



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2278**

**Admission authority: Warwickshire County Council for Exhall Junior School, Exhall, Coventry**

**Date of decision: 24 November 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 Warwickshire County Council for Exhall Junior School for September 2023.**

**I have also considered the arrangements under section 88I(5) of the Act and find that they do not conform 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2023.**

## The referral

1. Warwickshire County Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2023 (the arrangements) for Exhall Junior School (the school) to the adjudicator. The school is a community school for children aged 7 to 11 in Exhall, Coventry.
2. The proposed variation is to reduce the published admission number (PAN) from 60 to 45.

## 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 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 6 October 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for 2023 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;
- e. determinations VAR2138 and VAR2259 concerning variations to the admission arrangements of this school for 2021 and 2022; and

f. information available on the website of the Department for Education (DfE).

7. The referral was made on 6 October 2022, I sought further information from the local authority on 10 October 2022 which was not provided until 17 November 2022.

## The proposed variation

8. The proposed variation is to reduce the PAN from 60 to 45.

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 circumstances 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 school is situated on the northern edge of Coventry, to the north of the M6 near the junction with the A444. The local authority groups the school with five other primary schools for school place planning purposes. Four of the other five schools teach the full primary school age range from 4 to 11, the other school is Exhall Cedars Infant School (the infant school) for children aged 4 to 7 which also has a PAN of 60 and is on its own site about half a mile away from the school.

11. The current roll at the school stands at 161 and the capacity of the school is recorded on the DfE's register of educational establishments as 240. The number of children admitted to the school in recent years is shown below.

2019	2020	2021	2022
43	51	32	41

12. The school was formerly known St Giles' Junior School. On 5 May 2021 the local authority requested that the PAN for the school (under its previous name) for 2021 was reduced from 60 to 45. In that application the reason for the proposed variation was given as "there has been a significant decline in pupil applications to St Giles Junior School for September 2021". The reduction was approved in VAR2138. On 17 May 2022 the local authority requested that the PAN for 2022 was reduced from 60 to 45. In that application the reason for the proposed variation was given as "a significant decline in pupil applications to St Giles Junior School in recent years". The reduction was approved in VAR2259.

13. In this application for 2023, the local authority said "There has been a significant decline in pupil applications to Exhall Junior School in recent years, with only 43 applications for September 2022. This is a reflection of a change of parental preference, in

a planning area with surplus places usually available in alternative schools.” Given that this is the same reason used in the two previous applications for a reduction in the school’s PAN and that the number of children in the planning area needing Year 3 places in 2023 was known when they joined the infant school in September 2020, I asked the local authority how this constituted the “major change in circumstances” which made the variation necessary.

14. In response the local authority accepted that this was the third year in a row that a request for the same variation was being made and for the same reasons. The local authority said “It has been the case that the local authority wanted to ensure parity of places between the infant and junior school, so we did not seek to formally reduce the PAN for this reason. We appreciate that looking at the numbers on entry into Exhall Cedars in 2020, it is not expected that the number applying to Exhall Junior would exceed 45. However, we would still like to safeguard the school’s organisation from in year pressures in other areas of the local authority.” I note that a reduction in the PAN through the variation process is a formal reduction in PAN, there is no other way the PAN can be reduced once set for any year.

15. The local authority did not explain what the “in year pressures were” or how they constituted a major change in circumstances beyond saying “Exhall Junior School’s priority area also borders [sic] Coventry and therefore, we may see unexpected added pressure from outside the County. By requesting a variation to reduce the PAN we are ensuring the School’s organisation is maintained until the formal consultation to reduce it for 2024.”

16. These arrangements were determined by the local authority in February 2022. The local authority has not told me about any event which has caused a major change in circumstances since then to cause “in year pressures” and “pressure from outside the County”. Although it has not told me about any specific event or quantified these pressures, I will proceed to consider this application on the basis that the local authority now perceives there is a possibility that more than 45 Year 3 places will be required at the school in September 2023 and admitting more than 45 to Year 3 would cause difficulties for the school.

17. On the application from the local authority said, “The financial sustainability of the school is at risk with continuing low pupil numbers. Exhall Junior School is the only junior school in its planning area, which also includes an infant school with a PAN of 60. The junior school’s preference would be for a permanent PAN reduction following consultation, however this would not be appropriate without an equivalent change at the infant school (which the infant school is not considering at this point).” My first concern with this statement is that paragraph 1.49 of the Code says, “All admission authorities **must** determine their admission arrangements, including their PAN, every year”. The local authority appears to think that PANs are “permanent”; they are not and must be set by the admission authority every year; they can go up and down to meet changing circumstances. There are, however, consultation requirements set out in paragraph 1.3 of the Code, “For a community or voluntary controlled school, the local authority (as admission authority) **must**

consult at least the governing body of the school where it proposes either to increase or keep the same PAN. All admission authorities **must** consult in accordance with paragraph 1.45 below where they propose a decrease to the PAN.”

