



Determination

Case reference:	ADA3956
Objector:	The governing board for Hinton St. George Church of England Primary School in Hinton St George, Somerset
Admission authority:	Somerset County Council for Hinton St. George Church of England Primary School
Date of decision:	9 September 2022

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2023 determined by Somerset County Council for Hinton St George Church of England Primary School.

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. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by the governing board for Hinton St George Church of England Primary School (the governing board), about the admission arrangements for September 2023 (the arrangements) for Hinton St George Church of England Primary School (the school). The school is a voluntary controlled primary school for children aged four to eleven with a Church of England religious character. The objection is to the published admission number (PAN) being set at eight.
2. Somerset County Council (the local authority) is the admission authority for the school which is located in its area. The parties to the objection are the local authority, the governing board and the Diocese of Bath and Wells which is the faith body for the school (the faith body).

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority on 14 February 2022. The governing board submitted its objection to these determined arrangements on 12 May 2022. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the local authority at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the governing board's form of objection and further information provided at my request;
- d. the local authority's response to the objection and information provided at my request including information on the admissions to the school and other schools in its area;
- e. the objections made by the governing boards for Merriott First School (Merriott School), St Bartholomew's Church of England First School (St Bartholomew's) and Ashlands Church of England Primary School (Ashlands);
- f. a map of the area identifying relevant schools, the catchment area for the school and the locations of pupils at the school in reception year (YR) and year one (Y1) or offered places at the school for YR for September 2022;
- g. similar maps for the other schools in the area where the governing boards had made objections to the admission arrangements of their own schools (St Bartholomew's, Ashlands and Merriott Schools);
- h. the response by the faith body to the objection; and
- i. a previous determination for the admission arrangements for the school (case reference VAR2167) which I will refer to as the previous determination; and
- j. information available on the websites for the school, the local authority and the Department for Education (DfE).

The Objection

5. The PAN for the school for admissions to YR for 2022 is 12. The local authority set the PAN for 2023 at eight. The governing board has objected as this is a lower PAN than it would wish. The governing board said it wishes the PAN to be 12 because the school has the capacity to have a PAN of 12 children and the governing board sees no reason why up to 12 children should not be admitted. The governing board explained that it had understood that the school's PAN would be 12 for 2023 and following years, as it was for 2022. The governing board said, "following a conversation with the local authority we are now aware that this is not the case" and that the local authority set the PAN at eight for 2023.

6. The governing board is aware that there is a reorganisation of schools in the area in hand, as described below, but as the school has completed that process the governing board says it does not see why the PAN for the school should be affected.

Background

7. The school's website says that it "serves a community of families covering the rural parishes of Hinton St George, Dinnington and Lopen." The school is located in the village of Hinton St George and the DfE website, 'Get information about schools' describes the location as "Rural hamlet and isolated dwellings". The nearest primary school, Merriott School, is about a mile and a half away by safe walking routes. The town of Crewkerne is around three miles away and has three primary schools, Ashlands, St Bartholomew's and Maiden Beech Academy (Maiden Beech). The admission authority for Maiden Beech is the Bridgwater College Trust. The local authority is the admission authority for all other schools named.

8. The school was, until two years ago, a first school for children aged four to nine years which means that children were admitted to reception year (YR) and left at the end of year 4 (Y4). The school became a primary school by extending to include year 5 (Y5) in 2020 and then year 6 (Y6) in 2021. The first Y6 group left the school in July 2022.

9. The changes in the school contributed to a reorganisation led by the local authority so that the first, middle and secondary school system, sometimes known as a three-tier system, which had existed in that part of Somerset, became a primary/secondary system sometimes known as a two-tier system. The school changed in 2020 as described above but the changes for other schools commenced in September 2022. The most relevant changes are that the previous first schools, Merriott School, Ashlands and St Bartholomew's became primary schools with Y5 continuing at the schools in 2022, Misterton First School (in Crewkerne) closed in August 2022 and Maiden Beech, previously a middle school admitting children to Y5 became a primary school with the admission of YR in September 2022. The processes to accomplish these changes have been long and complicated.

