



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2251

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

Date of decision: 17 May 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 Warwickshire County Council for Arley Primary School for September 2022.

I determine that the published admission number for 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. Warwickshire County Council (the local authority) for Arley Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) to the adjudicator. The school is a community school for children aged three to eleven in New Arley.
2. The proposed variation is that the published admission number (PAN) is reduced 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 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. 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. The information I have considered in reaching my decision includes:

- a. the referral from the local authority received 27 April 2022, supporting documents; further information provided at my request and a response to the matters I raised under 88I;
- b. the determined arrangements for 2022 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the governing board and confirmation that it supports the proposed variation;
- d. a map showing the location of the school and the other school in the planning area;
- e. a previous determination following a request to vary the admission arrangements for the school (VAR2136 and VAR2137) published 5 July 2021; and
- f. information available on the websites of the local authority and the Department for Education.

The proposed variation

6. The local authority said that the PAN for the school was determined at 45 but that demand for the school has reduced with 23 offers made so far for admissions in 2022. The local authority said in its request, "Altering the PAN to 30 will allow the school to operate only one class in Reception for 2022, allowing for better financial stability."

7. The local authority made requests for variations to the PAN for the school for 2021 and 2022 in May 2021 which were considered by a fellow adjudicator. He agreed the variation to the admission arrangements for 2021, that the PAN should be reduced to 30 from 45. He did not support the variation to the PAN for 2022 that the PAN should be reduced from 45 to 30 as the data available on pupil numbers at the time did not justify such a decision. The local authority has determined the PAN for the school at 30 for 2023.

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. Before I consider the proposed variation, I pause to note that the local authority has already determined the PAN for 2023 and has determined it as 30. I am considering the arrangements for 2022 only and my decision will have no effect on the PAN for 2023.

10. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. 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 which makes it particularly important that proposed variations are properly scrutinised and I have accordingly given careful consideration to the data to try to ascertain if there will be sufficient school places in the local area if the PAN is reduced from 45 to 30 for September 2022. I have also considered the demand for places at the school, the reasons given for the change, the potential effect on parental preference and whether the change is justified in these circumstances.

11. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose. The school is located in a relatively rural area with the nearest school admitting children to reception year (YR) around two miles away. There are two schools admitting children to YR in the school's planning area and these are the school and the nearest school. Table 1 below summarises the number of children admitted to the schools in the planning area in recent years.

Table 1: numbers of school places and numbers of children admitted to YR in schools in the planning area

	2019	2020	2021	2022
Sum of PANs of schools in the planning area for YR	65	65	50	65
Number of children admitted or offered a place	44	45	38	43 offered as at 25 April
Vacant places	21	20	12	Potentially 22

12. The information provided by the local authority shows that the other school in the planning area, Bournebrook Church of England Primary School (Bournebrook Primary School), has a PAN of 20. It has not filled to its PAN in recent years but for 2022, there is currently a waiting list of five children who live in its catchment area after 20 places have been allocated. This type of fluctuation is not unusual in rural primary schools. I note that the 23 places offered for the school for 2022 may or may not include children who are on the waiting list for Bournebrook Primary School.

Table 2: the number of children admitted to the school in recent years or offered a place for 2022

	2019	2020	2021	2022
The PAN for the school	45	45	30	45
Number of children admitted or offered a place	25	28	24	23 offered as at 25 April
Vacant places	20	17	6	Potentially 22

13. Table 2 shows that no more than 30 children have been admitted to the school in recent years and 30 is the proposed PAN for 2022. Table 2 also shows that only 23 children have been offered a place at the school at this point. This is below the proposed PAN by seven. It is possible that as later applications are considered the number of children seeking a place at the school may increase but I am assured that if the PAN were reduced to 30 for 2022 that it would be unlikely to frustrate parental preference.

14. The governing board supports the proposed PAN reduction. It and the local authority are conscious that the school is one affected by the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations) which

require that infant classes (those where the majority of children will reach the age of five, six or seven during the school year) must not contain more than 30 pupils with a single qualified school teacher except in specific exceptional circumstances. The infant class size regulations apply to YR and I understand that the school wishes to teach with single year groups to a class. If it were to establish one class for YR and then more than 30 children were to be admitted to YR, which is unlikely but possible if the PAN remained at 45, then the school would have to reorganise its classes so that no infant class had more than 30 children to a single qualified teacher.

15. The governing board wishes to avoid this disruption and potential cost. Schools are largely funded by the number of children and one of the highest costs is staffing. If the number of children in YR were over 30, even by one child, then the school may decide for educational reasons to establish a second class with the costs that this would entail. By the PAN being changed so that it is 30 then the governing board can plan on that basis which is why it supports the proposed variation.

16. The evidence indicates parental preference will not be frustrated if I agree that the PAN is reduced to 30 as all on time applications have been considered and 23 offers have been made. If the PAN were reduced to 30 then the governing board can plan ahead and organise on that basis. I therefore have decided that the variation is justified by the circumstances and approve the variation.

Consideration of the arrangements

17. 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 local authority. The local authority said that it would consider the points raised. These matters were (with the relevant paragraph of the Code in brackets) the arrangements do not include the information required on:

- a. the waiting list (2.15);
- b. admission of children below compulsory school age and deferred entry to school (2.17); and
- c. admission outside the normal year of entry (2.18).

18. This information is required by the Code to be included in admission arrangements and so the local authority has not met the requirements of the Code in this matter and must address these matters accordingly.

Determination

19. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Warwickshire County Council for Arley Primary School for September 2022.

20. I determine that the published admission number for 2022 will be 30.

21. 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.

22. 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: 17 May 2022

Signed:

Schools adjudicator: Deborah Pritchard