



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4127

Objector: The Governing Board of St Lawrence Church of England Voluntary Controlled Primary School

Admission authority: Telford and Wrekin Council for St Lawrence Church of England Voluntary Controlled Primary School

Date of decision: 4 October 2023

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 2024 determined by Telford and Wrekin Council for St Lawrence Church of England Voluntary Controlled Primary School in Shropshire.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the 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.

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 of St Lawrence Church of England Voluntary Controlled Primary School about the admission arrangements for September 2024 (the arrangements) for St Lawrence Church of England Voluntary Controlled Primary School, a primary school with a Church of England religious character for children aged 5-11. The objection relates to the published admission number (PAN).

2. The parties involved in this objection are:
 - a. the governing board of St Lawrence Church of England Voluntary Controlled Primary School which made the objection (the school);
 - b. Telford and Wrekin Council which is the local authority area in which the school is situated and the admission authority for the school (the local authority); and
 - c. the Diocese of Lichfield (the diocese) which is the religious body for the school.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority. The school submitted its objection to these determined arrangements on 19 April 2023. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. evidence that the arrangements were determined;
 - b. a copy of the determined arrangements;
 - c. the school's form of objection dated 19 April 2023;
 - d. the local authority's response to the objection;
 - e. the net capacity assessment for the school;
 - f. further information provided by the parties at my request or invitation; and
 - g. information available on the websites of the school, the local authority and the Department for Education (DfE)

The Objection

6. The local authority set the PAN for admission for reception (Year R) at 13, which is lower than the school wishes.
7. The school stated in its objection "We have approached the Local Authority regarding increasing the PAN, but have been unsuccessful in our requests. We feel that the physical size of the school and the need with growing housing developments nearby, both mean we need to increase the PAN and can do so without any negative impact on the

pupils or staff... The increase of pupil numbers will obviously help the school financially, but also in terms of growing our community and potentially increasing the diversity of the school community.”

8. Paragraph 1.3 of the Code states, “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.”

Background

9. The school is situated in Preston upon the Weald Moors, a village on the northern edge of the town of Telford, Shropshire. Ofsted judged the school to be Good for the second time in its report of November 2019. The school is part of the Tibberton CE Primary School and St Lawrence CE Primary School Federation. This federation contains two schools: the school and Tibberton Church of England Primary School (Tibberton), with one headteacher and a single governing board. An objection regarding Tibberton has been determined under case reference ADA4126.

10. During the course of considering the arrangements, further matters came to my attention which related to the local authority’s admission arrangements for schools other than either the school or Tibberton. These matters have been considered in a separate determination, case reference REF4218.

11. The local authority determined the admission arrangements for all community and voluntary controlled schools in its area on 28 February 2023. In the event of oversubscription, after the admission of pupils with an Education, Health and Care Plan (EHCP), priority for places at the school is determined by application of the following criteria (in summary):

1. looked after and previously looked after children;
2. children who live in the school’s catchment area, prioritised thus:
 - a. children who have exceptional health reasons for needing to attend the school;
 - b. children who will have a sibling on roll at the school at the time of admission;
 - c. children in receipt of the early years pupil premium or pupil premium at the point of application; and
 - d. other children in the catchment area.

3. children from outside the school's catchment area, prioritised thus:
 - a. children who have exceptional health reasons for needing to attend the school;
 - b. children who will have a sibling on roll at the school at the time of admission;
 - c. children in receipt of the early years pupil premium or pupil premium at the point of application;
 - d. children of members of staff; and
 - e. other children living outside the catchment area.

12. The current PAN of 13 means that if the school were full in all year groups it would have 91 children on roll.

13. The school stated in its objection: "We would like to increase our PAN to 15 in order to maximise the space we have available to pupils. We offer mixed age classes, a PAN of 15 would still result in classes of a maximum of 30 pupils which would be within age allowances for class sizes."

Consideration of Case

14. The school's reasons for objecting to the PAN set by the local authority are, in summary:

1. The school buildings would accommodate a higher PAN.
2. A higher PAN would support the financial position of the school.
3. Parental demand for additional places exists.
4. Housing developments in the area may lead to an increase in demand.

