



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2196-2197 The Colleton Primary School

Admission authority: Wokingham Borough Council for The Colleton Primary School, Twyford, Reading

Date of decision: 10 December 2021

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Wokingham Borough Council for The Colleton Primary School for September 2021 and September 2022.

I determine that the Published Admission Numbers for 2021 and 2022 be reduced from 60 to 45.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised within 14 days of the date of this determination.

The referrals

1. Wokingham Borough Council (the local authority) has referred proposals for variations to the admission arrangements for September 2021 and September 2022 for The Colleton Primary School (the school, The Colleton) to the Office of the Schools Adjudicator. The school is a coeducational community primary school for children aged 4 to 11 in Twyford.

2. The proposed variations are reductions to the Published Admission Numbers (PANs) for both years. It is proposed that the PAN for The Colleton Primary School be reduced from 60 to 45.

Jurisdiction

3. The referrals were 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 variations are within my jurisdiction.

5. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and, if not, in what ways they do not so conform.

Procedure

6. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

7. The documents I have considered in reaching my decision include:

- a. the referral form from the local authority dated 19 October 2021 and supporting documents;
- b. the local authority’s determined arrangements for September 2021 and September 2022 and the proposed variations to those arrangements;
- c. evidence that the governing board of the school has been consulted;
- d. a map showing the location of the school and other relevant schools; and
- e. copies of the email notifying the appropriate bodies about the proposed variations.

I understand that no comments have been received in response to the proposed variations.

The proposed variations

8. The local authority completed a form entitled 'Request for a variation for admissions in September 2021' but indicated in the form that a request was also being made to reduce the PAN for admissions in September 2022. I am conscious that the application to reduce the PAN for September 2022 is being made at a late stage in an admissions process which is currently ongoing. Given that a) the composite prospectus has been published with the PAN of 60 as determined and b) primary applications are now open, I have considered carefully before approving a proposed PAN reduction at this stage in the process. Parents who are in the process of making applications will be basing their preferences and the prospects of their child being admitted on the belief that there are 60 Reception places available at the school.

9. The variations to the PANs for September 2021 and September 2022 have been requested because of a decreasing number of children in the North Planning Area (that is, the area in which the school is located) requiring Reception places. This has meant that admissions to the school have fallen significantly. Only 28 pupils were admitted in September 2021 against a PAN of 60. Most other local primary schools are said either not to be affected by the reduction in pupil numbers or not to have experienced such a significant reduction. Projections indicate that this reduction in demand for places at the school is set to continue which the local authority claims will lead to admissions in September 2022 also being below the PAN of 60. The number of places available in the North Planning Area is projected to be above the number of places required. The local authority says that the projected demand for places in September 2023 is also anticipated to be below 60, therefore the local authority intends to reduce the PAN for that year through the usual annual process for determining admission arrangements for the school. I should say at this point that, if the PAN for September 2022 is reduced to 45 as a result of a variation being approved, this will, in effect, become the baseline for the PAN for September 2023. The local authority will not necessarily need to consult publicly if it wishes to retain a PAN of 45 for admissions in September 2023 although by regulation 14 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 it will need to consult the school's governing board.

10. The local authority has provided the following data showing the continuing decline in admissions to the school. The table below also shows that other schools in the planning area are not experiencing the same problem or, to put it another way, that the surplus places in the area are particularly concentrated at The Colleton, which is also one of the largest primary schools in the planning area.

School	PAN	Allocated 2018	Allocated 2019	Allocated 2020	Allocated 2021
Charvill Piggott	30	28	30	30	28
Crazies Hill	15	15	13	15	15
Polehampton CE Infants	60	51	60	60	56

Robert Piggott CE Infant School	45	29	39	40	44
Sonning CE Aided Primary School	30	30	30	30	21
St Nicholas CE Primary	20	16	20	20	17
The Colleton	60	43	41	38	28
Grand Total	260	212	233	233	209

11. The local authority has also provided projected data for primary schools in the North Planning Area, which show that the projected number of admissions to the school in 2022 and 2023 is 33. The data also show that there are expected to continue to be surplus places in the area. I note also that there are no plans to reduce the PANs for any of the other schools – which have fewer surplus places in both absolute and percentage terms. The number of surplus places projected for 2022/23 and 2023/24 are based upon a PAN of 45 for Colleton.

