



Office of
the Schools
Adjudicator

Determination

Case references: VAR2376 and VAR2377

Admission authority: North Northamptonshire Council for Earls Barton Primary School

Date of decision: 8 December 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 North Northamptonshire Council for Earls Barton Primary School for September 2023.

By virtue of the same provision, I do not approve the proposed variation to the admission arrangements determined by North Northamptonshire Council for Earls Barton Primary School for September 2024.

I determine that the published admission number for admissions in September 2023 shall be 60.

I determine that the published admission number for admissions in September 2024 shall remain at 75.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the way 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. North Northamptonshire Council (the local authority) has referred proposals for variations to the admission arrangements for September 2023 and September 2024 (the

arrangements) for Earls Barton Primary School (the school) to the adjudicator. The school is a community school for children aged four to eleven in Earls Barton near Northampton.

2. The proposed variations are that the published admission number (PAN) be reduced from 75 to 60 for both 2023 and 2024.

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 had 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 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. The information I have considered in reaching my decision includes:

- a. the referral from the local authority dated 1 November 2023, supporting documents and further information provided at my request;
- b. the determined arrangements for 2023 and 2024 and the proposed variations to those arrangements;
- c. comments on the proposed variations from the governing board for the school (the governing board) and information provided by the governing board;

- d. a map showing the location of the school and other relevant schools; and
- e. information available on the websites of the local authority, the school and the Department for Education (DfE).

6. I have also taken account of the information I received during meetings I convened via Microsoft Teams on 15 November and 23 November 2023 attended by representatives of the local authority and the governing board.

The proposed variations

7. The local authority said that a major building project on the school site was planned and this would reduce the number of classrooms available by one, leaving insufficient space to support the current PAN. The local authority said this was a major change of circumstances which meant that the number of children admitted to reception year (YR) in 2023 and 2024 should be reduced from 75 to 60 for both years.

8. The local authority also seeks to reduce the number of children in order to minimise health and safety risks during the building work. In addition, the number of children admitted to YR in September 2023 was 60 and it would be more efficient financially for the school to have two classes of 30 in YR in both 2023 and 2024, rather than three classes, and this could be achieved by a PAN of 60. The local authority is in the process of consulting on a PAN of 60 for 2025.

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 circumstance or certain other limited and specified circumstances. I will consider below whether the variations requested are justified by the change in circumstances.

Background

10. The school is in the large village of Earls Barton, which is in close proximity to the towns of Wellingborough and Northampton. I was told at the meetings I convened that the village is very popular as a place to live and that few children move away from the school once admitted except to leave at the end of year 6 (Y6). According to the DfE website, 'Find and compare schools in England' (the DfE website), there are 13 schools admitting children to YR within three miles of the school. All measurements are by straight line from the school. Some of these schools are in Wellingborough and some within Northampton. Three of the 13 schools are within two miles of the school.

11. The school is on the site of two previous schools, an infant and a junior school. The current school opened in 2017 but the buildings have remained separated by a car park. I was told that there had been a long-term plan to join the two buildings and to improve the quality of the classrooms. Currently there are 19 classrooms. It is anticipated that the building work will commence in March 2024 and take about two years. One of the first acts

will be to take away a classroom and I was told that there will be no space for any temporary classrooms on site. When the building work is finished, there will be 22 classrooms for YR to Y6 inclusive.

12. The headteacher of the school explained that the school previously had classes with more than one year group (sometimes known as mixed aged classes), and that since she had come into post this had changed to classes with single year groups and the curriculum adjusted accordingly. It is the school's policy aim to have single year group classes and a PAN of either 60 or 90 so this would be more easily achieved. At the first meeting, the local authority explained that it planned to consult on the PAN for 2025 for the school and that it would discuss with the governing board whether the PAN should be 60 or 90 as it recognised that a PAN of 75 created financial difficulties (unless mixed aged classes were used). At the second meeting, the school said that the consultation document published by the local authority for admissions in 2025 only proposed a PAN of 60. The local authority said that it would consult further with the school,

13. The school is one affected by the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations), which 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. As schools are largely funded by the number of pupils and the main cost to a school is staffing, classes of 30 or nearly 30 are the most cost effective sizes for infant children. A PAN that is a multiple of 30, assuming that the school fills to its PAN, will support single year classes that are financially efficient.

14. I pause now to explain the nature of a PAN. The PAN only applies to the year of entry to a school, YR in this case. It does not apply to other years. The PAN is the minimum number of children who must be admitted in a normal year of entry if there is sufficient demand; an admission authority cannot refuse admission until the PAN is reached. The only exception to this requirement relates to grammar schools and so is not relevant here. An admission authority can refuse admission to other year groups, not the year of entry, if admitting another child or more children would prejudice the provision of efficient education or the efficient use of resources. Such prejudice cannot occur in the year of entry unless the PAN has been reached. In other years, prejudice could occur if, for example, the school had two classes of 30 in year 1 (Y1) and the admission of another child could mean that the school might have to create another class, with significant costs incurred, in order to comply with infant class size regulations. Parents retain the right to appeal if refused a place.

