



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2221

Admission authority: Essex County Council for Gosbecks School, Shrub End, Colchester

Date of decision: 31 January 2022

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 Essex County Council for Gosbecks School for September 2022.

I determine that the PAN for September 2022 will be 30.

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 date of the determination.

The referral

1. Essex County Council, the local authority (LA) for Gosbecks Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for the school to the adjudicator. The school is a community school for children aged 5 to 11 in Shrub End, Colchester

2. The proposed variation is a reduction in the determined and published pupil admission number (PAN) for September 2022 from 45 to 30.

Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (in so far as relevant here):

“3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it must consult the governing body of the school before making any reference.

3.7 Admission authorities **must** notify the appropriate bodies of all variations”.

4. The LA has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing board been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction. 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.

5. In considering these matters I have had regard to all relevant legislation, and the Code.

6. The information I have considered in reaching my decision includes:

- a. the referral from the local authority dated 4 January 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the school;

The proposed variation

7. The proposed variation is a reduction in the determined and published pupil admission number (PAN) from 45 to 30.

8. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or 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.

Consideration of proposed variation

9. The LA have explained the major change of circumstances as follows:

- 9.1. “The major change of circumstance was the global pandemic. The process for consulting on and determining admission arrangements for 2022 took place in the autumn and winter of 2020/2021 when it was not clear if or how the pandemic would affect demographic patterns.
- 9.2. Pupil number forecasts from summer 2020 suggested that there would be substantial numbers of spare places in this school place planning group. Under normal circumstances discussions would have taken place with schools about reducing admission numbers to better reflect the predicted demand.
- 9.3. In autumn 2020 there was a strong view was that there could be an “exodus of people from Britain’s cities” and an “escape to the country”, including Essex. This view was supported by research from the Royal Institute of Chartered Surveyors which suggested (September 2020) that there was “a strong upturn in activity across the (housing) market, as indicators on enquiries, agreed sales and new listings all remain strongly positive”. The research also said “sales continue to rise across all parts of the UK, led by exceptionally strong growth in East Anglia”.
- 9.4. House building continued strongly during this period in Colchester supporting the view that there could be an upswing in families moving into the area and a corresponding increase over previously predicted admissions to schools.
- 9.5. Given these circumstances it seemed unwise to reduce PANs without concrete evidence either of previously unexpected population changes or a continuation of previous trends.
- 9.6. Since February we have had updated school census information, updated GP registration data and new forecasts based on these data which suggest that there will still be substantial surpluses in the area. We can now be more confident of these projections than was the case in autumn 2020”.

10. I accept that there has been a major change of circumstances as set out by the LA.

11. 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. Clearly it is desirable that PAN reductions are made via the process of determination following consultation as that 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. Consequently, I need to be satisfied that a variation is justified and will not have a disproportionate adverse impact on the availability of places in the local area nor on parental preference.

12. The LA sets out the problems it foresees as follows:

- 12.1. "Gosbecks Primary School operates with a PAN of 45 and organises its reception intake in two classes, mixing year groups in higher year groups. The school's staffing policy is predicated on year groups being close to capacity.
- 12.2. The school has requested the in-year variation because the senior leadership team does not think it will be financially sustainable for the school to continue with a PAN of 45 while there are not the pupil numbers to fill classes, in the light of an excess of places in the area. The local authority agrees that in 2022, given the number of children in the admission cohort, this is a very strong possibility".

13. The LA sets out how it considers the reduced PAN will address those problems as follows:

- 13.1. "The proposed variation will allow the school to have greater certainty about intake numbers and therefore staffing levels. Reducing the PAN to 30 means that the school can be certain that only one reception class is required in 2022. If the PAN remains at 45 the school will be required to plan for two reception classes. This is a very inefficient and costly use of resources if in the event the school only admits 30 or fewer pupils, which seems very likely.
- 13.2. We do not expect any child from the priority admission area who wants a place being denied one as a result of the variation (in the normal admission round). The local authority uses GP registration data as the baseline for pupil number forecasts. For the 2021 reception intake there were 29 children for whom Gosbecks was their nearest school. The school received 24 first preferences for this intake, with 29 places being allocated in September 2021. For the 2022 intake there are also 29 children for whom Gosbecks is their nearest school, and for 2023 there are 18 children.
- 13.3. For this reason, the local authority considers it very unlikely that reducing the PAN would deny a local child from receiving a place at Gosbecks".