15. The local authority's reasons for setting the PAN at 13 and refusing the school's request to increase this are, in summary:

1. Local demand for places is low.
2. There are surplus places within the planning area.

16. For the purposes of considering the objection I made the potential increase of the PAN to 15, as proposed by the school, my focus. I considered:

- a. the physical capacity of the school buildings to accommodate a PAN of 15;

- b. the potential effects of a higher PAN on class organisation; and
- c. the demand for school places.

17. A PAN of 15 does not, of course, mean that the school would necessarily admit 15 children to every year group. In the first place, the PAN under consideration applies only to entry into the school in 2024, and in the second place the number admitted will depend upon parental preference and the numbers who apply for a place. In the event that the PAN was increased to 15 and this remained in place for seven years, and the school was fully subscribed over that period, the school may need to accommodate 105 children rather than 91. The school’s wish for a higher PAN is part of its long-term strategy, and although my jurisdiction is only for the arrangements for 2024 it is reasonable to consider the longer term implications. That said, PANs must be set annually and, following the necessary consultation as required by paragraph 1.3 of the Code, the PAN may be set at a lower level than a previous year in the future.

The physical capacity of the school buildings to accommodate a PAN of 15

18. The DfE website “Get Information About Schools” (GIAS) lists the net capacity of the school as 91. However, the local authority provided me with a revised net capacity assessment from May 2023 which shows a figure of 105.

19. The numbers on roll in each year group at the school, as of September 2023, are shown in table 1 below.

Table 1: Numbers on roll at the school, September 2023

Year group	Number of pupils
Reception	12
Year 1	14
Year 2	11
Year 3	13
Year 4	11
Year 5	13
Year 6	14
Total	88

20. My jurisdiction is for the arrangements for 2024, and from the figures supplied to me it is clear that an increase of PAN to 15 for that year would have little impact on overall pupil numbers. If the school were fully subscribed in 2024 and 15 pupils admitted, and no other children joined or left the school before then, there would be 89 children on roll compared to the current figure of 88. If there was one more admission to the current Year R to bring this

up to PAN then, in the same scenario, the number on roll in 2024 would be 90. The local authority as the admission authority for the school may refuse in-year applications to other year groups where the admission of an additional child would prejudice the provision of efficient education or efficient use of resources. I am satisfied that the physical capacity of the school buildings is such that the potential increased number of children in 2024 could be accommodated.

21. For the sake of completeness, I have also considered the long-term impact of the proposed PAN increase. As I have already noted, if the PAN were to remain at 15 for some years then, if the school were to be fully subscribed, the school may reach a position where it would need to accommodate 105 children. This figure is in line with the net capacity assessment for the school.

22. I am confident that the school has considered the physical capacity of the school buildings, as it has stated, "The increase of 2 pupils per year group would not detrimentally impact upon those already at the school as the shared facilities, such as the playground and field, are large." The local authority is in agreement with this, stating "the LA accepts that the school building has capacity to accommodate increasing its PAN to 15."

23. I am satisfied that the school buildings would accommodate a PAN of 15, including in the longer term.

The potential effects of a higher PAN on class organisation

24. The school has clearly considered the effects of an increased PAN and has provided me with an illustration of how classes would be organised in the event of a PAN increase. Due to the small numbers involved, the school would retain its current structure of four classes; that is, a discrete Year R class and three classes which combine two year groups each. If the school were fully subscribed in 2024 this would result in a Year R class of 15 pupils. If this PAN were to remain in place for seven years and the school was fully subscribed each year there would be, in addition to Year R, three classes each with a total of 30 pupils. This structure is in line with the requirements of the infant class size regulations (The School Admissions (Infant Class Sizes) (England) Regulations 2012).

25. The local authority has not made any suggestion that classes at the school could not be organised effectively in the event of the PAN being raised to 15.