18. I asked the local authority why it considered it “not appropriate” to change the junior school’s PAN without changing the infant school’s PAN. I received no response to this question. While the number of places required at the infant school may not be known until applications have been made, the number of places required in the junior school three years later will be known and its PAN can be varied to reflect this each year in time to allow the necessary planning of staffing and curriculum.

19. As the purpose of the variation was said to be financial and the largest element of cost is staffing, I asked the local authority how the school was currently organised, how it would be organised in September 2023 if I did not approve the variation and how it would be organised if I did approve the variation. I also asked why it was necessary to reduce the PAN to change the organisation of the school. The current organisation of the school is shown in the following table.

Class	Year 3	Year 4	Year 5	Year 6	Total
A	13	11	-	-	24
B	14	10	-	-	24
C	13	12	-	-	25
D	-	-	17	12	29
E	-	-	17	13	30
F	-	-	15	14	29
Total	40	33	49	39	161

20. I was told that “If the adjudicator did not approve the proposed reduction to the PAN, and numbers remained the same at the Infant School, with no added pressure from outside the School’s priority area, then the current organisation would remain in place.” I was also told that “If the adjudicator did approve the proposed reduction to PAN, there would be no change to the School’s current and future organisation as this has already been set for a PAN of 45 across the board.”

21. Before considering whether the proposed variation is necessary, I will address a possible misunderstanding on the part of the local authority indicated by the phrase “PAN of 45 across the board.” As explained in paragraph 1.2 of the Code and its footnotes, the PAN only applies to the relevant age group which is the age group to which pupils are normally

admitted to the school; in this case Year 3. There is no PAN for other year groups. As set out in section 86 of the Act, other than in grammar schools, admission authorities must comply with parental preference for school places unless to do so would prejudice the provision of efficient education or the efficient use of resources. For the relevant age group, no prejudice can arise throughout the school year until the PAN is reached. In other age groups prejudice can arise at different points depending on the organisation of the school.

22. Of the four year groups currently in the school, all but one are smaller than when they joined the school; overall six more children have left the school than have joined it. The number of children in the current Year 3 and Year 4 (40 and 33 respectively) at the school are below the number of children who were initially admitted to those cohorts in the infant school (48 and 47 respectively). The local authority has not made it clear what events will have changed these trends.

23. In 2020 there were 40 children admitted to the infant school. I have considered whether in September 2023 this number could be fitted into the current organisation of classes (although the evidence is that the number will be fewer). If the other year groups remained the same size, the number of children in the school would in September 2023 be as shown below.

Year 3	Year 4	Year 5	Year 6	Total
40	40	33	49	162

24. This would allow the creation of three classes for Years 3 and 4 with 26 or 27 pupils in each and three classes for Years 5 and 6 with 27 or 28 pupils in each. I have considered at what point this six-class organisation would breakdown through further admissions.

25. For Years 5 and 6, the PAN is not a consideration. The local authority could refuse admission at the point it decided prejudice occurs, although it would have to be able to defend this at an independent admission appeal. While there is no statutory limit on class sizes at Key Stage 2, for the purpose of this analysis I will assume that prejudice arises if classes exceed 30. Therefore, eight children could be admitted to these two classes before prejudice would arise.

26. Similarly, ten children could be added to the Year 3 and Year 4 classes before any class need exceed 30 children. Admission to Year 4 would be governed by the prejudice argument; however, for Year 3 prejudice cannot be said to arise until the PAN is reached. This means that with a PAN of 60, there is a possibility that either classes would need to exceed 30 or an additional class would be needed.

27. Given that in recent years not all the children who attend the infant school move on to the school and the number of children in the year groups at the school have shown a small overall decline, it would require a significant event to lead to more than 10 new

children joining Year 3 and Year 4. Had the local authority told me about such an event, for example, a school closure, the relocation of a military unit or the unexpected completion of hundreds of new houses in the catchment area I would have considered that the risk of needing more than six classes between now and the end of the 2023/24 school year would be higher.

28. The local authority's references to "pressure on places increasing across the County and in neighbouring local authorities" is not supported by figures it sent to me showing that in the planning area only one school has admitted up to its PAN between 2020 and 2022. I was also provided with information about the neighbouring planning area in which just two of the six schools have reached PAN in the last three years. That area also includes an infant and junior school pair (which share a name and a site) where the PAN at the junior school is more than sufficient for all the infant school children to transfer there. It would appear strange to apply to reduce a PAN and so remove places if the need for places was increasing.

29. I note that when the variations for 2021 and 2022 were approved it was after the initial offer of places for those years had been made. The application was also after the local authority had determined the arrangements for the following year. I regard this as a significant factor in making my decision for 2023.

