact on the school to employ 4 reception teachers instead of 3." On this occasion the local authority has also said, "There has been a significant drop in reception demand. After advice from the Office of the Schools Adjudicator previously it

has been acknowledged that we need to plan further in advance where possible and avoid in-year variations. As part of this process we have reduced the PAN of this school as part of the determined admissions arrangement currently in consultation, however this won't take effect until 2022. To assist with our more careful and future planning we would need to amend the 2021 PAN to 60 (sic)." It has been made clear in previous determinations that it was a matter of concern that the same major change in circumstances, that there have been reductions in the number of children seeking places at the school for some years, is cited each year. In making this point, I emphasise that adjudicator determinations do not set precedents and each case is considered on its merits. However, I also want to put on record that the local authority has been made aware of adjudicator concerns about its use of variations. 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 relevant parties be notified of a proposed variation. The local authority has confirmed that it has notified all appropriate bodies. I have seen confirmation from the school's governing board that it supports the request for the variation. I am satisfied that all relevant bodies have been notified. I find that the appropriate procedures were followed.

Consideration of proposed variation

10. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then no body, except the governing board of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. In this instance the local authority has stated that it intends to consult on setting the PAN at 90 for admissions in 2022. I have seen on the announcement of the consultation on the local authority's website, which says the consultation commenced 7 December and will close 24 January 2021. Clearly it is desirable that PAN reductions are made via the process of determination following consultation as the consultation process allows those with an interest to express their views. It also allows for objections to the adjudicator. None of this is afforded by the variation process so the local authority's decision for 2022 is welcomed.

11. I have 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 for September 2021; considered the demand for places at the school; the reasons given for the change; the potential effect on parental preference; and whether the change is justified in these circumstances.

12. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose. The school is one of three schools admitting children to reception year in its planning area. Table 1 below summarises the number of children admitted to these schools in recent years and the forecast of future demand.

13. The figures provided to me by the local authority showed the PAN for the school as 120 in all the years shown and I have adjusted the figures for 2018 and 2019 as the PANs for those years were reduced to 90 as variations were agreed as described above. The local authority has told me that it intends to consult to reduce the PAN for the school for 2022 to 90 (as above) but as this has not yet been completed, I have left the figure as provided to me by the local authority.

Table 1: numbers on roll in reception year in the planning area including forecasts

	2018	2019	2020	2021	2022
Sum of PANs	420	420	450	450	450 ¹
Number of children allocated places	360	410	372	380 forecast	380 forecast
Number of places vacant	60	10	78	70	70
Proportion of vacant places	14%	2%	17%	16%	16%

14. Table 1 shows that in all years, except 2019, there was a relatively high proportion of surplus places across the planning area. If I agreed the variation for 2021 this would reduce the forecast number of vacant places by 30 so that 40 vacant places would be forecast. This would be ten per cent of the 420 places which would then be the sum of the PANs if I agreed the variation.

15. Table 2 shows the number of children admitted to the school and the forecast for future admissions. Again I have adjusted the figures provided to me by the local authority to show the agreed variations that reduced the PAN for 2018 and 2019.

Table 2: numbers on roll in reception year at the school including forecasts

	2016 ²	2017 ³	2018	2019	2020	2021	2022
PAN	120	120	90	90	120	120	120
Number of children allocated places	81	54	83	90	88	87 forecast	87 forecast
Number of places vacant	39	66	7	0	32	33	33

16. Table 2 shows that 90 or fewer children were admitted to the school in 2018, 2019 and 2020; 90 being the proposed PAN for 2021. I note that the variation to the PAN in 2019 may have prevented more children than 90 from being admitted. I also note that the number of first preferences made for the school in 2019 was 75 (that is for 75 parents this was the school they most wanted their child to attend) with 76 first preferences made for 2020. It

¹ Assumes no change to any PAN

² Data provided by the local authority for previous determination VAR858

³ As above

may also be safe to assume that other children were admitted to the school as their highest preference school with places available. Overall, this information indicates that if the PAN were reduced to 90 for 2021 that there would not be many, if any, children refused a place whose parents stated the school as one of their preferences and no higher preference school was available.

17. I will now consider the justification for the proposed variation. The local authority explained that the variation would, “reduce the surplus in the local area to a reasonable level (around 5%) whilst retaining a level of parental preference and enable cost savings for the schools by not being over-staffed.” I note that the most recent determination made on a request for a variation to reduce the PAN at the school (VAR933) said, “Reducing the PAN does not reduce the overall capacity in either the school or the local authority unless accommodation is being removed from the school. The local authority has not told me about any accommodation being removed and so the physical capacity of the school remains the same. Reducing the PAN will not change that.” That situation remains the same.

18. The governing board commented on the proposed variation as follows, “I can confirm that the Governing Body have been consulted about the reduction in PAN from 120 to 90, and unanimously support the proposal. Indeed, we have been asking the local authority to support this for at least the last four years as it has become evident to us that an intake of 120 is simply not supported by the demographics of our catchment area...Across all years, only Year 6 currently has more than 90 pupils (with 102).” The governing board explained that it had provided four classes in each year but has now remodelled its class arrangements so that there are three classes for each year group except year 6. This remodelling required staff redundancies and these, together with having maintained four classes in each year group until recently has, the governing board explained, “exhausted our accumulated reserves. As a result we are at severe risk of being in deficit this financial year - and any need to support an additional class for Reception in 2021 (if, say, we had 93 pupils) would be financially unsustainable. Hence this request ahead of the long-term planning that Waltham Forest is undertaking for 2022.”

19. Infant class size regulations mean 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 qualified teacher. The information provided to me on the school’s class structure shows that the current YR and Year 1 year groups have just under 90 children; for each of these year groups there are three classes. The school argues on this basis that if the PAN remains at 120 and slightly more than 90 children are admitted, the school will have to provide four classes and the school says that this would cause significant financial problems. This is not strictly true; it would be open to the school to adopt a model of mixed class organisation so that classes included children from two of the infant class ages. This would provide a little headroom, if, say 92 children were admitted in 2021 then two could be educated alongside those moving into year 1 of whom there are currently 88 according to the figures provided to me. However, as there are 88 children in

the current reception year and a similar number in the current year 1 that headroom is limited. In addition, mixed aged classes in primary schools as large as this one are not common and are not popular with parents. So there is significant force in the school's argument. While I am aware that currently parents are making applications for 2021 on the understanding that the PAN for the school is 120, I do judge that the governing board has made a strong case here to justify reducing the PAN to 90 because of the potential effect on the school's finances in its particular context.

20. In coming to my decision I have considered all the evidence provided to me. Setting aside the matter of surplus places as discussed above, my consideration includes:

- 20.1. Evidence from the local authority that there are sufficient places in the planning area if the PAN for the school were reduced to 90;
- 20.2. Parents are currently making their applications for admission in 2021 in the understanding that the PAN for the school is 120;
- 20.3. Evidence that in recent years no more than 90 children have been admitted to the school and the number of first preferences has been around 75. This encourages me to think that parental preference will not be frustrated if the PAN is reduced to 90; and
- 20.4. The school has described a difficult financial situation which will be exacerbated if just over 90 children were to be admitted and this could be prevented if the PAN were reduced to 90.

21. I have taken these matters into consideration. I have also set store by the fact that the local authority is consulting on the PAN for 2022 with a view to setting this at 90. On balance, I have decided that the variation is justified by the circumstances. I therefore approve the variation.

Determination

22. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Waltham Forest Council for The Winns Primary School for September 2021.

23. I determine that the published admission number will be 90.

Dated: 17 December 2020

Signed:

Schools Adjudicator: Deborah Pritchard