26. As mixed age classes are already in operation, parents apply for places in the full knowledge that they are used. If the PAN were to be increased, I am satisfied that there would be no impact on class organisation or staffing, and no building works would be required.

The demand for school places

27. The school has stated "We had more applications from parents at both schools [the school and Tibberton] than the PANs for entry to Reception in September 2023".

28. The local authority has stated:

1. “The demand for places at each school [the school and Tibberton] is what is limiting the number of children on roll at both schools, rather than their PANS – there are often vacancies in all year groups across the school”; and
2. “The PAN for St Lawrence has been set based on historically low demand for places as a small village school. The PAN has been set to ensure that there is a small surplus of places to ensure that new arrivals to the rural area have access to a local school place. Current local demand for places at St Lawrence is very low – only 16% of children on roll at the school at January Census 2023 reside within the school’s catchment area. There is a sufficient surplus of places across all year groups in the planning area – 6.9% as at January Census 2023. Primary pupil numbers have been decreasing year-on-year since 2020/21. Current pupil projections forecast within the planning area show a further year-on-year decreases up until 2025/26”.

29. I will first address the local authority’s assertion that there are often vacancies in all year groups. The data in table 1 shows that, if the current PAN of 13 is used as the indicator of a year group being “full”, the only year groups with vacancies are Year R, Year 2 and Year 4, and that the total number of vacancies across those year groups is five. The data also shows that there are more children than the current PAN in both Year 1 and Year 6. I therefore do not accept that current vacancies at the school are a significant indicator that demand for places is low.

30. I will now address the local authority’s concern that demand for places comes from outside of the school’s catchment area. It may well be the case that there is insufficient demand within the catchment area to support a higher PAN, but admissions to the school are not restricted to children in the catchment area. There is no reason why the school should not admit from the wider area. Parents may choose to apply for any school for their child irrespective of where they live, and this right is encapsulated in paragraph 15 of the Code which states, as far as is relevant here: “Parents are able to express a preference for at least three schools. The application can include schools outside the local authority where the child lives: a parent can apply for a place for their child at any state-funded school in any area”.

31. The local authority provided the data in table 2, which shows the demand for places at the school over each of the last three years and the number of offers made on national offer day.

Table 2: Demand for places at the school

Year of admission	First preference	Second Preference	Third preference	Offers	Admitted
2021	20	8	3	13	13
2022	17	11	6	13	15
2023	16	4	4	13	12

32. I note that not only have first preference applications for the school exceeded the current PAN in each of the last three years, but also that they have exceeded the proposed PAN of 15. This data indicates a healthy level of parental demand for the school.

33. The local authority also supplied the information in table 3, which shows the application of the oversubscription criteria for offers on national offer day in both 2022 and 2023.

Table 3: The application of oversubscription criteria in 2022 and 2023

Oversubscription Criterion	2022 offers	2023 offers
Looked after child	1	0
In catchment with sibling	1	1
Outside catchment with sibling	9	8
Distance only	2	4
Total	13	13

34. It is important to note that a catchment area serves only as a mechanism by which places at the school can be prioritised, and no admission authority has the right to restrict access to places to those residing within a particular location. This is set out in paragraph 1.14 of the Code which states: "Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school."

35. The data in table 3 shows that in 2022 and 2023 almost all successful applicants did reside outside of the school's catchment area. It would seem therefore that the local authority is entirely correct in stating that local demand for places is low. However, I do not accept the local authority's argument that this provides a valid reason for not agreeing to increase the PAN. Refusing to agree a PAN increase which would benefit residents in catchment because it might also have the effect of benefiting applicants not resident in

catchment, is not a reasonable justification and appears to be in direct contradiction of the fundamental principles of parental preference.

36. I will now address the local authority's point regarding demand for places in relation to surplus places in the planning area, and I must consider whether this is an appropriate factor to take into account when determining the objection to the current PAN for the school.