10. The local authority set the PANs for the community and voluntary controlled schools for September 2022 in 2021. Following the decision of the local authority on 17 March 2021 to implement the reorganisation, the local authority sought to vary the PANs set for 2022 for the community and voluntary controlled schools above, including Hinton St George. The school's PAN had been 16 in 2021 and was set by the local authority at 12 for 2022. The local authority asked the adjudicator for a variation so that the PAN for the school reduced from 12 to eight for 2022. Having considered the case in the previous determination, the adjudicators determined that the variation would not be approved with the result that the PAN for the school for 2022 would be 12 and thus would not change from that set originally by the local authority.

11. In the same determination, four other requests for variations to PANs were considered. Separately the regional schools commissioner (on behalf of the Secretary of State) agreed to vary the admission arrangements for Maiden Beech. Table 1 below provides a summary of the PANs set and the variations agreed for the schools in the area.

Table 1: schools local to the school and their PANs

Schools	PAN set for 2022 in 2021	Proposed variation to the PAN for 2022	PAN following adjudicator or the Secretary of State decisions on variation requests as appropriate for 2022	PAN set for 2023
Ashlands	30	10	20	10
Haselbury Plucknett	12	8	8	8
Hinton St George	12	8	12	8
Maiden Beech	123 for Y5	30 for YR	30	30
Merriott School	24	10	20	10
St Bartholomew's	36	10	20	10

12. From September 2022, Maiden Beech has two year groups, YR and Y6. The current Y6 will leave in July 2023 and the previous middle school will develop as a primary school through building up, year on year from YR. This means, for example, that in September 2023, Maiden Beech will have YR and Y1 children and then Y2 in 2024 and so on. This is a radical change for Maiden Beech and is similar to establishing a new school.

13. The governing boards for Ashlands, St Bartholomew's and Merriott Schools have objected to the PANs set for their schools for 2023 and I am the adjudicator appointed to consider those objections. I have taken the information provided to me through these objections as context but each case is considered on its own merits and no case sets a precedent for another.

14. The school has three classrooms. The governing board told me on 7 June 2022 that there were 76 pupils at the school organised into three classes; all three classes contain more than one year group (sometimes known as mixed aged classes). Since these numbers were provided to me there have been changes as a few children have left and a few have joined the school but overall a similar number of children were expected to be at the school in September 2022 as were in September 2021.

15. The oversubscription criteria for the school give first priority to looked after and previously looked after children. The second priority is for those with "sensory, physical or medical disability" for which the school is the nearest suitable school. The third criterion is for those living in the catchment area with a sibling who will be at the school at the time of admission and the fourth priority is for a child living in the catchment area.

Consideration of Case

16. Paragraph 1.2 of the Code says, "As part of determining their admission arrangements, all admission authorities **must** set an admission number for each 'relevant age group'." The relevant age group is the year of entry, which is YR in this instance. Once set, the main effect of the PAN is that children must be admitted up to PAN if enough apply. Often it is assumed that once the PAN is reached then the school is full in that year group. This is not strictly the case; the PAN is a minimum number which must be admitted if enough apply but it is not a maximum or a cap. The parent of a child refused admission can appeal and the admission appeals panel will consider if the admission of the child would prejudice the provision of efficient education or the efficient use of resources as that is the only ground for refusal. In the case of a school admitting to YR, the appeals panel will also take account of the requirements of the infant class size regulations in determining whether there is what is referred to as "infant class prejudice".

17. Paragraph 1.3 of the Code says,

"Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection."

18. The school has three classrooms and so could, in one sense, have capacity for 90 children assuming 30 children to a class but the governing board and the local authority have said that the infrastructure (toilets and so on) makes a capacity of 84 more reasonable. A capacity of 84 would, with seven year groups, normally indicate a PAN of 12. The governing board has argued that its PAN should be 12 as the school can

accommodate a PAN of 12 and a PAN of 12 would help meet parental preference. The faith body said that it agreed with the case made by the governing board.

19. I asked the local authority why the PAN had been set at eight. The local authority referred me to the reorganisation proposals and the consultation on those proposals. The local authority said that during the last two years it had worked with all headteachers and governing boards in the area and discussed forecasts of pupil numbers and the potential ways of managing the changes. The local authority said,

“In Crewkerne, to achieve a transition from a three-tier system to a two-tier system, reception admissions numbers need to be adjusted. In becoming primary schools, the new primary schools would need to take a smaller number of pupils during the transition period. All the schools have been allocated a 'target' intake in the proposal, which is the number they would reach by the end of transition. If they took the targeted intake numbers at the outset it would mean they would grow too large for their accommodation.”