15. The local authority explained that it was recently established as a local authority and thus building its knowledge and expertise. This has caused some delays to my consideration of the case as some of the data provided was incomplete and/or inaccurate when first presented. Every local authority has a duty to make sure there are sufficient school places for the children in its area. To meet this duty local authorities assess the number of school places available and the number required using forecasts and then take steps to address any shortfall. Most local authorities undertake this school place planning

work using 'planning areas', which are normally geographic areas. The local authority uses the town of Wellingborough and its surrounding villages as the planning area for assessing the demand and supply of school places in the area in which the school is located.

16. This is a large planning area with 19 schools which admit children to YR and three other schools that admit children to year 3 (Y3). The DfE website, which measures distances in a straight line, shows that there are over 80 schools which admit children to YR which are closer to the school than are some in the planning area. The local authority also uses what it calls 'clusters' of schools for its analysis of the demand and supply of school places. The clusters are based on the schools which are closest to a particular school. The cluster for the school comprises the seven schools nearest to it in a straight line, the furthest being just over three miles from the school.

17. The local authority has determined different oversubscription criteria for different categories of school. The categories include rural and urban. The school is considered within the local authority's 'rural' category. The oversubscription criteria for the school are:

- 1) Looked after and previously looked after children
- 2) Children who live in the linked area for the school (what is referred to in the Code as a catchment area)
- 3) Children with a sibling continuing at the school at the time of admission of the child
- 4) Other children.

18. If the PAN is exceeded within any criterion, priority is given to applicants whose home address is closest to the school.

Consideration of proposed variations

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. I have therefore considered the data on the demand for school places and the forecast demand for school places in detail. I will initially set out the overall context.

20. Table 1 shows the demand for places in YR in recent years in the planning area for the school.

Table 1: the number of children admitted to YR in the planning area and forecast for 2024

	2021	2022	2023	2024
Sum of the PANs	902	902	962 ¹	979 ²
Number on roll in YR or forecast	770	763	775	808
Number of vacant places or forecast	132	139	187	171
Number of vacant places as a percentage of the whole	15%	15%	19%	17%

21. Table 1 shows a significant proportion of vacant places across the planning area but an increase in demand forecast for 2024. If the PAN for the school reduced by 15 places for 2023 and/or 2024 there would still be ample places for children seeking a school place in the planning area.

22. I will now look at the schools in the cluster, that is those nearest to the school. All are within three miles or just over three miles. There will be seven schools in the cluster in 2024 with eight in 2023 and previous years; all admit children to YR. One of the schools, Wilby, is moving to a different site further from the school but in the same planning area. Its capacity and number of pupils are therefore included in the figures for 2023 and previous years but not for 2024. That said, I would expect some children from the area to continue to attend Wilby as it is a Church of England school and some parents will wish their children to have a faith based education, and because its PAN is being increased as part of the move to a new site. Another of the schools in the cluster (Grendon) is not in the same planning area Table 2 provides the data on demand and forecast demand for the schools in the cluster.

Table 2: previous demand for the schools in the cluster and forecast for 2024

	2021	2022	2023	2024
Sum of the PANs	227	227	227	214
Number on roll in YR or forecast	172	180	168	180
Number of vacant places or forecast	55	47	59	34
Number of vacant places as a percentage of the whole	24%	21%	26%	16%

23. Table 2 illustrates that there has been at least one fifth of all places vacant in the cluster for the school in recent years. If the PAN for the school were reduced by 15 (from 75 to 60) then there will still be 44 vacant places in YR in the cluster for the remainder of the 2023/24 academic year based on the data provided to me. The sum of the PANs of the schools in the cluster is reduced for 2024 due to the move of Wilby out of the cluster area. As I note above, the impact on demand for YR of the move of Wilby is not clear; Wilby is a

¹ The sum of the PANs increased for 2023 as a new school was opened.

² The sum of the PANs increased for 2024 as Wilby School will move site and expand its PAN from 13 to 30

Church of England school which will have more capacity following its move as shown in table 1.

24. If the PAN for the school were reduced by 15 to 60 for 2024, there would be 19 vacant places remaining which would be ten per cent of the whole and still a high proportion. I am therefore assured that if the PAN for the school were reduced for both 2023 and 2024 there would still be sufficient places in the area.

25. I will now consider demand for the school itself and put this in the context of the number of children and classrooms overall. My jurisdiction is for the PANs for 2023 and 2024 but the context is particularly important in this case as the proposed variations relate to the capacity of the school. Table 3 shows the number of children in each year group, provided to me by the school on 21 November 2023, and the number of classes into which they are organised.