	Nos	Nos	Expected Nos	Expected Nos	Surplus	Surplus	Expected Surplus	Expected Surplus
Year	2020/21	2021/22	2022/23	2023/24	2020/21	2021/22	2022/23	2023/24
Colleton Primary (No)	36	31	33	33	24	29	12	12
Crazies Hill (No)	14	15	13	14	1	-	2	1
Polehampton Infant & Junior (No)	60	59	51	54	-	1	9	6
Robert Piggott Infant & Junior (No)	38	42	34	39	7	3	11	6
Sonning Primary (No)	30	21	25	27	-	9	5	3
St Nicholas Primary (No)	19	20	19	19	1	-	1	1
Charvil Piggott (No)	30	30	22	23	-	-	8	7
Total	227	218	197	209	33	42	48	36

12. The local authority has provided three reasons for the proposed variations to the PANs for September 2021 and September 2022. First, the proposed variations would enable the school to operate in a cost-effective manner in terms of the number of classes needed and the number of pupils in each class. The School Admissions (Infant Class Size) (England) Regulations 2012 provide that infant classes must contain no more than 30 pupils with a single qualified school teacher except in specific circumstances. The local authority correctly says that having an admission number of 60 when only 31 or 33 children have been allocated places at the school creates the risk that, if further in-year applications are received, the school will be obliged to admit additional pupils up to a PAN of 60 and will then need to create an additional class. The school currently operates three classes in Years 1 and 2 with mixed age group teaching, and the local authority says that it needs to

ensure that this remains the case for school to operate in a financially sustainable manner. In order to ensure this, the PAN must not exceed 45. If the school is forced to create an additional class, this will mean operating with inefficient small group classes throughout Key Stage 1.

13. Second, the proposed PAN variations will create certainty for the school in terms of financial planning. The school needs to know how many staff are required each year and to put arrangements in place to recruit new staff in a timely manner to ensure it has a staff body with an appropriate mix of skills and experience. A risk of having to increase the number of staff at short notice means that recruitment may be from a much smaller pool of individuals.

14. Third, the local authority argues the PAN reductions will enable the authority to reduce surplus places in the North Planning Area. The projections and current roll numbers indicate that, even with these PAN reductions, there would be a significant surplus and sufficient capacity for any subsequent projected growth in rolls due to any unforeseen migration into the area throughout the primary education phase without the local authority having to negotiate and fund additional places at short notice. The local authority states that there is little risk of parental preferences being unmet if the PAN reductions are approved. As matters stand, the school could admit a further nine children this year with a reduced PAN of 45. Based upon the projected figures for admissions in September 2022, there would also be places available for in-year admissions based upon a reduced PAN of 45. I am told that, in the unlikely event that any child could not be allocated a place at the school this year or next year, there are places available at alternative primary schools which are within two miles walking distance of the school site.

15. 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.

16. Paragraph 3.6 of the Code also requires that relevant parties 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 all relevant bodies have been notified and have made no response. I find that the appropriate procedures were followed.

Consideration of proposed variations

17. The local authority has identified a major change of circumstances which has arisen since the arrangements for admission in September 2021 and September 2022 were determined, namely a decline in the number of children admitted to the school in September 2021, and a similar decline projected for admissions in September 2022. These

circumstances are likely to cause financial difficulties and uncertainty for the school unless remedial action is taken to reduce the PANs for both years as proposed by the local authority. I am satisfied that the proposed variations will alleviate to some degree the difficulties which the school would face and that, if the proposed PAN reductions are not made, there will be adverse consequences for the school.

18. From the data provided, it is clear that there is sufficient available alternative provision locally within easy access (indeed within two miles of the school site), therefore the PAN reductions are unlikely to cause additional traffic congestion or unreasonable additional burdens upon public transport. There does not appear to be any likely adverse impact upon other local schools. Although other primary schools in the North Planning Area are generally fully subscribed, there is a sufficient surplus (and predicted surplus for 2022) to accommodate children in the unlikely event that there are any children whose parents express a preference for The Colleton but are not offered a place. The school has been undersubscribed at least since 2018, and the projected pupil numbers for the area indicate that this will continue to be the case. There have been no responses from relevant bodies to the notification about the proposed variation.

19. The local authority has identified the practical and budgetary challenges that result from the PAN of 60, and the circumstances of the school are such that more significant financial difficulties will be encountered if a PAN reduction does not take place immediately for in-year admissions under the 2021 arrangements. These same practical and budgetary challenges will also be present for admissions in September 2022 if the variation is not approved. Earlier in this determination, I mentioned my concern about the fact that the process for admissions to the school in September 2022 is currently ongoing, however there are still several weeks before the national closing date for primary admissions (15 January 2022), which will allow the variation to the PAN to be publicised by the school and the local authority. On this basis, I approve both proposed variations. The PAN for admissions to the school in September 2021 shall be 45 and the PAN for admissions to the school in September 2022 shall be 45.

