



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2353 and 2354.

Admission authority: Plymouth City Council for Laira Green Primary School, Plymouth

Date of decision: 12 September 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 Plymouth City Council for Laira Green Primary School for September 2023.

I do not approve the proposed variation to the admission arrangements determined by Plymouth City Council for Laira Green Primary School for September 2024.

I determine that the published admission number for the September 2023 admission arrangements shall be 30. The published admission number for the September 2024 admission arrangements will remain at 45.

I have also considered the arrangements for September 2023 and September 2024 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 for September 2023 and September 2024 within two months of the date of the determination.

The referral

1. Plymouth City Council (the local authority) has referred a proposal for variations to the admission arrangements for September 2023 (the 2023 arrangements) and September 2024 (the 2024 arrangements) for Laira Green Primary School (the school) to the adjudicator. The school is a community school for children aged 5 to 11 years in Plymouth.

2. The proposed variations are that the published admission numbers (PANs) for admissions to the school in September 2023 and September 2024 should each be 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 variations. I find that the appropriate procedures were followed, and I am satisfied that the proposed variations are 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 to 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 21 June 2023 and supporting documents;
- b. the determined arrangements for 2023 and 2024 and the proposed variations to those arrangements;
- c. comments on the proposed variations from the school; and

- d. information available on the websites of the local authority, the school, the Department for Education and Google Maps.

The proposed variation

7. The proposed variations are that the PANs for the 2023 arrangements and the 2024 arrangements each be reduced from 45 to 30.
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 in certain other limited and specified circumstances. The local authority has identified a major change of circumstance. I will consider below whether the variations requested are justified by the change in circumstances.

Consideration of proposed variation

9. The local authority says that the school has been assessed as 'Requires Improvement' by Ofsted, and has 'poor outcomes' for both Key Stage 1 and Key Stage 2 pupils. As a result, children tend to join for short periods only until a place becomes available at another school. High mobility levels have led to instability and financial difficulties. In the local authority's and the school's view, the school needs to be able to plan on the basis of a single form of entry in order to move forward and make the necessary improvements.
10. Information provided by the local authority in June indicated that there are seven primary schools in the local planning area, including the school. The number of places offered at the school for admission in September 2023 was 25 at that time; the number of places offered within the local planning area was 322; there were 390 places available leaving a surplus of 68 places (53 if the school's PAN is reduced to 30). If the school had only made 25 offers, this would still leave five places available for late applicants.

Table 1 sets out the number of pupils admitted to schools in the planning area for the last three years.

Table 1

School	PAN	Total admitted in 2020/2021	Total admitted in 2021/22	Total admitted in 2022/23	Total admitted in 2023/24
Compton CE Primary School	60	60	60	60	60
High View Primary School	45	45	45	45	45
Hyde Park Infant School	90	86	90	76	63

School	PAN	Total admitted in 2020/2021	Total admitted in 2021/22	Total admitted in 2022/23	Total admitted in 2023/24
Laira Green Primary School	45	39	24	23	25
Lipson Vale Primary School	60	59	60	55	60
Mount Street Primary Academy	30	20	27	20	24
Salisbury Road Primary School	60	47	53	47	45
Total	390	356	349	326	322

11. Table 2 shows the number forecast to be admitted to schools in the planning area in September 2024/25 and September 2026/26. The data forecast for September 2024 shows a surplus of 33 places (18 if the school's PAN is reduced to 30).

