



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2013

**Admission authority:** The London Borough of Waltham Forest for Thorpe Hall Primary School

**Date of decision:** 6 January 2021

## 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 Waltham Forest for Thorpe Hall Primary School for September 2021.

## The referral

1. The London Borough of Waltham Forest (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for Thorpe Hall Primary School (the school) to the adjudicator. The school is a community school for children aged 3 to 11 in Walthamstow.
2. The proposed variation is to reduce the published admission number (PAN) for September 2021 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 dated 30 April 2020 (the referral was received on 28 October 2020), supporting documents and further information at my request;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2021;
- d. evidence that the governing board for the school was consulted;
- e. a map showing the location of the school and other relevant schools;
- f. confirmation that the appropriate bodies had been notified of the proposed variation;
- g. previous determinations on requests for variations to the arrangements for the school (case references VAR737, VAR813, VAR865 and VAR932); and
- h. information available on the websites of the local authority and the Department for Education.

## The proposed variation

7. The school is in an urban area with eight state-funded primary schools admitting children to reception year (YR) within one mile and around 60 such schools within three miles. The local authority has determined the PAN for the school at 90 for every year since at least 2017 and has requested a reduction in the PAN to 60 through a variation for admissions in 2017, 2018, 2019, 2020 and 2021. All requests were approved except for admissions in 2021 (case reference: VAR932) so this is a second proposed variation to reduce the PAN from 90 to 60 for 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. 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 year on 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 and I say more about this below. 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. Initially the local authority provided a notification dated 30 April 2020. A previous adjudicator, considering a previous request for a variation for the arrangements for the school for 2021 said in relation to the evidence provided of notification in his determination (reference VAR932):

“The evidence of notification provided with the application consisted of an email dated 30 April 2020 addressed “Dear Heads / Chairs”. There was no indication of which heads and chairs this may have been sent to. When I asked the local authority for further evidence that the requirements of paragraph 3.6 had been met, I received a copy of an email dated 12 May 2020 addressed to nearby local authorities. In the absence of a list of who the first email was sent to, or confirmation of what the relevant area is, I cannot be certain that all appropriate bodies in the relevant area have been notified of the proposed variation. Indeed, it is possible that an admission authority that was not a governing board, this would be a multi-academy trust, would not necessarily receive an email addressed to “Dear Heads / Chairs”.”

10. It is my understanding that this describes the same notification as was provided for the case that I am considering. A previous determination does not set a precedent for my decision but the evidence provided to me was identical to that used in this previous determination. I therefore asked the local authority for further evidence on this matter. The local authority provided an email of notification of the proposed variation dated 9 November 2020 and confirmed that this had been sent to the appropriate bodies.

11. 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**

12. 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 (or is increased) in subsequent years. In this instance the local authority has stated that it intends to consult on the PAN for admissions in 2022 and set it at 60. I have seen information on the consultation on the local authority’s website which says that the consultation commenced on Monday 7 December 2020 and that the closing date is Sunday 24 January 2021. Clearly it is desirable that PAN reductions are made via the process of determination following consultation rather than by

variations after determination 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 to consult on the arrangements for 2022 is greatly to be welcomed.

13. 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 90 to 60 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.

14. 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 and uses planning areas, which are schools within a geographical area, for this purpose. The planning area for the school is called Walthamstow North East Planning Area (the planning area) and contains five schools, including the school, which admit children to YR. Table 1 below summarises the number of school places in the planning area, the number of children admitted to the schools in the planning area in recent years and the forecast of future demand.

Table 1: number of school places in the planning area compared to the number of children admitted and forecast to be admitted

	2018	2019	2020	2021	2022
<b>Total PAN</b>	360	360	360	390	390 <sup>1</sup>
<b>Number of children admitted</b>	326	348	361	345 forecast	345 forecast
<b>Difference between total PAN and the number of children admitted</b>	34 vacant	12 vacant	1 over	45 vacant	45 vacant
<b>Proportion of difference</b>	9%	3%	0%	12%	12%

15. The PAN for the school was reduced through variations for 2018, 2019 and 2020. The PAN for 2021 has been determined at 90 and so the numbers of places available appear increased for 2021. The information shows that there were barely enough places for admissions in 2020, compared to the sum of the PANs in the planning area, when the PAN for the school was reduced by 30 following an approved variation.