Consideration of the arrangements

20. In a letter to the local authority dated 1 November 2021, the following matters were raised with the local authority as they appeared to contravene the Code. The local authority was advised that these issues were being considered under 88I of the Act and invited to comment.

- a. The definition of looked after and previously looked after children (Oversubscription criterion A)

The definition in the arrangements read as follows:

“A previously looked after child is a child who was looked after by a local authority but ceased to be so because they were adopted, or became the

subject of a child arrangements order or special guardianship order. This includes children who were adopted under the Adoption Act 2076 (see section 12 adoption orders) and children who were adopted under the Adoption and Childrens Act 2102 (see section 46 adoption orders). It also includes children who have been provided with child arrangement orders (previously known as residence orders) under the provisions of section 14 of the Children & Families Act 2114 which amends section 8 of the Children Act 2089 and children with a special guardianship order appointing one or more individuals to be a child's special guardian under section 14A of the Children Act 2089.

Applications received under the Criterion A must be made by the person with parental responsibility for the child (e.g., the child's social worker, acting on behalf of the local authority for a looked after child) and will need to be supported by the following official documentation, as applicable:

- confirmation by the home local authority that the child is looked after or
- confirmation by the local authority that last looked after the child confirming that the child was looked after immediately prior to the issuing of one of the orders detailed above”.

There were clearly errors in the dates of the various pieces of legislation referred to; however, the local authority has informed me that these errors have been rectified and that the published arrangements no longer contain these errors.

The letter of 1 November 2021 pointed out that, where a child is accommodated under section 20 of the Children Act 1989, the local authority does not acquire parental responsibility for that child. In these circumstances, an application for a school place would need to be made by a person who does have parental responsibility (e.g., the mother, father (if he has acquired parental responsibility) etc). The arrangements therefore appear to be misleading. I wondered whether perhaps they were meant to say (added words in bold) “Applications received under Criterion A must be made by the person with parental responsibility for the child (e.g., the child's social worker, acting on behalf of the local authority **in cases where the local authority has a Care Order**). The local authority has agreed to revise this aspect of the arrangements, and has sent me its proposed revisions. These read as follows:

“Looked after children are those who are in the care of a Local Authority or are being provided with accommodation by a local authority in England in the exercise of their social services functions.

Previously looked after children are those who immediately after being in care (as defined above) became subject to an adoption order, child arrangements order or special guardianship order. They are also those who appear (to the

admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.

Applications received under Criterion A must be made by the person with parental responsibility for the child, for example the designated social worker”.

Whilst it is not for me to dictate the specific wording of a set of admission arrangements, I am concerned that the proposed revisions would still render the arrangements incorrect and potentially misleading. A designated social worker is not a person with parental responsibility for a child even where the child is in the care of a local authority. The authority itself is the corporate parent. Where a local authority acquires parental responsibility via a care order, the designated social worker could make an application on behalf of the local authority for a school place for that child.

Where a child is accommodated under section 20 of the Children Act 1989, a social worker cannot make an application for a school place unless he/she has been given permission to do so by a person with parental responsibility. Parents retain parental responsibility where a child is accommodated; therefore a parent can make an application for a school place for their child even though the child is being accommodated unless their ability to do so has been restricted by the courts under an Order.

b. Families who have exceptional medical or social needs as the grounds for their child’s admission to a particular school Oversubscription Criterion B

The note to this reads: “Your application cannot be considered if you do not declare that you are applying under this criterion and you do not provide written independent professional evidence”.

It was drawn to the local authority’s attention in the letter of 1 November 2021 that any parent can make an application for a place at a school, and that application will need to be considered irrespective of whether or not independent advice is submitted. The effect of failing to submit the evidence or failing to make clear that the application should be considered under B is not that the application will not be considered at all, it is that it will not be treated as falling under this oversubscription criterion. I wondered whether there were some words missing, for example (added words in bold): Your application cannot be considered **under Oversubscription Criterion B** if you do not declare that you are applying under this criterion and you do not provide written independent professional evidence.