Table 2

School	PAN	Total forecast to be admitted in 2024/2025	Total forecast to be admitted in 2025/26
Compton CE Primary School	60	60	60
High View Primary School	45	45	45
Hyde Park Infant School	90	88	89
Laira Green Primary School	45 (or 30)	27	24
Lipson Vale Primary School	60	59	56
Mount Street Primary Academy	30	30	25
Salisbury Road Primary School	60	48	48
Total admitted	390 (or 375)	357	347

12. The school's governing board was asked what the effect would be if the proposed variations were approved or not approved. The board sent a copy of the minutes of a meeting at which the matter had been discussed. These indicate that, during the last school year, there were 36 in-year admissions and 28 children had left. The school believes it is imperative to stabilise pupil numbers in order to stabilise the staffing structure. Because of the impact of the School Admissions (Infant Class Sizes) (England) Regulations 2012, the

school would need to employ an additional class teacher if the number of pupils in a Key Stage 1 class exceeds 30. This incurs considerable expense, and could cause significant difficulties if the number of children admitted to Reception were to fluctuate over and above 30 with the school's existing PAN of 45.

13. The minutes indicate that there are ongoing difficulties with health problems for staff and pupils alike, and additional problems with trying to bring incoming pupils up to speed without knowing whether those pupils will remain at the school. The school has a high number of pupils with special educational needs and disabilities (SEND) compared to other primary schools in the area (58 out of 249); there are delays in SEND assessments, budget problems and high numbers of children with challenging behaviour being educated alongside children who are vulnerable. There are also problems with the school premises and environment, for example no grass area where the children can play, overcrowding and lack of toilet facilities in the Key Stage 2 area.

14. The school is working towards addressing the Ofsted rating of Requires Improvement, however this is proving very difficult given the challenging nature of the intake and the instability of the cohort and pupil numbers. My view is that the proposed decreases in the PANs for 2023 and 2024 admissions are key to enabling the school to have a stable one form entry structure in place going forward so that it can plan staffing arrangements and attempt to address the many financial and logistical difficulties which it is currently facing.

15. On the 13 July 2023 the case manager sent an initial letter to the local authority asking for further information in relation to the proposed variations. The letter said:

“Your application form indicates 68 surplus places for 2023 admissions. The number of places offered at Laira Green is 25, which is comfortably below the proposed Published Admission Number (PAN) of 30.

- Is it likely that there will be more than 6 in year applications during the 2023/2024 school year?
- If this were to be the case, there appear to be 3 alternative schools in the local planning area which are likely to have vacancies: Hyde Park Infant School, Mount Street Academy and Salisbury Road Primary School. Are these schools likely to be within reasonable traveling distance for families? How far is each of these alternative schools from Laira Road School?
- Is the proposed PAN reduction for 2023 likely to have any adverse environmental implications, such as traffic congestion, lengthy or complex journeys to and from school, additional burdens on the local public transport services, or children from the same family needing to go to different schools?
- Was there any response from the bodies who were notified about the proposed PAN reductions? Did any of these bodies voice opposition to the proposal?

Your application form indicates that the forecast number of admissions to Laira Green Primary School in September 2024 is 27, and that the total number of applications forecast for the planning area is 357, which leaves 33 surplus places. If the PAN for the school is reduced to 30, there will only be 18 surplus places across the planning area. Are you confident that the local authority will be able to comply with its duty to provide sufficient places?"

16. Unfortunately, despite several reminders, no response has been received to the questions raised with the local authority. The case manager has advised the local authority that the case will be closed. However, I find myself in something of a dilemma. The school is in serious difficulties, and I am concerned that the consequences will be serious for them if they are not able to move forward on a one-form entry basis. In light of this, I have approved the proposed PAN reduction for September 2023 in spite of the lack of information. I have been able to undertake searches on Google Maps which indicate that Salisbury Road Primary School is 1.2 miles from the school (30 minute walk); Mount Street Primary School is 1.7 miles from the school (38 minute walk); and Hyde Park Infant School is 1.6 miles from the school (35 minute walk).

17. The proposed PAN decrease for September 2023 is unlikely to have an adverse effect upon parental preference. In June, only 25 places had been offered, which is obviously below the proposed PAN of 30. The initial information provided by the local authority confirms that there are sufficient alternative schools within reasonable travel distance which have vacant places available. It appears unlikely that there will be any additional burden on the public transport system, or adverse environmental impact in terms of traffic congestion if the PAN reduction is approved because the alternative schools with vacant places for this September are within reasonable walking distance for families who live locally to the school.