16. The information provided by the local authority shows that there will be a significant proportion of vacant places across the planning area if the PAN remains at 90. Clearly the number of vacant places would be reduced by 30 if the PAN were reduced by 30. If the PAN for the school were 60 for 2021 (and 2022) then the forecast would be that there

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<sup>1</sup> assumes no change to any PAN

would be 15 vacant places across the planning area which would be around four per cent which is a reasonable proportion.

17. Unfortunately, some of the data provided by the local authority has reduced my confidence in its accuracy. I saw, from the previous determination VAR932, that there was inconsistency in the data provided regarding one of the schools in the planning area. This school, Hillyfields, operates from two sites and one of the sites is in the planning area. Hillyfields School admissions policy says that it has a PAN of 180 with 90 places on each site. In contrast to this the local authority data provided to me says that the school will provide 120 places in the planning area. The local authority's co-ordinated admissions scheme says that there are 90 places available at the school in the planning area, which is consistent with the information published by Hillyfields School. This difference is significant because it clearly affects how many places are actually available in the planning area. Table 1 shows the total PAN for the planning area based on Hillyfields School having 90 places available (the other site being in a different planning area). If I had used the table as provided to me by the local authority then it would show 30 non-existent places which would increase the number of forecast surplus places by 30. I have adjusted the figures in table 1 so that they are what I understand to be accurate and it is on the basis of these figures that it appears that if the PAN for the school were reduced by 30 for 2021 then 15 vacant places would be forecast which would be around four per cent as described above. This matter was brought to the attention of the local authority on 1 December 2020.

Table 2: number of children admitted and forecast to be admitted to the school

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>PAN</b>	60	60	60	90
<b>Number of children admitted</b>	56	56	60	57 forecast
<b>Number of vacant places</b>	4	4	0	33

18. Table 2 shows the number of children admitted to the school and forecast to be admitted to the school. There were 60 children or fewer admitted in 2018, 2019 and 2020, when the PAN had been reduced, through variations, to 60. The school was asked, on my behalf, for its comments on the proposed variation. In particular I was keen to understand why this reduction in PAN is deemed as necessary through a variation so information from the school was encouraged.

19. The school responded giving assurance that it had been consulted and supported the proposal. The school also said, "Having spoken to the local authority it is my understanding that they are being more proactive in amending the PANs as part of the determined admissions process moving forward as the forecast demand is showing a clear decline (and has done for the last 4-5 years). Due to the high levels of migration both in and out of London it is difficult for schools to know if they are likely to receive a high or low number of preferences each year." This is valid but does not provide evidence that the

needs of the school are such to justify a variation which will reduce the availability of places at a time when most parents will have completed their applications on the understanding that the PAN for the school is 90.

20. I am aware that the school is subject to the infant class size regulations which require 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 (additional children may be admitted under limited exceptional circumstances). This means that financially it is in the interests of schools to admit children in groups that support classes of near to 30 but no more than 30 children. A PAN of 60, for example, would support two classes of 30 or near to 30 children. A PAN of 90 could, however, lead to just over 60 children being admitted and so requiring, if children are to be taught in single year groups, the creation of three classes with the attendant costs. This can be a strong case for agreeing a variation at this stage of the year when most applications have already been made.

21. However, in this case I have been provided with no evidence that the PAN staying at 90 would cause difficulties for the school or, to put it another way, that a reduction to 60 is justified. A further letter was sent to the local authority on my behalf on 1 December 2020 asking if it could provide further justification but no response has been received.

22. In conclusion, it appears that in 2020 there were barely enough places in the planning area for the children seeking admission and there is evidence that the data provided to me by the local authority is not robust. Most parents have made their applications on the understanding that the PAN is 90 – the closing date for applications is 15 January 2021. The information provided to me does not justify a change in the PAN. It remains open to the local authority to re-submit its request for a variation if it has further evidence to support its case and once it knows how many parents have expressed a preference for a place at the school for 2021.

## Determination

23. 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 Waltham Forest for Thorpe Hall Primary School for September 2021.

Dated: 6 January 2021

Signed:

Schools Adjudicator: Deborah Pritchard