20. The school has already accommodated all seven year groups of the primary range for a year so this point relating to the space available is not relevant to the school. I therefore asked the local authority again to explain why it had set the PAN at eight. The local authority responded and said that the decision to become a primary school had been made by the governing board and the local authority took the view that the school, “should not be excluded because of a decision taken by the governing body 6 months ahead of the local authority review.” The local authority explained that the governing board had followed the requirements of the DfE guidance, ‘Making significant changes (‘prescribed alterations’) to maintained schools’ in this matter. I understand the local authority’s point to be that as the school had recently been a first school, its PAN should be reduced with that of other primary schools in the area. I did not find this argument convincing.

21. The local authority further explained that it understands:

“that a key function of the Office of the Schools Adjudicator is to ensure that parental preferences are given appropriate regard. One of the overarching factors in this complex piece of work is that our consultation activity over many years has demonstrated that the single greatest point of consensus in a community that has long been divided on this issue, is that small, rural schools should be preserved and protected (Hinton St George is one of these small schools we are seeking to protect). We consider this to be the overriding collective parental preference in this community. With regards to Crewkerne and the wider area in particular, the evidence tells us that we can only secure the future of these small rural schools by setting PANs across the town and surrounding villages at a level below the number of pupils in the forecast. This deliberate approach is intended to secure sufficient pupils to sustain the smallest schools.”

22. I note that the key function of a schools adjudicator is to consider whether admission arrangements referred to him or her conform with admissions law. I do recognise the community support for rural schools to remain open. In support of its case, the local authority brought to my attention another local and rural school, Haselbury Plucknett Church of England First School (Haselbury Plucknett School) describing it as a three class school (like the school) which was now a primary school with Y5 continuing at the school from September 2022. The local authority wished to vary the PAN from 12 to eight for 2022 and this was agreed in the previous variation and the local authority set the PAN for 2023 at eight and the governing board has not objected. The implication, as I understand it, is that the governing board of Haselbury Plucknett School is acting collegiately and selflessly by accepting a lower PAN so that all schools in the area can continue to thrive and comparing this favourably with the actions of the governing board for Hinton St George School.

23. I will consider the comparison. First of all, at the time of the previous determination, December 2021, Haselbury Plucknett had two classes, not three, so there is no direct comparison. The DfE website, Get information about schools (last “changed/confirmed” 19 July 2022), records that Haselbury Plucknett has capacity for 60 children and currently has 49 pupils. In the previous determination the capacity of this school was considered and it became clear that for Haselbury Plucknett School to have just over 60 children would create financial and organisational risks which a PAN of eight would address. I therefore see little evidence that there are strong parallels with the objection made by the governing board in the case that I am considering. I further note that the governing board for Haselbury Plucknett is also the governing board for Merriott School and the governing board has objected to the PAN set by the local authority for Merriott School which indicates that the governing board takes different views on the two schools as they are in different situations. I therefore see no merit in the comparison being made with Haselbury Plucknett by the local authority. I have not been provided with evidence that a PAN of 12 at the school would lead to the closure of any rural schools.

24. I will now consider demand for the school and try to take into account the matters raised by the local authority in its explanation for setting the PAN at eight. I understand that the local authority has a responsibility to promote high standards in schools and that the size and financial strength of schools are contributory factors. All over England there are primary schools of all sorts of sizes, some very small and some very large. In terms of standards, schools of all sizes can thrive and be successful for their pupils. There is a presumption against the closure of rural schools, as explained in the “Opening and closing maintained schools” which is statutory guidance published by the DfE in November 2019 and I can understand the local authority wishes to act strategically in creating conditions that support all schools to thrive.