37. Planning areas are administrative constructs for local authority school place planning purposes and parents can apply for schools wherever they wish as suits their situation. The most convenient or desired school for any given family may not be in the planning area which has been assigned by the local authority. It is possible that, as a result of the PAN being increased at the school, other schools in the area would admit fewer pupils. Also, the local authority has forecasted a fall in births and pupil numbers in the planning area, which would result in fewer school places being required overall. Although I have sympathy with the local authority's position and its concern for neighbouring schools, I must balance those concerns against the fact that the demand for places at the school exceeds the number of places available. It is important to note that the numbers involved are such that any impact on other schools is likely to be minimal; there are eight other schools in the planning area, and the proposed PAN increase for the school is only two pupils. Ultimately, the PANs set for other schools are a matter for the admission authorities of those schools; the importance of parental preference must not be ignored. I do not accept that the matter of surplus places in other schools within the planning area is one which should prevent an increase in PAN at the school.

38. The local authority also told me, "were the school to raise its PAN and fill to its capacity with children from outside of its catchment area, given the low levels of local demand for places, this would severely impact our ability to provide a local school place for those that move to the rural area and apply for a place in-year."

39. This would seem to be an argument that, if the school had more places, then the local authority would be less likely to be able to provide sufficient places to accommodate all children living in its area. This is difficult to understand. I have considered whether the local authority may be concerned that if there were 15 children in each year group in the longer term, and therefore classes of 30 pupils in KS1 and KS2, they would be unable to admit any KS1 children moving into the area due to the requirements of the infant class size regulations. I note that there are fourteen other schools which admit children to Year R within three miles of the school, and that the local authority has stated that there are surplus places across the planning area. I do not accept, therefore, that increasing the PAN of the school would impact negatively on the local authority's duty to provide all children in its area with a school place.

40. It is not possible to be entirely confident that demand for 2024 will continue to be as high as in previous years, or indeed to guarantee that a PAN of 15 would result in 15 children being admitted to the school in 2024. However, no factors have been suggested to me that are specific to the school which would cause demand to fall in 2024. Further, it is

for the school to deal with any impact of being undersubscribed if this were to be the case, and it is the school that wishes for the PAN to be increased.

41. I am satisfied that demand for places at the school is such that an increase in PAN to 15 would be justified.

Conclusion

42. Taking all the factors into consideration I conclude that:

- a. the school buildings could accommodate a PAN of 15 for admissions in 2024 and there is sufficient space to accommodate the 105 children who could potentially be admitted with a PAN of 15 year on year;
- b. classes could be organised in Year R under a structure which could accommodate a PAN of 15 for admissions in 2024 and in other year groups to accommodate the 105 children who could potentially be admitted with a PAN of 15 year on year;
- c. the school is not oversubscribed by applicants who live in the catchment area, but there may be sufficient demand from applicants who live outside the catchment area to justify a PAN of 15; and
- d. If the school admits more pupils, this will result in more income for the school as most school funding is awarded on the basis of pupil numbers, and this will be of benefit to the school.

43. 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.” If the governing board wishes the PAN to be higher, I must have regard to the presumption in favour of an increase in the PAN stated as a requirement in the Code. I find that the local authority’s reasons for denying an increase to the PAN do not justify frustrating parental preferences in 2024. I therefore uphold the objection.

Other Matters

44. As I considered the arrangements, a number of other matters came to my attention which appeared not to comply with the Code.

45. Paragraph 2.6 of the Code requires that: “All children whose Education, Health and Care Plan [EHCP] names the school **must** be admitted”. The arrangements do not meet this requirement as they state, on page 19: “The admission of children with an Educational Health & Care Plan (EHCP) will be in accordance with parental preference as far as is possible and will be agreed between the parent/guardian, the school, and the local authority”. This appears to describe the process of naming a school on an EHCP, which is

separate to the admission process. In admission arrangements, once the school is named on an EHCP, it must admit the child, and the arrangements must say this.

