



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2226

Admission authority: The London Borough of Southwark, for Dog Kennel Hill Primary School.

Date of decision: 07 March 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 the London Borough of Southwark for Dog Kennel Hill Primary School for September 2022.

I determine that the published admission number for September 2022 will remain at 60.

The referral

1. The London Borough of Southwark (the local authority), the admission authority for the school, has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for Dog Kennel Hill Primary School (the school) to the adjudicator. The school is a coeducational community primary school for children aged 3 to 11.
2. The proposed variation is to reduce the published admission number (PAN) 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 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 1 December 2021 and supporting documentation;
 - b. the determined arrangements for September 2022 and the proposed variation to those arrangements;
 - c. data from the local authority showing previous and projected pupil admission numbers for the school and the ‘Planning Area’ within which the school is located;
 - d. data from the local authority relating to applications to the school for reception year places in September 2022; and
 - e. information available on the websites of the local authority, the school and the Department for Education.

The proposed variation

7. The local authority has requested this reduction in the PAN for the school because it says that the number of applications for reception places across the borough, and including at the school, has been falling since 2019 and that the impact of these reductions is more acute and affecting a larger number of schools than was anticipated.
8. The variation is requested because, with a PAN of 60, the local authority says that the school has to plan for staffing and accommodation for pupils “who do not exist”. It has explained that the school is staffed for two reception classes of “16/17”, adding to the

existing financial and organisational burden on the school which is already in deficit. I take this explanation to mean that, because the law requires infant class sizes to be no more than 30 pupils (except in exceptional circumstances), the school is required to staff and resource two reception classes whenever the number of reception pupils admitted goes beyond 30. However, where pupil numbers admitted are significantly under 60, as in recent years, the school is not funded sufficiently to cover two class teachers and the associated costs. This is because the delegated budget scheme allocates funds to the school primarily upon a 'per pupil' basis, based upon the number of actual pupils on roll.

9. 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

10. The arrangements for the school were determined by the local authority on 12 March 2021, and varied on 19 August 2021 to take account of changes to the Code.

11. The local authority's email dated 15 November 2021, providing notification to the relevant bodies of its proposed PAN reduction at the school, included the statement that "School admissions and school census data has confirmed that primary rolls, particularly in Reception, have been falling year on year in Southwark – a five year trend has been established". This is the major change of circumstance that the local authority states has caused it to consider that the arrangements for the school should be varied.

12. The actual numbers being admitted to Reception year at the school in the last three years was 41 in 2019, 28 in 2020 and 28 in 2021 – despite a PAN of 60. The local authority has forecast that admission to Reception year at the school in the coming two years will be 28 in 2022 and 28 in 2023.

13. Application data for entry to Reception year in September 2022 at the school indicates that there have been 62 applications in total, of which 22 applications have expressed a first preference for the school. I note that this means that, should the PAN reduction be approved, it is possible that not all parental preferences for the school would be met and some parents may be allocated a lower preference school than would otherwise be the case.

14. The local authority has explained that the school is in its Planning Area 4 (Camberwell). The combined PANs of schools in Planning Area 4 is currently 630 and the total numbers admitted in Reception year in the planning area was 563 in 2019, 519 in 2020 and 517 in 2021. On that basis, the local authority considers that the reduction of the school's PAN from 60 to 30, which would reduce the places available in the planning area from 630 to 600, would not reduce places available to an unsustainable level. It has explained that, according to its forecast demand for places within the planning area (527 in

2022 and 526 in 2023) there would continue to be a comfortable surplus of Reception year places within the planning area even if the total number of places available were to reduce from 630 to 600.

15. 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 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. I am not persuaded that the proposed PAN reduction, without the requirement to follow the usual consultation and determination process, is justified at this stage. The figures provided to me indicate that, if the PAN reduction were to be approved, it is possible that not all parental preferences for the school would be met and some parents may be allocated a lower preference school than would otherwise be the case. The outcome of the place allocation process, taking into account all expressed preferences, will not be available until national offer day for primary school places. That takes place on 19 April 2022.

17. I accept that a budget based on a 'one-form' entry with planned expenditure for a 'two-form' entry would put pressure on the school's finances and that a PAN of 30 may well be a sensible reduction. However, this should generally be undertaken following the process of consultation and determination by the admission authority. Furthermore, until such time as that reduction is undertaken, I am unclear why the school appears not to have considered adopting mixed age classes. Such an approach is employed successfully in many schools around the country and offers a way to address lower pupil numbers whilst maintaining financial stability for the school.

18. If the governing board, in association with the local authority, wish to reduce the PAN for the school from 60 to 30, then this should be processed by the normal process for changing the admission arrangements for the school. This process is detailed in paragraphs 1.2 to 1.4 of the Code and involves wide consultation. In this case I believe it is essential that local parents, a significant number of whose applications may be unsuccessful if the PAN were to be reduced, should be provided with an opportunity to comment on such a proposal.

19. Notwithstanding what I have said in the preceding paragraph, it is possible that, when primary school places are offered on 19 April 2022, no parental preferences for the school are frustrated. If such evidence emerges that the demand for places at the school in September 2022 is, in fact, below the proposed PAN of 30, the local authority may wish to submit a fresh request for a variation at that point. The adjudicator allocated to consider that request will be able to take into account that new information.

20. I wish to make two further points. First, the PAN applies only to the normal year of entry – that is to Reception in the case of this school. It does not apply to other year groups and therefore it is not the case that additional children must be admitted to those other groups automatically until the number reaches 60. If numbers in Year 1 or Year 2 (which are both subject to the rules on infant class size) were to drop below 30, then it would be open to the admission authority to decide that admissions beyond 30 would cause prejudice to the efficient use of resources or efficient provision of education. This would be subject of course to the right for the affected parent to appeal to an independent appeal panel. Second, for year groups 3, 4, 5 and 6, there is no requirement to limit class sizes to 30.

Summary

21. I do not approve this proposed reduction of the school's PAN for September 2022 from 60 to 30 because the applications data provided indicates that the proposed reduction may lead to some parental preferences for the school not being met and some parents being allocated a lower preference school than would otherwise be the case. I believe that parents should have an opportunity to make comments on a proposed variation with such potential consequences.

Determination

22. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements for September 2022 determined by the London Borough of Southwark for Dog Kennel Hill Primary School.

23. I determine that the published admission number for September 2022 will remain at 60.

Dated: 07 March 2022

Signed:

Schools adjudicator: Jane Kilgannon