18. I have seen no evidence of any adverse effect upon other local schools. However, I am not aware whether any have commented in response to the notification of the proposed PAN reductions. The number of admissions this year indicate that there are sufficient places available in schools within the local planning area. Based upon the evidence submitted by the parties, I have concluded that the proposed PAN reduction for September 2023 is an appropriate means of beginning to address the plethora of problems the school is facing. I find that the proposed PAN reduction is needed, and that variation is justified by the circumstances.

19. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then no body, except the governing board of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. 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.

20. The requested variation is for two years. The 2023 arrangements have long since been determined and offers made. The 2024 arrangements have also been determined. The approval of both proposed variations would therefore mean that 30 will remain the PAN for the September 2025 arrangements unless it is subsequently varied or redetermined following consultation. It is undesirable for admission authorities to make long-term change without parents and others who have an interest being given the opportunity to make representations. In the absence of the additional information which I have requested, I am not willing to approve the request for the variation to the 2024 admission arrangements. The local authority will need to submit a new application if it wishes to take this forward, and I hope will apologise to the school for its failure to provide the information that would have allowed me to consider properly the request for 2024.

Consideration of the arrangements

21. 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. I have listed these matters below setting out the relevant paragraphs of the Code and where, in my view, the arrangements did not conform to requirements. I have not received a response from the local authority in respect of these matters, therefore the 2023 admission arrangements and the 2024 arrangements will each need to be revised under paragraph 3.6 of the Code in order to render them Code compliant.

- The arrangements state: *“Unless otherwise agreed, the published admission number applies to each year group as it moves through the school”*. This statement is legally incorrect. The School Admissions Code (the Code) defines the published admission number (PAN) as *“The number of school places that the admission authority must offer in each relevant age group of a school for which it is the admission authority”*. Paragraph 1.1 of the Code requires that all admission authorities must set an admission number for each ‘relevant age group’, and ‘relevant age group’ is the age group at which pupils are or will normally be admitted to the school, for example, year 7 and year 12 where the school admits external applicants to the sixth form (Section 142 of the School Standards and Framework Act 1998).

Paragraph 1.4 of the Code says: *“The PAN only applies to the relevant age group. This 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”*.

The statement that the PAN applies to each year group will need to be removed.

- The section in the arrangements headed ‘Multiple Births’ says that they are defined as the birth of more than one baby from a single pregnancy. *“We understand that parents/carers would like to keep twins, triplets and other children of multiple birth*

together. Where the admission criteria is applied and it is not possible to offer places to all children of the same multiple birth family we would work with the family to find the best solution for them and their children. Should it transpire that it is not possible to offer place(s) to all children within that multiple birth, there will be a random ballot as set out in the School Admissions Code. This will be undertaken by an officer of Plymouth City Council by the operation of an electronic random number generator”.

22. I questioned the reasonableness of this provision and, in the absence of any response from the local authority, my conclusion is that drawing lots to determine which child of a multiple birth is offered a place and which is not is unreasonable. Moreover, the infant class size regulations allow for children “whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil” to be treated as excepted pupils themselves thus not triggering the requirement to employ another teacher if the class exceeds 30 children. Therefore this provision will need to be revised.

Determination

23. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Plymouth City Council for Laira Green Primary School for September 2023.

24. I do not approve the proposed variation to the admission arrangements determined by Plymouth City Council for Laira Green Primary School for September 2024.

25. I determine that the published admission number for the September 2023 admission arrangements shall be 30. The published admission number for the September 2024 admission arrangements will remain at 45.

26. I have also considered the arrangements for September 2023 and September 2024 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.

27. 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 for September 2023 and September 2024 within two months of the date of the determination.

Dated: 12 September 2023

Signed:

Schools adjudicator: Marisa Vallely