



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2302

Admission authority: Birmingham City Council for The Meadows Primary School

Date of decision: 13 February 2023

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 Birmingham City Council for The Meadows Primary School for September 2023.

I determine that the published admission number will be 60.

The referral

1. Birmingham City Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2023 (the arrangements) for The Meadows Primary School (the school) to the adjudicator. The school is a community school for children aged five to eleven in Birmingham.
2. The proposed variation is that the published admission number (PAN) be reduced from 90 to 60.

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 evidence that the school’s governing board has been consulted and is supportive of 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 15 December 2022, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2023 and the proposed variation to those arrangements;
 - c. minutes from a meeting of the governing board for the school discussing the PAN and a request from the governing board that the PAN be reduced;
 - 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 (DfE).

The proposed variation and background

7. The local authority determined the arrangements for the school on 8 February 2022 and set the PAN for the school at 90 as it had been in previous years. The local authority made requests for variations to four primary schools for the arrangements for 2023. I am the adjudicator for all four cases. Each case is determined on its own merits and no case sets a precedent for another. The local authority has said in each case that there have been fewer children than forecast requiring a place in reception year (YR) due to a falling birthrate and a lower proportion than previously of those born in the city requiring a school place.
8. The local authority explained,

“...we look at the relationship between the number of children born and the number of children who arrive in Reception classes 4 to 5 years later. Traditionally, the city average has been around 89% and has been relatively consistent; however, in 21/22

it was 86.5% - a difference equating to over 700 Reception children. Our analysis indicates this is due to reduced migration into the city with Birmingham's population continuing to decline.”

9. The school was judged by Ofsted to require improvement in 2020. It is situated in an urban area and, according to the DfE website 'Find and compare schools', with eight other primary schools within one mile. The school had a PAN of 90 when all the current year groups were admitted and teaches all pupils in single year group classes and provides three classes per year group. In December 2022 the school made an application to the local authority that its PAN for 2022 and 2023 should be reduced to 60 and that there should be a consultation on reducing the PAN for 2024 to 60.

10. At the time of the request for the variation there were 65 pupils in YR (those admitted in September 2022). The local authority has not requested a variation to reduce the PAN for 2022 and said that it is discussing this possibility with the school. The local authority has requested that the PAN for 2023 is reduced from 90 from 60 and this determination considers that request. The local authority has consulted on reducing the PAN to 60 for 2024 and received no responses. The arrangements for 2024 have not been determined at the time of writing.

11. The school makes specialist provision for children with speech, language and communication needs which admits up to 30 children across the primary age range. Admission to this specialist provision will not be affected by my determination regarding the PAN as admission to the provision is through a different process.

12. 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

13. 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 and so I have considered the information provided to me in some detail before coming to my decision.

14. 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. There are six state funded schools which admit children to YR in the planning area for the 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 in YR at the time of the October census in schools in the planning area

	2020	2021	2022
Sum of PANs of schools in the planning area for YR	360	360	360
Number of children on roll in YR at time of October census	355	321	330
Vacant places	5	39	30
Number of vacant places as a percentage of the sum of the PANs	1%	11%	8%

15. Table 1 shows an increase in the proportion of vacant places between 2020 and 2022. The eight per cent proportion of vacant places in 2022 is a reasonable one as it allows flexibility for those children who may move into an area after admissions have been made.

16. The local authority provided me with the number of preferences (first, second and third) made for YR for 2022 and 2023. For admissions in 2022 there were 350 first preferences for schools in the planning area (a first preference is the school the parent most wants their child to attend). There were 330 children on the rolls of the schools in the planning area in October 2022. This is 20 fewer than the total number of first preferences, which may indicate that some children who could not be accommodated at a first preference school were offered places at a second or lower preference school outside the planning area or that some children moved out of the area or for some other reason no longer wanted a school place.

17. For 2023 there have been 246 first preferences for the schools in the planning area. This is a significant reduction from the 350 in 2022. It is 96 fewer children which is around a third less and is evidence of significantly lower demand for places in 2023. If all 246 children were admitted there would be 114 vacant places. This would be 32 per cent of the places available which would be a very high proportion. As I set out above, the number of children admitted in 2022 was lower than the number of first preferences. Against this background I do not anticipate a great increase on the number of preferences already expressed. I am therefore assured that if the PAN for the school were to be reduced by 30 then there would be sufficient places to meet demand in the planning area.

18. I will now consider the situation for the school including the demand for places and the reasons why the governing board supports the proposed variation that the PAN is

reduced from 90 to 60. The school has around 90 children in the year groups year 2 (Y2) to year 6. Table 2 provides information on the admissions to the school in recent years.

Table 2: the number of children on roll at the school in recent years

	2020	2021	2022
The PAN for the school	90	90	90
Number of children in YR in the October of the relevant year	87	67	66
Number of vacant places	3	23	24

19. There were 71 first preferences for the school for places in 2022 and 66 on roll at the time of the October census (one more than at the time of the request for a variation). I am conscious that YR is subject to the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations). The infant class size regulations 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.

20. The infant class size regulations apply to YR, year 1 (Y1) and Y2 and have implications for class organisation and school finances. This is because schools are largely funded on the number of pupils attending and staffing is normally the greatest expense to a school's budget. Classes are likely to be financially efficient if they contain approaching 30 pupils. If classes are much smaller than 30 pupils then the cost of providing that class may well be more than the income generated by the number of children in that class.

21. With 65 children in YR, the school has three classes of around 22 each. There are 70 children in Y1 and again there are three classes so I estimate around 23 or 24 to a class. This will be expensive to maintain. The governing board anticipates a significant deficit in future years if the PAN is not reduced. Another way to deal with this would be for the school to adopt mixed aged classes in those infant year groups which are significantly below 90. This is an approach taken by many successful schools but it is equally true that many other schools much prefer to organise their classes on the basis of single year groups as they find it easier to manage the learning. The school has considered mixed aged classes but came to the conclusion that this was not appropriate given the levels of deprivation and the needs of the pupils.

22. There were 38 first preferences for the school for 2023 compared to 71 in 2022. I consider that parental preference is unlikely to be frustrated if the PAN for 2023 for the school were to be 60. If I agree to the variation, then the school would have the opportunity to plan its class organisation and staffing on the basis of providing two classes for YR.

23. As, at the time of writing, the arrangements for 2024 have not been determined, if I agree in this determination a PAN of 60 for 2023, this could set a baseline for 2024. As consultation has already occurred on setting the PAN at 60 with no responses made, this does not overly concern me. If the local authority decided to set the PAN at 90 for 2024, although this seems unlikely, then the Code would permit this (paragraphs 1.3 and 3.6).

24. The local authority has provided evidence to show that there is likely to be a significant number of vacant places in YR in the planning area in September 2023. The evidence also shows that if the PAN were to be reduced to 60 then parental preference is unlikely to be frustrated as there were only 38 first preferences for the school. If the PAN were to remain at 90 then there is a risk to the finances of the school if more than 60 children were admitted to the school and a third class was made necessary for YR. I therefore find that the variation is justified by the circumstances and approve the proposed variation.

Determination

25. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Birmingham City Council for The Meadows Primary School for September 2023.

26. I determine that the published admission number will be 60.

Dated: 13 February 2023

Signed:

Schools adjudicator: Deborah Pritchard