



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2145

Admission authority: Warwickshire County Council for Boughton Leigh Infant School, Rugby

Date of decision: 1 July 2021

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 Warwickshire County Council for Boughton Leigh Infant School for September 2021.

I determine that the published admission number will be reduced from 90 to 60.

The referral

1. Warwickshire County Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for Boughton Leigh Infant School (the school), to the Office of the Schools Adjudicator. The school is a school for children aged 3 to 7 in Rugby.
2. The proposed variation is to reduce the published admission number (PAN) 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 28 May 2021, supporting documents and its responses 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;
- d. a map showing the location of the school and other relevant schools;
- e. my determination VAR2098 of 8 January 2021; and
- f. a copy of the notification to the appropriate bodies about the proposed variation.

The proposed variation

7. The school is situated in the north of Rugby. The Department for Education database lists 12 other state-funded primary schools within two miles of the school’s postcode as well as the neighbouring Boughton Leigh Junior School. On 8 January 2021, I approved, in determination VAR2098, a variation to the admission arrangements for September 2020 in which the PAN for 2020 was reduced from 90 to 60.

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

9. Paragraph 3.6 of the Code also requires that the appropriate bodies in the relevant area are 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 all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

Consideration of proposed variation

10. The arrangements were determined by the local authority on 20 February 2020. The major change of circumstances that has occurred since the arrangements were determined making it necessary to request a variation was stated by the local authority in the application to be “Ongoing admittance of pupils significantly below current PAN.” The change in circumstances identified in the request to reduce the PAN in 2020 in VAR2098 was stated as “Admittance of pupils significantly below current PAN”. The number of children offered places at the school in recent years has been:

Year	2018	2019	2020	2021
Places offered	72	63	59	57

I find it difficult to see how something described as “Ongoing” can be seen as a major change in circumstances. The number of places offered has been similar for three years.

11. I have considered whether it would have been possible to take into account the trend shown in the table above when setting the PAN for 2021. I have concluded that it may not have been. However, on 6 January 2021 the local authority determined a PAN for the school for 2022 and that PAN is 90. I would find it very difficult to accept that when that PAN was determined the local authority was not aware of the trend, particularly when it provided me with data with this application showing an anticipated need for 208 places in the area for 2022, the same number as it said were required in 2020. Consequently, should a similar variation request be made for 2022 it would be difficult to argue that these particular circumstances had changed since the arrangements were determined.

12. I consider this to be an important point. Planned changes to admission arrangements, including reducing the PAN must be consulted on as set out in the Code. This allows parents and others to express their views on any changes and have those views taken into consideration before changes are made. The variation process was designed for emergencies such as building failure which could lead to it being impossible, rather than inconvenient, to implement determined arrangements. In such circumstances it may prove necessary to make decisions quickly leaving no time for consultation; hence the simpler requirement to notify appropriate bodies of the proposed variation. Parents are not included in the appropriate bodies that must be notified. This has longer term implications.

13. Paragraph 1.3 of the Code says that local authorities only need to consult the governing board of a community school when it proposes to keep the same PAN. Paragraph 3.3 of the Code only allows the governing board of a community school to object to a decision by its local authority to keep the same PAN. Consequently, if I were to approve a reduction in the PAN for 2021 to 60 before the PAN for 2022 had been set, then the local authority could leave it at that figure for 2022 and subsequent years and achieve a significant change to the arrangements for the school without parents having any influence,

or the opportunity to object. This would have been a major factor in my considerations, however, in this case the local authority has set a PAN of 90 for 2022 and my decision on the PAN for 2021 will not change that figure.

14. The local authority set out the problems that have arisen, or are foreseen, as a result of 57 pupils being offered places at the school for September 2021:

“If only a few additional late or in-year applications are made to the school that increase the Reception cohort above 60, an additional class will need to be opened and staffed at considerable cost to accommodate only a few pupils. This is not financially viable.”