30. The local authority is not required to determine the PAN for 2024 until 28 February 2023. If I approve the proposed reduction in PAN from 60 to 45, then the PAN is 45 for 2023. I have quoted paragraph 1.3 of the Code above; the local authority does not need to consult beyond the governing board to keep the PAN at 45 for 2024 and paragraph 3.3c of the Code prohibits objections being brought "about a decision of the admission authority of a voluntary controlled or community school to increase or keep the same PAN, unless the objection is brought by the governing body of the school". Therefore, if I approve the proposed reduction in PAN, then the PAN is 45 and the local authority could determine it at that figure without consulting anyone other than the governing board and no one other than the governing board could object to this. Parents and others would not be able to express a view or make an objection.

31. My decision for 2023 could, therefore, lead to the PAN for 2024 onwards being 45 effectively reducing the PAN for that year and future years without any consultation with local parents or other interested parties. As the previous approvals were made after the PAN for the next year had been determined, those decisions did not affect the PAN in subsequent years.

32. The local authority has told me that it will be consulting on reducing the PAN to 45 in 2024. Paragraph 1.46 of the Code says that this consultation **must** take place between 1 October 2022 and 31 January 2023 and **must** last for six weeks. This requires consultation to begin no later than 20 December 2022. On 18 November 2022 I found a document on the local authority's website asking the portfolio holder to consider approving consultation on changes to PAN at this and two other primary schools at a meeting on 25 November

2022. The paper does not say when the six-week consultation period is planned to be. The window to consult, analyse the response and incorporate a recommendation into the process leading to the determination of admission arrangements for 2024 by the end of February 2023 is narrow, but possible even allowing for the Christmas holiday. However, I cannot assume that this process will be completed or what its outcome may be in making this determination.

33. I have been told that the school will continue with its current six class organisation whether I approve this determination or not. The purpose of reducing the PAN can, therefore, only be to reduce the risk to the school of needing to change this organisation through the admission of more than 45 pupils to Year 3 during the 2023/24 school year, it has no effect on any other year group. Based on recent trends it would appear to be very unlikely that more than the 40 children currently in Year 2 at the infant school would want places at the school in September 2023. The same trends also suggest that it would be very unlikely for more than 5 children to want to join Year 3 in the school later on in the year.

34. The local authority has not provided me with any evidence of events that would lead to demographic changes that would significantly alter these trends, Also, in the two previous applications for a reduction in the PAN at this school similar arguments were made; the extra demand did not appear, and the reduced PAN did not need to be applied.

35. The school plans to operate with a six-class organisation whether the PAN is 60 or 45. The proposed variation is not necessary to allow this and the risk of more than 45 children joining Year 3 and requiring a different organisation of classes is very small. Approving the proposed variation would mitigate what little risk there is but, in my view, this is outweighed by the implications for setting the PAN in future years of such a decision. For these reasons I do not approve the variation.

## Consideration of the arrangements

36. 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.

- a) Paragraph 2.15 of the Code requires “Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.” There is no statement in the arrangements concerning waiting lists which include the required statement.
- b) Paragraph 2.17 of the Code requires “The authority **must** make it clear in their arrangements that where they have offered a child a place at a school: a) that child is entitled to a full-time place in the September following their fourth birthday; b) the



child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age." This requirement was not met.

- c) Paragraph 2.18 of the Code requires "Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group." This requirement was not met.

37. On each of these issues the local authority told me that these aspects of school admissions were addressed in its co-ordinated scheme. In paragraphs 16 to 18 of her annual report to the Secretary of State published in May 2021 the Chief Adjudicator set out how and why the local authority's scheme for the co-ordination of admission arrangements was not the same as the admission arrangements set by the local authority for community and voluntary controlled schools. It is not possible to meet the statutory requirements for admission arrangements through the scheme of co-ordination.

38. I find that the arrangements do not conform with the Code in the three ways set out above and note that the local authority has said it will include the information required by the Code when it determines its arrangements for 2024. This is welcomed; however, it will not change the fact that the 2023 arrangements do not conform with the Code in these ways. While paragraph 3.1 of the Code requires the 2023 arrangements to be revised within two months of the date of this determination, I have decided to use my power set out in that paragraph to make 28 February 2023 the deadline for the 2023 arrangements to be revised. This reflects the date when this determination is published and allows the revisions to be done in parallel with the determination of the 2024 arrangements.

## Determination

39. 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 Warwickshire County Council for Exhall Junior School for September 2023.

40. I have also considered the arrangements under section 88I(5) of the Act and find that they do not conform with requirements relating to admission arrangements in the ways set out in this determination.

41. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2023.

Dated: 24 November 2022

Signed:

Schools adjudicator: Phil Whiffing