The local authority has said that it is unaware of any point at which a parent has been uncertain about whether or not their application could be considered at all because of some deficiency in providing (or not providing) Criterion B evidence. The authority’s view is therefore that the sentence in question is understood by parents, as is intended, to be a sentence that specifically relates to criterion B applications

and their eligibility to be considered under this criterion. However, the Local Authority accepts that this could be made clearer and has updated the 2021/2022 admission arrangements to reflect this. The updated wording will be included in future arrangements. I am grateful to the local authority for its cooperation in this matter.

c. Measurement of distance

The description of how distance is measured reads as follows:

“Priority will be given within any of the above oversubscription criteria to the applicant whose permanent home address is nearest to the preferred school in terms of radial (straight line) distance. Distances will be measured consistently and will be measured as a straight line between the Local Land and Property Gazetteer (LLPG) address points for the respective home address and school, using the Easting and Northing for each address point. These are then used to calculate the distance, to three decimal points, between the two address points using a ‘direct distance mathematical routine’ within the Capita ONE system used by the council’s School Admissions Team into which the LLPG address points are imported. This calculates the distance from the values created through this process using Pythagoras’ Theorem by measuring the distance in metres between the Easting and Northing for each end address point then multiplied by 0.000622317 to convert to miles. It should be noted that this calculation may not be exactly the same as that created by a Geographical Information System (GIS) product as the GIS product may build in a formula to allow for the curvature of the earth. This curvature does not begin to affect distance values until the distance is least 10 miles. In the unlikely event that two or more children live at the same distance (measured as stated above) from school (including for example, flats within the same building) and there are fewer places available, random allocation will be used to decide which child will be allocated the remaining place(s). This will be by supervised drawing of lots, carried out by at least two Wokingham Borough Council staff members”.

The letter of 1 November 2021 stated that paragraph 14 of the Code requires that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated. Whilst I appreciate that the local authority is endeavouring to comply with paragraph 1.13 of the Code which says that “Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured...”, I did wonder whether the references to Pythagoras’ Theorem, the terms ‘Easting’ and ‘Northing’ and details of the allowance for the curvature of the earth may be over complex for the average parent. I wondered whether the methodology might be explained in simpler terms.

The local authority has said that, whilst this description of the measurement of distances does go beyond the strict requirements of section 1.13, it was thought

necessary as different ways of making measurements can result in different outcomes. To understand therefore how the computer works out distance it was felt necessary to reference Pythagoras' theorem, as this is key to the process which the computer follows in its calculation. Other techniques (such as measurement using GPS based systems) may produce different results and it is important that parents and appeals panels can understand the basis of the measurements and can set aside competing distance measurements.

However, the local authority has reflected on this and has agreed that this description should be simplified. As a result, it proposes to change the description in the 2021/2022 and future arrangements to read as follows;

“Priority will be given within any of the above oversubscription criteria to the applicant whose permanent home address is nearest to the preferred school in terms of radial (straight line) distance. Home to school distances (for school place allocation purposes) are measured along a straight line between a child's address and the relevant school within the Capita ONE system used by the council's School Admissions Team. Woking Borough Council uses geographical references (i.e., eastings and northings) provided by the National Land and Property Gazetteer (NLPG) database to determine the start point for your address. For some homes, the eastings and northings are not located at the front door, but they usually fall within the footprint of your building. If you live in a block of flats the easting and northing point for the block will be used. The distance created is given in miles to three decimal points. The measuring point used to determine the schools' main entrance may not be the gate or entrance currently used by children and staff entering the school. Academy, Foundation or Voluntary Aided Schools (own admission authority schools) may measure distance using other methods and you should check the admissions arrangements for each school you are applying to. Admission Authorities in other Local Authorities may use a different method for calculating the distance from the school.”

This reads much more clearly to me, and I am grateful to the local authority for its cooperation in this matter.

I also noted that paragraph 1.35 of the Code provides that the random allocation process must be supervised by someone independent of the school, and a fresh round of random allocation must be used each time a child is to be offered a place from a waiting list. The local authority was asked to explain why it considers that Wokingham Borough Council staff members can be said to be independent of the local authority.

The local authority responded as follows:

“The Local Authority would like to clarify that it does not consider Wokingham Brough Council staff members to be independent of the Local Authority. It does however ensure that its staff members are independent of the school during any random allocation process. Section 1.35 of the Code provides that random allocation must be supervised by someone independent of the school. The School Admissions Code (drafted in accordance with the underlying Acts and Regulations) makes a clear distinction between Schools and Admissions Authorities. Some schools can be both, of course, but the Council is only an admissions authority, and as such independent of the school. There is no prohibition on admissions authorities supervising random allocation rounds as far as the Local Authority is aware”.