15. I asked the local authority how the school intended to organise its classes with the current PAN of 90 and how this would be different if the PAN was reduced to 60. I was told that if the PAN remained at 90, then the school would organise its classes as shown in this table with eight teaching groups.

PAN 90	Number of children in year group	Class	Class	Class
Year R	57	19	19	19
Year 1	60	30	30	
Year 2	68	22	23	23

And that if the PAN was reduced to 60 the organisation would be as follows with seven teaching groups.

PAN 60	Number of children in year group	Class	Class	Class
Year R	57	29	28	
Year 1	60	30	30	
Year 2	68	22	23	23

16. I have considered whether it is necessary for the PAN to be reduced for the school to organise its classes as shown in the second table. The likelihood of there being more than 3 further applications appears to me to be small when considering that Year 2 has grown by five pupils since it was established and Year 1 by a single pupil. There is nothing stopping the school from organising with two Year R classes and then managing the situation if more than three children applied for a place in Year R between now and the end of the summer term 2022. Options would include appointing an additional teacher to allow one of the classes to exceed 30 pupils or placing the new pupil in one of the Year 2 classes. The first option may only require funding for part of the year, while the second may discourage parents from applying and, as I will discuss later, there would be alternative schools available nearby with places if the parents did not like the offer at the school.

17. With 185 infants on roll, the school is required by class size legislation to have at least seven teachers. There are many ways that these children could be organised into seven groups for example with the eldest Year R pupils joining the youngest Year 1 pupils and the eldest Year 1 pupils joining the youngest Year 2 pupils. This would allow a great deal of flexibility to admit up to 12 pupils into Year R without exceeding class size limits.

Class	1	2	3	4	5	6	7	Total
Year R	26	26	5					57
Year 1			21	26	13			60
Year 2					13	27	28	68
Total	26	26	26	26	26	27	28	185

18. The organisation of the school is a matter for the headteacher and governing board within the limits of its budget which is based primarily on the number of pupils on roll. In some situations, grouping children across year groups is necessary because of the number of children not being a convenient multiple of 30. I am of the view that it is not necessary for the PAN to be reduced to 60 in order for the school to organise into seven classes. A PAN of 90 does not require an eighth class to be established.

19. That said, I can see that it would be less disruptive to the school if the PAN was reduced to 60. I have therefore considered whether there would be any adverse effect from agreeing the reduction. I have already established that reducing the PAN for 2021 does not change the PAN for 2022.

20. The school is one of four schools offering Year R places in a planning area defined by the local authority. Between them, those schools offered 240 places for September 2021. Of these 187 were allocated with just one school offering all of its places. It follows that at this time of the year, there are no further parental preferences to be met and so no parent will be denied a place at a school of their preference from the proposal. Reducing the PAN will reduce the number of places available for late applicants or for families moving to the area from 53 to 23. In my view this is sufficient.

Conclusion

21. The Code explains that if an admission authority wishes to reduce the PAN at a school it should consult all parents and other bodies listed in the Code before it determines its arrangements. This is the second time that a reduction in PAN has been sought for this school through the variation process which avoids consultation with parents. The local authority has set a PAN of 90 for 2022. I would like to note here my concern should a

similar variation be requested for that PAN. Not least because it would be difficult to argue that there had been the same major change in circumstances three years in a row.

22. In my view a reduction in the PAN from 90 to 60 is not necessary to allow the school to organise with seven rather than eight classes in September 2021. Other strategies are possible. However, I do understand that this may be the least disruptive approach. Agreeing the proposal will not affect the PAN already determined for 2022, it will not reduce the number of preferences met in the area and will leave sufficient places for late or new applicants. For these reasons I have decided to approve the proposed reduction in the PAN from 90 to 60.

Determination

23. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Warwickshire County Council for Boughton Leigh Infant School for September 2021.

24. I determine that the published admission number will be reduced from 90 to 60.

Dated: 1 July 2021

Signed:

Schools Adjudicator: Phil Whiffing