46. Oversubscription criterion 3d) prioritises admission to the children of staff as is allowed for under paragraph 1.39 of the Code. However, this criterion does not comply with paragraph 1.40 of the Code which states that: “Admission authorities **must** specify in their arrangements how this priority will be applied, for example, which groups of staff it will apply to”. The arrangements refer to vacancies for which there is a demonstrable skill shortage with no detail given of how this skill shortage will be established; members of staff would be unable to understand from the arrangements whether this criterion would apply to them, and so the arrangements will need to be revised so that they are clear as to how priority under this oversubscription criterion is established.

47. The arrangements direct parents to an interactive map on the local authority’s website into which they can enter their address and receive a list of the schools nearest to the input address. Whilst this tool appears useful, paragraph 1.14 of the Code states that “Catchment areas **must** be designed so that they are reasonable and clearly defined”. The interactive map does not provide the facility for parents to be able to view the catchment area for the school and it is therefore not clearly defined. When first considering the arrangements, I noted that the interactive map page may have also been unclear for parents in that it appeared to only have catchment area information for 2020 and 2021 and it was not clear that the 2021 map might be relevant for entry after 2021, if that was what the local authority intended. I see from the local authority website that this has since been amended; I am grateful to the local authority for its cooperation in this matter.

48. The Code extends the right to parents to choose whether their child should attend school part-time under the circumstances covered by paragraph 2.17. This paragraph does not state that parents are expected to request permission or seek agreement for part-time attendance from the school. This is something parents have a right to insist upon. The arrangements state, on page 6, that: “Parents/guardians may defer entry to school until later in the academic year or until a child reaches compulsory school age (the beginning of the term after their 5th birthday) or may request for their child to attend part-time”. The use of the word ‘request’ in the arrangements (defined as the act or an instance of asking for something) implies that the local authority has something to decide in this circumstance and to grant if it so chooses. The arrangements mis-state the requirement in paragraph 2.17 of the Code that parents are entitled to have their child admitted on a part-time basis and will need to be revised in order to state the requirement correctly.

49. The arrangements state, on page 25, that: “For over-subscribed community and voluntary controlled schools, a waiting list system will be operated by the School Admissions Team... A child’s name will normally be kept on the list until the end of the academic year in which he/she is due to start school.” As a result of the use of the word “normally”, the arrangements are unclear as to the circumstances when a child’s name will be placed on the waiting list and the circumstances where it will not. This renders the arrangements unclear contrary to the requirements of paragraph 14 of the Code, and this aspect of the arrangements will therefore need to be revised.

50. The arrangements relating to in-year admissions state, on page 11: “Once the school’s planned admission number has been reached a school should not normally admit above that published number, unless the school and the local authority agree that an additional admission will not adversely affect the school in the longer term and will not have a detrimental effect upon neighbouring schools. In some circumstances, for example a request to admit a child who is looked after by a local authority, Telford & Wrekin would support an admission above the published admission number.” The arrangements do not comply with the Code, including with the requirements of paragraph 14 that “Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated” in that:

- this is the first time that the term ‘planned admission number’ is used, where ‘published admission number’ is used elsewhere. It is likely not to be clear that these two phrases refer to the PAN (where that applies to the next point);
- it is not clear that PAN relates only to the normal year of entry and not to other year groups covered by this part of the arrangements;
- it is not clear what “will not have a detrimental effect upon neighbouring schools” means in this context or why parents need to know this information;
- the Code requires that refusal to admit is only permitted where the admission of another child would prejudice the provision of efficient education or efficient use of resources (paragraphs 1.4 and 2.28). It is not clear what “will adversely affect the school in the longer term” means; and
- in considering the impact on neighbouring schools when deciding upon in-year admissions the arrangements do not comply with the requirements of paragraphs 1.4 and 2.28 of the Code.

For these reasons, the arrangements do not comply with the requirements of paragraphs 1.4 and 2.28 of the Code. The sentence I have quoted at the beginning of this paragraph will therefore need to be revised.

Determination

51. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2024 determined by Telford and Wrekin Council for St Lawrence Church of England Voluntary Controlled Primary School in Shropshire.

52. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

53. 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: 4 October 2023

Signed:

Schools Adjudicator: Jennifer Gamble