Table 3: number of children in the school on 21 November 2023

	Number of pupils	Number of classes
Reception year	62	Three classes
Year 1	66	Three classes
Year 2	61	Three classes
Year 3	74	Three classes
Year 4	57	Two classes
Year 5	58	Two classes
Year 6	69	Three classes
Total	447	19 classes

26. I will consider the variation requested for 2023 first. The request for the variation was dated 1 November 2023 and stated that there were 58 pupils in YR at the school. Another document provided by the local authority said that there were 60 pupils in YR. At the first meeting (15 November) the school informed me that there were 61 children in YR, comprising 58 YR children in their normal age cohort and a further three children who were summer born and had joined YR rather than Y1 and so were outside their normal age cohort. In addition, the local authority said at the 15 November meeting that two more children had been offered places at the school and other parents were expressing interest. Once a child has been offered a place that place cannot be withdrawn except in specific circumstances, such as a fraudulent application, which were not met in this case. The numbers in YR are therefore expected to be at least 63 before the end of this autumn term. Any number of children over 60 in YR will require three class teachers in order to meet the school's curriculum model and the infant class size regulations.

27. There are several factors here to consider. The most major one is the school's physical capacity. Currently it has 19 classrooms and all are in use. In March 2024, one of these classrooms will be removed for essential and long awaited building work. This

building work will constrain the site and will also present a safety risk, so all parties wish to minimise the number of children on site. Clearly, the number of children already admitted is above 60, and there are three classes established for 2023 for YR. The class teacher for one of the YR classes is going on maternity leave in January 2024 and the school saw an opportunity to reduce the number of classes to two. To have been able to do this would have been economically attractive and addressed the anticipated lack of classrooms. The provision of three classes for just over 60 children in a year group, as is occurring this academic year in YR, Y1, year 2 (Y2) and Y6, is very expensive. The school currently has a small deficit which will increase if it needs to continue to provide 19 classes, 12 of which have around 20 pupils. I note that the school told me that it requested this variation in April 2023 when the allocations for 2023 were made. If a variation to reduce the PAN had been proposed then and agreed, there could have been 60 or fewer children in YR and the ability to organise YR into two classes which would have meant sufficient classrooms when the build takes place.

28. It is possible, if unlikely, that some YR pupils will leave the school so that there are 60 or fewer children and the YR classes could be arranged into two classes so that 18 classrooms are sufficient. A PAN of 60 would mean, if children were to leave, it would not be necessary to admit over 60 children to YR. It remains within the power of the admission authority to admit over the PAN if it so wishes and parents retain the right to appeal. A PAN of 60 could provide some flexibility in assisting the school and the local authority to manage this very difficult situation. I find that the variation is justified by the circumstances and approve the proposed variation that the PAN is 60 for 2023.

29. For the avoidance of any misunderstanding, by setting the PAN at 60 for 2023, this does not mean that any child may have their existing place or offer of a place, for any children who have been allocated places which they are to take up in January or after Easter as the case may be, withdrawn. All such children must be able to remain at the school or join it as the case may be. It simply means that any further applications may be refused if they would take the numbers in YR over 60 (subject to the right to appeal).

30. If the number of pupils in YR does not reduce to 60 or below, the planned removal of a classroom in March 2024 means that the lack of a classroom to accommodate all the pupils at the school will have to be addressed before September 2024 if there are still three classes for the current YR. At the meetings I convened, I put it to the local authority and the school that this is a matter that they will have to find a solution to as the request for a variation to set the PAN for 2023 at 60 was made after more than 60 children had been admitted to YR.

31. The school has considered this dilemma and has a possible solution, which is related to changes in class teacher arrangements for Y2, which has 61 pupils, while retaining its single year group structure to its classes. This has to be a matter for the school and the local authority.

32. I will now consider the PAN for 2024. The main factors for consideration are that the local authority forecasts the need for 95 places in YR in 2024 and that the building work means there are expected to be only 18 classrooms on site. I questioned the need for 95 places for 2024 as this is an outlier compared to previous demand for the school. At my request, the local authority checked the forecast again. The local authority explained that the forecast was based on the National Health Service 0 – 4 data. The local authority's assumption was that this local increase was due to Covid related matters. Whatever the cause, the forecast demand is significantly higher for 2024 than the requested PAN of 60 and the existing PAN of 75.

33. Economically, if 90 children were admitted to YR in 2024 this would be helpful to the school as it would have full classes, by which I mean classes of 30. Such classes are financially attractive and would assist in meeting the deficit. The school will not by then, it is expected, have sufficient classrooms to accommodate more than 18 classes whereas admitting three classes to YR in 2024 would require, with the current class organisation model, 19 classrooms. However, the current year Y2 will become Y3 in September 2024 and the infant class size regulations will no longer apply to that cohort. In September 2024, the 61 pupils in what will then be Y3 could be arranged in two classes (one of 30 children and one of 31) and the school population could be accommodated in 18 classes with three classes for YR.

