



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2299

Admission authority: Birmingham City Council for Park Hill Primary School

Date of decision: 20 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 Park Hill Primary School for September 2023.

I determine that the published admission number will be 30.

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 Park Hill Primary School (the school) to the adjudicator. The school is a community school for children aged three to eleven in Birmingham.
2. The proposed variation is that the published admission number (PAN) be reduced 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 have seen confirmation that the school’s governing board has been consulted on the proposed variation and are supportive of it. I find that the appropriate procedures were followed and I am satisfied that the proposed variation is within my jurisdiction.

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 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. information from the governing board for the school regarding the proposed variation;
- 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 60 as in previous years. The local authority has said that there are now fewer children requiring a place in reception year (YR) than forecast due to a falling birth rate and a lower proportion than previously of those born in the city requiring a school place. 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.”

8. The local authority has made requests for variations to four community primary schools for the arrangements for 2023 (including this one) and in each case the request is for a reduction to the PAN for the above reasons. I am the adjudicator for all four cases. Each case is determined on its own merits and no case sets a precedent for another.

9. Ofsted judged the school to be good in 2019. It is situated in an urban area and, according to the DfE website 'Find and compare schools', there are around 14 other schools which admit children to YR within one mile. In September 2022 the school made an application to the local authority that its PAN for 2022 and 2023 should be reduced to 30 and that there should be a consultation on reducing the PAN for 2024 to 30. At the time of the census in October 2022, there were 33 children in YR. The local authority said in its request that "The school are managing their 38 pupil reception class by joining both Nursery and reception classes based together." I understand that the numbers of pupils at the school are volatile and I have been provided with different numbers regarding the number of children in YR presumably because the figures relate to different dates.

10. No request has been made by the local authority to reduce the PAN for 2022. The PAN of 30 for 2022 will continue until the end of the academic year in July 2023. The local authority has requested that the PAN for 2023 is reduced from 60 to 30 and has consulted on reducing the PAN to 30 for 2024. No comments were received in response to reducing the PAN for 2024. The arrangements for 2024 were determined on 14 February 2023 and the PAN was set at 30. My decision will therefore affect only admissions to YR for the 2023 academic year.

11. 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

12. 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.

13. 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 eight 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	390	390	390
Number of children on roll in YR at time of October census	332	338	322
Vacant places	58	52	68
Number of vacant places as a percentage of the sum of the PANs	15%	13%	17%

14. Table 1 shows a high proportion of vacant places and increasing for 2022. 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 299 first preferences for schools in the planning area (a first preference is the school the parent most wants their child to attend). There were 322 children on the rolls of the schools in the planning area in October 2022 and so an increase of 23 children between the number of first preferences and the number of children admitted. I note that it is common for there to be changes to occur between on time preferences being made and the number of children at schools at the time of the October census which will include late applications, a child achieving a second or third preference as opposed to a first preference, families moving in or out of the area and so on.

15. For 2023 there have been 246 first preferences for the schools in the planning area. This is a reduction from the 299 in 2022 and is evidence of significantly lower demand for places in 2023. If there were to be a similar pattern to 2022 then around 269 children will be admitted to a school in the planning area in YR in 2023. There are 360 places available so there is a potential for around 91 vacant places. 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.

16. 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 60 to 30. 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	60	60	60
Number of children in YR in October	54	35	33
Number of vacant places	6	25	27

17. There were 31 first preferences for the school for places in 2022. There were 33 pupils on roll at the time of the October census. Presumably the increase is due to the usual changes between application and admission to school in September as referred to above. 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.

18. The infant class size regulations apply to YR, year 1 (Y1) and year 2 (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. Infant 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.

19. As described above, the school is managing the challenges of just over 30 children in YR (33) by combining the children and staffing for YR and the nursery. I have been told that the number of children in the nursery is also low and that this is an indicator of low demand for future years, such as 2023. I have also been told that the school has a financial deficit of £185,820. The explanation I have been given for this is related to the challenges of the pupil numbers in the school and their volatility. I asked for the class structure for the school and was given the information provided in table 3.

Table 3: number of pupils at the school at the time of the census in October 2022

Reception	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
33	31	54	26	53	55	64

20. My jurisdiction is only for admissions in 2023 but this context is relevant to my consideration. If the numbers are volatile from year to year, as appears to be the case here,

the school may have several classes established and the overall income is not sufficient to meet the overall costs. Paragraph 1.4 of the Code explains,

“This [the PAN only applying to the relevant year group] means that admission authorities may not refuse admission to other age groups on the grounds that they have already reached their PAN. They may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources.”

21. One of the ways in which such prejudice can arise is because of the effect of the infant class size regulations described above. It would therefore be possible for the local authority, as the admission authority, to refuse additional admissions to year groups other than YR on this basis because to do so may lead to the provision of another class which may not be efficient use of resources. Parents of course retain the right to appeal. However, in this case the school has just over 30 children in YR and in Y1.

22. The school can mix age groups, as it has with nursery and YR, in order to try to provide education in an economically efficient manner. It is clear, however, that it is proving challenging for the school to plan its classes and staffing efficiently and this has already led to the school's financial deficit described above.

23. There have been 27 first preferences for the school for 2023 compared to 31 for 2022. This indicates that there is slightly less demand for the school in 2023 than in 2022. It is possible, with late applications and some children not achieving their first preferences, that if the PAN remained at 60 that just over 30 children would be admitted in 2023. I have weighed in my mind the balance between the potential frustration of parental preference and the potential detriment to the financial health of the school if just over 30 children were admitted again.

24. I am aware that schools need to manage their finances carefully so that they can provide the best education possible for their pupils. This is more easily achieved when there is some certainty about how many classes are required and so staffing decisions can be made in a timely manner. If I agree to the variation, then the school would have the opportunity to plan its class organisation and staffing on the basis of only providing one class for YR. In this case I have come to the view that the risk to the school outweighs the risk of some frustration of parental preference.

25. The local authority has provided evidence to show that there is likely to be a high 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 30 then parental preference is unlikely to be significantly frustrated. If the PAN were to remain at 60 then there is a risk to the finances of the school if more than 30 children were admitted to the school and the school had again to arrange its classes to accommodate that when it already has a financial deficit. I therefore find that the variation is justified by the circumstances and approve the proposed variation.


Determination

26. 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 Park Hill Primary School for September 2023.

27. I determine that the published admission number will be 30.

Dated: 20 February 2023

Signed:



Schools adjudicator: Deborah Pritchard