14. The PAN and number on roll (NOR) or, for 2021, the allocations, for the schools within the same LA planning area as the school are:

2019 PANs and Admissions

	PAN	NOR Oct-2019
Copford CE (V/C) P	30	29
Gosbecks P, Colchester	45	45
Hamilton P, Colchester	60	60
Home Farm P, Colchester	60	58
Lakelands Primary School		
Lexden P with Unit for HI Pupils	30	31
Prettygate I, Colchester	60	51
St Teresa's Cath P, Colchester	30	30
Stanway Fiveways P	90	50
Stanway P	60	60
	465	414

2020 PANs and Admissions – Lakelands Primary added to planning group

	PAN	NOR Oct-2020
Copford CE (V/C) P	30	23
Gosbecks P, Colchester	45	42
Hamilton P, Colchester	60	59
Home Farm P, Colchester	60	60
Lakelands Primary School	60	24
Lexden P with Unit for HI Pupils	30	22
Prettygate I, Colchester	60	60
St Teresa's Cath P, Colchester	30	27
Stanway Fiveways P	90	60

Stanway P	60	52
	525	429

2021 PANs and Allocations

	PAN	Allocation Sept 2021
Copford CE (V/C) P	30	30
Gosbecks P, Colchester	45	29
Hamilton P, Colchester	60	60
Home Farm P, Colchester	60	60
Lakelands Primary School	60	48
Lexden P with Unit for HI Pupils	30	31
Prettygate I, Colchester	60	40
St Teresa's Cath P, Colchester	30	30
Stanway Fiveways P	90	54
Stanway P	60	57
	525	439

15. The forecast total admissions to the schools in the planning area are 389 for 2022 and 386 for 2023. I note that if this variation is granted for the school, and the PAN is not increased for 2023 (it is the LA's intention to keep the PAN at 30) and the LA, as it intends, reduces the PAN at Stanway Fiveways to 60 (from 90) for 2023 then the overall PAN for the group will be 480.

16. I am satisfied that demand for places at the school has fallen. In 2019 the school admitted to its PAN of 45, in 2020 it admitted 3 below PAN and in 2021 only 29 pupils were admitted. However, by 15 January 2022 32 first preferences had been received by the LA for places at the school. If the PAN remains at 45 (and no first preference applicants drop out) that would mean at least 32 pupils would enter Reception in September 2022. Due to the infant class size limit of 30 this would create problems for the school. The position at the time of writing is that there are 30 pupils in Reception, 45 in Year 1 and 44 in Year 2. In September 2022 those pupils will go up one year. On those figures there is little or no

scope to arrange early years classes to accommodate an intake of 32 to Reception in September 2022 without adding an additional class or a relatively complicated mixed age structure crossing all three infant year groups.

17. I am aware that if I approve the requested reduction in PAN two children for whom the school is their first preference may well be refused places. In addition, there may be children for whom the school is a second or lower priority and who, if the PAN remained at 45, might be offered a place there if their higher preference could not be met. This is, of course, unfortunate. However, as school funding is based on the number of pupils the admission of 32 pupils to Reception in September 2022 is likely to lead to the school having to run an additional class for which it will not receive sufficient funding. I also note that of those 32 children only 12 live within the school's priority area. It is likely that those who are displaced by the reduced PAN will find places in alternative local schools.

18. I am also satisfied that there has been an overall surplus of places in the local planning area and that this is likely to continue to be the case in future years. I am also satisfied that the headteacher and governing board of the school support the application for a variation.

19. Consequently, on balance I agree with the requested variation and determine that the PAN for school for 2022 will be 30.

Consideration of the arrangements

20. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the LA. These matters were as follows.

20.1 The sentence "Parents can defer the date their child is admitted to school is deferred until later in the school year or until the child reaches compulsory school age in the school year" does not appear to make sense and needs correcting, perhaps by omitting the words "is deferred".

20.2 The use of the word "may" in the following sentence lacks clarity: "Where this is the case, the application may be processed on the basis of that address (where the child resides for the majority of the school week) and proof of address and residence arrangement will be required with the application". The circumstances in which the application will be considered from this address should be clear.

20.3 "Where relevant, it is expected that the adult with whom the child is 'ordinarily resident' receives the child benefit for the child (where eligible)".

20.4 It is not clear what "where relevant" and "it is expected" mean.

20.5 The legislation governing child benefit does not require a child to be ordinarily resident (or resident at all) at the address of the person claiming the benefit. In most cases the child will be resident at the same address as the recipient, but not always. The adjudicator's view is that in most circumstances child benefit may be indicative of a child's home address but should not be absolutely determinative.

21. The LA has told me that it will amend the admission arrangements to address these matters following receipt of my determination, which is welcomed. As the LA has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out above. To the extent that the arrangements are common with those of other schools for which the LA is the admission authority, it follows that the Code also requires the arrangements for those other schools also to be varied.

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 Essex County Council for Gosbecks School for September 2022.

I determine that the PAN for September 2022 will be 30.

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 date of the determination.

Dated: 31 January 2022

Signed:

Schools adjudicator: Tom Brooke