



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2218

Admission authority: Birmingham City Council for Grendon Primary School

Date of decision: 28 February 2022

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 Birmingham City Council for Grendon Primary School for September 2022.

I accordingly determine that the school's Published Admission Number will remain at 60.

The referral

1. Birmingham City Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for Grendon Primary School (the school) to the adjudicator. The school is a community school for children aged 4 to 11 in the Kings Heath area of Birmingham.
2. The proposed variation is that the published admission number (PAN) be reduced from 60 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 local authority has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing board has 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.

5. In considering this matter 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 13 December 2021 (received on 22 December 2021), 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;
- d. a map showing the location of the school and other relevant schools; and
- e. information available on the websites of the local authority and the Department for Education.

The proposed variation

7. The local authority has requested that the PAN be reduced from 60 to 30 for admission in September 2022. It says that demographic changes have led to lower intake numbers and surplus places at the school. A reduction in the PAN will, it says, help to address a “major financial risk” to the school.

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. In its request for a variation, the local authority draws attention to two changes that have occurred since the admission arrangements for 2022 were determined in February 2021. There has been a reduction in both the number of children born in Birmingham and in the proportion of children born in the city who take up places at a primary school there four years later. The latter figure is said “traditionally” to have been 89 per cent, but for admission in 2020 it was 84.7 per cent (a difference of 700 children). It was also “much lower than expected” for admission in 2021, although no figure is given.

10. The local authority says that the effect of these demographic changes “is and will continue to be increasing levels of surplus places.” The capacity of the school is 420 places and, according to the local authority, there are currently 342 pupils on its roll, leaving 78 surplus places, amounting to 19 per cent of the capacity. Table One shows the distribution of the pupils across the seven primary year groups.

Table One: Number of pupils in each year group at Grendon Primary School

Year Group	R	1	2	3	4	5	6	TOTAL
Number of pupils	41	50	45	50	50	55	51	342

11. In requesting a reduction in the PAN from 60 to 30, the local authority says that “considerations around infant class size come into play. This means that if the school admits 31 pupils, it must employ two teachers and operate, resource and maintain two classes despite significantly reduced funding. Admitting only 30 pupils means it can operate one class and make efficiency savings, investing more money per pupil.”

12. I recognise the point that the local authority is making. It is, of course, possible to operate a system where some classes contain children from more than one year group, thereby reducing the overall number of qualified teachers required, while keeping class sizes at or below 30. However, the headteacher, supported by the local authority, dismisses this option. She says,

“Mixed age teaching is simply not viable given the high levels of deprivation and particular needs of cohorts, nor is it the best model for us to close significant gaps in attainment for our children as we do at present.”

I am in no position to dispute this professional judgment and accept the local authority’s and the school’s reasons for seeking a reduction in PAN to 30.

13. The local authority reports that the school is forecast to be in financial deficit to the tune of £35,114 for the 2022/23 financial year, rising to £244,793 for 2023/24. This emphasises the scale of the financial issue that the school is facing.

14. As the request for a variation was received very close to the closing date for applications for admission to primary school in September 2022, I asked the local authority to provide me with details of applications made relating to the school. I was told that, by the closing date, parents of 43 children had made the school their first preference. The local authority's "best guess" was that this figure might rise to 45 when places come finally to be allocated, taking into account lower preferences for the school, where higher preferences could not be satisfied. This means that if the PAN were to be reduced to 30 for admission in September 2022, the 'live' preference of around 15 applicants would not be met.

15. The local authority has informed me that it is consulting on a PAN of 30 for admission in September 2023. This is part of the annual cycle of consultation laid out in the requirements relating to admissions. There is no formal consultation required for a variation request, such as this one, so parents and others have not had 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 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.

16. The information provided for parents making applications for admission in September 2022 indicates that the school's PAN will be 60. Correctly, this figure can still be found on the local authority's website, which also explains that all applicants for a place at the school over the past three years have been offered one. In good faith, up to around 45 families have applied for a place at the school for admission in September 2022, with a strong expectation of their application being successful. If the PAN were to be reduced, one-third or so of those applying will not be allocated a place. Parents have not had the opportunity to express their view about a reduction in the PAN for admission in 2022.

17. The local authority reports that only 11 first preference applications have been received for Highter's Heath Community Primary School, which is located close to Grendon Primary. This school has a PAN of 30 and, therefore, it is the case that the total of first preferences for the two schools is fewer than 60, which would be the total of the two schools' PANs, were Grendon's PAN to be reduced to 30. While this may mean that all children could be offered a place reasonably close to their homes, it does not address the fact that a significant number of children will be denied a place at their parents' first preference school as a result of a change that they did not know of and were unable to have their say about.

18. I understand the local authority's reasons for seeking this change and recognise some of the difficulties the school will face if its PAN is not reduced for admission in 2022. The request for a variation is appropriate in the circumstances in which the school now finds itself. However, on balance, I consider that the unfairness to parents whose children will not be able to attend the school of their preference, as a result of a late variation, outweighs these concerns. I do not approve the proposed variation.

Determination

19. 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 Birmingham City Council for Grendon Primary School for September 2022.

20. I accordingly determine that the school's Published Admission Number will remain at 60.

Dated: 28 February 2022

Signed:

Schools adjudicator: Peter Goringe