I accept that the local authority is entitled to take the view it has taken based upon the wording of paragraph 1.35, although it does appear odd to me that a local authority can be said to be operating the administration of its admission arrangements independently where the local authority is actually the admission authority for the school in question.

d. Catchment areas

The arrangements say that the designated area for each community and voluntary controlled school “is held electronically and can be viewed through the council’s website. These electronic maps have been adopted as the definitive descriptions of primary school designated areas for the purposes of admission arrangements and oversubscription criteria”. I was concerned that the maps of the designated areas on the local authority’s website are not sufficiently well-defined. I was unable to read the street names, despite expanding the image. I was concerned that parents would be unable to discern from the maps themselves (which comprise the definition of the catchment areas for various schools) whether their address falls within the designated area for a particular school. Paragraph 1.14 of the Code requires that catchment areas must be designed so that they are reasonable and clearly defined.

The local authority agrees that the maps of the designated areas on the local authority website are not sufficiently well defined. The authority is working at getting these maps replaced as soon as possible, with better quality, detailed and well-defined designated area maps. I am grateful to the local authority for its cooperation in this matter.

e. Temporary addresses

The arrangements say that “a temporary address cannot be used to obtain a school place. Temporary addresses will only be considered where evidence is provided of a genuine reason for the move e.g., flooding or subsidence”. I noted that some

children and families have little or no choice over where they live, for example refugees, looked after children, parents with unstable employment, families who have been evicted and so on. I was sure that the local authority would treat a temporary address as the home address for families in these circumstances, but my view was that the arrangements needed to make this clear.

The local authority has clarified that the expression “genuine reason for the move” is intended to differentiate between families who have chosen to live in an area in temporary accommodation to secure a place at a popular school and those whose circumstances compel them to make short term arrangements. The authority recognises that some children and families have little or no choice over where they live and would consider a temporary address as the home address for families in those aforementioned circumstances. The local authority however agrees that the wording could be clearer and therefore proposes to amend the 2021/2022 admission arrangements and future arrangements to read as follows;

“A temporary address cannot ordinarily be used to obtain a school place. Temporary addresses will only be considered where evidence is provided of a genuine reason for the move. Without being exhaustive, special circumstances that might lead to a temporary address being considered might include:

- A family’s principal home is unoccupiable because of fire or flood
- A family does not have access to a permanent or principal home in the borough.

This may be because;

- The family are refugees;
- They are looked after children;
- Families have faced eviction

A Temporary address will be used until a permanent address is confirmed at which point an application/allocation would be revisited.”

I am grateful to the local authority for its cooperation in this matter.

f. Shared care

The arrangements say that “Where a family claims to be resident at more than one address, justification and evidence of the family’s circumstances will be required e.g., formal residence order, child arrangements order or legal separation documentation”. I noted that many parents are unmarried and have never had any formal legal

residence or contact orders in place. Either one parent takes control, as is the case with many single parent families, or the parents simply agree between them where their children should live on which days. It is also possible that a court order has been applied for but not obtained. It is to the local authority's huge credit that it does look at the individual circumstances of families, rather than deeming children to live at an address which may, or may not be, where the child actually lives, but I wondered whether the arrangements should say something along the lines of: "Where a child whose parents do not live together lives at more than one address because he or she spends some time with one parent and some with the other, justification and evidence of the family's circumstances will be required e.g. formal residence order, child arrangements order or legal separation documentation **where such documentation exists**".

The local authority has reflected on this and has agreed that this description should be clearer as suggested and proposes to change the description in the 2021/2022 and future arrangements accordingly. Again, I am grateful to the local authority for its cooperation in this matter.

Summary

21. I find that the local authority has identified a major change of circumstances which has occurred since the admission arrangements for the school for September 2021 and September 2022 were determined, and that the variations requested are justified by the change in circumstances. In light of the decline in applications for places at the school in September 2021 and the continuing decline in applications forecast for September 2022, I have concluded that the proposed PAN reductions of 60 to 45 are a justified response to this change.

Determination

22. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Wokingham Borough Council for The Colleton Primary School for September 2021 and September 2022.

23. I determine that the Published Admission Numbers for 2021 and 2022 be reduced from 60 to 45.

24. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

25. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised within 14 days of the date of this determination.

Dated: 10 December 2021

Signed:

Schools Adjudicator: Dr Marisa Vallely