34. I note that the school was the first preference for admissions in 2023 for the parents of 57 children. A first preference is the school a parent most wants their child to attend. As over 60 children have been admitted to YR at the school in September 2023, I assume that for some of these children, the school was the highest preference which could be achieved.

35. The school's analysis of the children currently in the school in YR and Y1 shows that of those 128 pupils, 98 live in Earls Barton itself (73 per cent), 28 pupils (22 per cent) live in Wellingborough and seven live in individual villages nearer other schools. If there were to be the same pattern in 2024 this could mean that of the 95 children forecasted to be seeking a place in YR in 2024, around 70 would be from the village of Earls Barton.

36. I have given particular consideration to the following factors in making my decision: the exceptionally high forecast of demand for 2024; the data that shows ample school places in the local area; the difficulty in forecasting demand for YR particularly as the local authority is developing its expertise; the planned removal of a classroom before September 2024 so that there will be 18 classrooms; the constraints on the site as building work takes place; the opportunity to provide two classes for Y2 as it moves into Y3 so that 18 classrooms are sufficient; and the financial and educational challenges for the school as it manages these matters.

37. I am also conscious that parents are making their applications for YR for September 2024 on the assumption that the PAN for the school is 75. The closing date for applications for YR in 2024 is 15 January 2024. The level of demand for the school will become clearer soon after that date. The PAN is a minimum number that must be admitted. It is not a

maximum. When the effect of the build and the number of applicants become clearer, then the local authority (in liaison with the school) could decide to admit above 75 and up to 90 if there were sufficient demand.

38. Given the demand forecast for places at the school and the potential solution to the lack of classrooms, I find that the variation is not justified by the circumstances and determine that the PAN remains at 75 for 2024.

39. However, if when the applications are considered it appears that there is in fact demand for 60 places at the school, the local authority could request a variation that the PAN is 60 for 2024. If that proposal were made in good time, then it would be possible for the PAN to be varied to 60 so that the school could establish two classes and would not have to have economically unviable classes established. A second request for a variation, if made, would be determined by the adjudicator based on the evidence available at the time.

Consideration of the arrangements

40. Having considered the arrangements as a whole it appeared to me that the following matter regarding the catchment area for the school may not conform with requirements of the Code and so I brought it to the attention of the local authority.

41. The oversubscription criteria for the school include a criterion which says, “Children who live in the linked area for the school.” It is my understanding that the linked area is what the Code terms as a catchment area. If living in the catchment area provides a child with a priority for admission if the school is oversubscribed, then the catchment area is part of the arrangements. No information is provided in the arrangements or on the local authority’s website regarding of what the catchment area for the school consists. This could be a map or a description. There is, however, nothing. The arrangements are therefore not clear, and do not comply with paragraphs 14 and 1.8 of the Code in this regard. Paragraph 14 says:

“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

42. Paragraph 1.8 requires, amongst other things, oversubscription criteria to be reasonable and clear. The local authority agreed with my concerns and has told me that it will address this matter, as permitted by paragraph 3.6 of the Code, which is welcomed.

Summary

43. Essential building work is planned to start at the school in March 2024, which will take at least a year to complete, and means that until the work is completed the school will have one fewer classroom than it does now. In addition, the building work present challenges for managing the site safely. The school’s policy is to provide a curriculum

based on single year groups to a class. The school has a high proportion of small classes and the provision of these classes is creating financial strain for the school.

44. I have agreed that the PAN for the school will be 60 for 2023, even though more than 60 children have already been admitted, as setting the PAN at this level may give the local authority and the school more flexibility to manage the situation if, for example, some YR children were to leave the school.

45. I have decided that the PAN for the school will remain at 75 for 2024 as the local authority has forecast that 95 places will be needed and there are solutions to the reduction in the number of classrooms. The local authority retains the ability to admit over the PAN in either year if the situation justifies it and the right to make a second request for a variation for 2024 if the need becomes apparent.

46. In addition, the arrangements do not meet the requirements of the Code in the way set out above.

Determination

47. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by North Northamptonshire Council for Earls Barton Primary School for September 2023.

48. By virtue of the same provision, I do not approve the proposed variation to the admission arrangements determined by North Northamptonshire Council for Earls Barton Primary School for September 2024.

49. I determine that the published admission number for admissions in September 2023 shall be 60.

50. I determine that the published admission number for admissions in September 2022 shall remain at 75.

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

52. 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: 8 December 2023

Signed:

Schools adjudicator: Deborah Pritchard