



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2136 and VAR2137

Admission authority: Warwickshire County Council for Arley Primary School,
New Arley, Coventry

Date of decision: 05 July 2021

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed reduction in the published admission number for 2021 determined by Warwickshire County Council for Arley Primary School. By virtue of the same provision, I do not approve the proposed reduction in the published admission number determined by Warwickshire County Council for Arley Primary School for September 2022.

I determine that for September 2021 the published admission number will be reduced from 45 to 30.

The referral

1. Warwickshire County Council (the local authority) has referred a proposal for variations to the admission arrangements for September 2021 and 2022 for Arley Primary School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged 4 to 11.
2. The proposed variations are to reduce the published admission number (PAN) from 45 to 30 for 2021 and for 2022.

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 form dated 5 May 2021, supporting documents and responses to my enquiries;
- b. the determined arrangements for 2021 and 2022 and the proposed variations 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; and
- e. a copy of the notification to the appropriate bodies about the proposed variation.

The proposed variation

7. The school is one of two primary school that serve the community of Arley which is to the west of Nuneaton. The other school is Bournebrook Primary School. The 2021 arrangements were determined by the local authority on 20 February 2020. On 13 January 2021 the local authority determined the 2022 arrangements. Both sets of arrangements included a PAN of 45 for the school.

8. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be revised, that is varied, if there is a major change of circumstance or in certain other limited and specified circumstances. I will consider below whether the requested reduction in PAN to 30 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. I am satisfied that the required notification was made. 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. When an admission authority wants to reduce the PAN at a school before it determines its arrangements, it is required to consult parents and others listed in paragraph 1.44 of the Code for at least six weeks. This allows public scrutiny of the proposed new PAN. Once arrangements have been determined, they may only be varied in limited circumstances. The variation process is set out in paragraph 3.6 of the Code. That process is designed for use when there is a “major change in circumstances” occurring since the arrangements were determined. An example of a major circumstance might be where an unanticipated problem occurs with a school building requiring remedial work that temporarily reduces the capacity of the building without leaving time to consult on any necessary changes to admission arrangements. The variation process does not include the wider consultation process. In this case the variations requested are for reductions in the PAN from 45 to 30 at the school for September 2021 and also for September 2022. I am concerned that parents and others should be able to have their views fully considered when changes are made to admission arrangements whenever possible and as required by the Code.

11. Paragraph 1.3 of the Code requires a local authority to consult the governing board of a community or voluntary controlled school if it intends to keep the same PAN for the next year. There is no requirement to consult with parents or other bodies and only the governing board may object to the PAN remaining the same. If I agree to the proposed reduction in PAN for 2021 and for 2022, the local authority as admission authority may continue the PAN at 30 for 2023 without the parents in the area having an opportunity to comment on the PAN reduction, nor would they be able to object to this continued lower PAN as only the governing board of a community school such as this can object to a PAN which is the same the PAN set for the previous year – including where that PAN was reduced by a variation.

12. In its application for PAN reductions for 2021 and 2022, the local authority provided the following information regarding admissions to the two schools that serve Arley:

	2018	2019	2020	2021	2022	2023
	Admissions	Admissions	Admissions	Admissions	Admissions	Admissions
Arley Primary School (PAN 45)	23	25	28	24 (current offers)		
Bournebrook CofE Primary School (PAN 20)	20	19	17	16 (current offers)		
Arley Planning Area (above schools combined)					49 (forecast)	40 (forecast)
Total	43	44	45	40	49	40

13. The local authority explains that the major change in circumstances since the arrangements were determined, which this variation is intended to address, is that “there has been a steady decline in pupil applications to Arley Primary School over the past few years. Although the PAN has remained at 45, in-year intakes for other year groups have been capped in recent years to enable a single class to be taught in each year group. To date, only 24 offers have been made for 2021. This is a reflection of a change of parental preference, in a planning area with surplus places usually available in alternative schools.”

14. It has also been explained to me that the governing board is concerned that operating two classes in Reception will be financially unsustainable and that, capping the PAN at 30 provides greater certainty that only one class will be required. I should note at this point that the argument of the local authority did rather surprise me because the figures in the table above show an increase in the number of children admitted to Arley Primary School from 23 in 2018 to 28 in 2020. It is only for applications in September 2021 that the applications have fallen to 24.

15. If the PAN remains at 45 for September 2021, then the local authority would not be able to refuse any application for a place in Year R until that figure was reached. 24 places have currently been offered. There is no indication from the admission numbers in previous years that there will be a significant number of in year applications made in 2021, but with the numbers given, if I agreed to the proposed reduction of the PAN there would still be six places available. In this circumstance, it seems unlikely that numbers will rise above 30 for the school year beginning in September 2021 and I could question the need for a reduction in PAN but I accept that the governing board will find it easier to manage the staffing levels for the school year beginning September 2021 with certainty if the PAN is reduced as has been requested. With six available places in one of the schools and four places in the other I am reasonable satisfied that a family moving to Arley will have access to a place in year R at the school if they so wish. For these reasons I approve the reduction in PAN from 45 to 30 for September 2021.

16. I now turn to the request to reduce the PAN from 45 to 30 for September 2022. These arrangements were determined in January 2021 and as this was before the application for a variation for 2021 my decision on the 2021 arrangements would not have any effect on the PAN for 2022 or subsequent years. As can be seen from the table above, 49 applications for places are forecast across the two schools. If the PAN for Arley Primary School is reduced to 30 there will be one spare place in the area for a family moving in to the area. Given my comments above about the absence of consultation with parents in the variation procedure, I do not think that it is appropriate for this process to be applied when the forecast numbers for the two schools are so close to the number of places available. I was reassured in the case of 2021 above because the number of applications for places and allocations were known at the time of the application for a variation. I am not therefore willing to approve the request for a variation for 2022 at this time. If the admission numbers justify such an application once places had been allocated in 2022 it would be open to the admissions authority to submit a further request for a variation to the OSA at that time. I

would also comment that it is open to the local authority to consult with parents and the other prescribed parties later in 2021 about the admission arrangements for 2023 before the arrangements are determined in early 2022. I do not therefore approve the request to reduce the PAN in September 2022 from 45 to 30 and it will remain at 45.

Determination

17. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed reduction in the published admission number for 2021 determined by Warwickshire County Council for Arley Primary School. By virtue of the same provision, I do not approve the proposed reduction in the published admission number determined by Warwickshire County Council for Arley Primary School for September 2022.

18. I determine that for September 2021 the published admission number will be reduced from 45 to 30.

Dated: 05 July 2021

Signed:

Schools Adjudicator: David Lennard Jones