25. In June 2022 there were more than eight children (the PAN set by the local authority for 2023) in every year group, bar Y5, at the school. Of course, numbers can increase or reduce after admissions to YR and, given the changes to schools in the area, previous patterns may not reflect future demand. In August I was told that the number of children expected to join YR at the school in September 2022 was nine (the number of offers on

national offer day was six) which is one higher than the PAN set for 2023. The local authority's forecast is that demand will be for ten places in 2023 and said in its initial response to my enquiries, "The PAN of 8 is below the forecast intake but...if 10 applications are received and they are from within the catchment area the LA will admit over PAN to avoid unnecessary transport costs. At the October 2021 census there were 68 pupils and only 21% lived within the catchment area of the school."

26. There are several points here that I have considered. First of all I will consider the catchment area. As explained above, high priority is given to those living in the catchment area in the oversubscription criteria. The catchment area is shaped like a very rough oval around the village of Hinton St George and contains a largely rural area with some hamlets.

27. The local authority provided me with a map showing the catchment area and the locations of those children in YR and Y1 and offered places for 2022. The map was not consistent with the data provided to me on admissions and so the local authority provided me with a revised map on 7 September 2022. The map shows that in most years there are more children admitted to the school from outside the catchment area than from within. Some of those children live in Crewkerne and so, if there were not sufficient places at the school, they might have attended one of the schools in Crewkerne.

28. As I am considering objections to the PANs set for two schools in Crewkerne, Ashlands and St Bartholomew's and to the PAN set for Merriott School I have been provided with similar maps showing the catchment areas for those schools and where children live who have been admitted or offered a place. These show no children coming from the catchment area of the school being admitted or offered a place at these three schools. The evidence is therefore that demand for the school is largely from outside its catchment area and that few, if any, parents of children living in the catchment area choose alternative schools. The second map for the school shows that the number of children living in the catchment area in YR in 2020 was five, three in 2021 and one in 2022. A PAN of eight is therefore likely to accommodate demand from those living in the catchment area based on previous patterns of admissions.

29. Paragraph 2.14 of the Code says, "Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school." Section 86(5) of the Act requires that such preferences are met unless "compliance with the preference would prejudice the provision of efficient education or the efficient use of resources." The governing board said that some parents chose the school because they prefer it to a "town school". It is the right of every parent to express a preference for any school. I have seen no evidence that complying with the parental preferences of those who live outside of the catchment area would prejudice the provision of efficient education or the efficient use of resources at the school if 12 children were to be admitted in 2023.

30. I will now consider the local authority's intention to admit over the PAN of eight if more than eight applications are made from within the catchment area "to avoid unnecessary transport costs". The previous determination said,

“The local authority has said that having low PANs would allow flexibility and allow them to exercise “judgement” rather than to follow “rules”. We consider that this approach is wrong. Parental preference is at the heart of the school admissions system as is clear from section 86 of the Act. It follows that a school should have a PAN which reflects its capacity and thus will support parental preference so far as is possible. A school will then admit at least up to PAN (there being sufficient applicants) according to its determined and published oversubscription criteria, as the Act also does not allow for places to be refused below PAN in a normal year of admission. Otherwise, the principles set out in paragraph 14 of the Code cannot be met:

“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.””

31. I am not bound in any way by the previous determination but I agree with the views expressed that a school should have a PAN that reflects its capacity and that parental preference should be met if possible. The local authority has forecast a demand for ten places for the school for 2023 and the school has the capacity to meet that demand. I anticipate that some of those forecast ten children will live outside of the school’s catchment area but it appears that it is the local authority’s intention to set the PAN at eight so that at least some of these children are refused admission. I find that this is unfair as such action is unjustified by the evidence provided to me.

32. I note that if the PAN for the school were to be eight for several years, then in due course the number of children could fall accordingly so that the maximum number of children would be 56 and two classes would be sufficient. This would be a considerable change to the school and one the governing board does not seek.

33. The governing board has the right to object to the PAN set for it as it is lower than it would wish and paragraph 1.3 of the Code says, “There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.” In this case the school has the capacity to admit 12 children to YR, there is likely to be demand for more than eight places as there has been in recent years and I have been given insufficient justification for setting the PAN at eight. I therefore uphold the objection.

Determination

34. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2023 determined by Somerset County Council for Hinton St George Church of England Primary School.

35. 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: 9 September 2022

Signed:

Schools Adjudicator: Deborah Pritchard