



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2397

Admission authority: Warwickshire County Council for Boughton Leigh Junior School, Rugby.

Date of decision: 29 April 2024

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by Warwickshire County Council for Boughton Leigh Junior School for September 2024.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

The referral

1. Warwickshire County Council (the LA) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for Boughton Leigh Junior School (the school) to the adjudicator. The school is a community school for children aged seven to eleven in Rugby.
2. The proposed variation is that the school's published admission number (PAN) for 2024 be reduced from 120 to 99.

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. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.

5. In considering this matter I have had regard to all relevant legislation, and the Code.

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

- a. the referral from the local authority dated 15 March 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for 2024 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the school;
- d. a map showing the location of the school and other relevant schools, and
- e. the most recent information about the number of preferences expressed for a place at the school and about the number of places allocated for September 2024.

The proposed variation

7. The proposed variation is that the school’s PAN for 2024 be reduced from 120 to 99.

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 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

The need for places

9. The LA told me that a PAN of 99 would reflect the “probable” number of admissions to the school in September 2024, and that if the school were to organise this intake into three classes of 33 pupils, a spare classroom would be released which the school would use to accommodate a temporary bulge class for Year 6 “which is required by the LA to help meet demand from that cohort”.

10. The LA also told me that the school is “largely fed by the nearby Boughton Leigh Infant School” for which a variation to the determined PAN of 90 (to 60) was agreed in January 2021 (in VAR2098) for the admission arrangements for the school year 2020-21 because there had been lower than expected admissions in that year. The varied PAN ensured that the school would not have to reorganise from two classes to three during the remainder of that academic year. It is the year group that was admitted to the Infant School in 2020-21 that will transfer to Boughton Leigh Junior School in September 2024. I note at this point that the LA has therefore been aware since that time that it was likely that a smaller than usual group of children would transfer between the two schools in September, but that it nevertheless determined a PAN of 120 for the Junior School as part of the admission arrangements for community and voluntary controlled schools in the county on 16 February 2023. A PAN of 120 for the school has been determined for admissions in 2025.

11. Information provided by the LA as part of the variation request gave the number of preferences for places at the school which were expressed in 2021, 2022 and 2023, and the latest information concerning preferences for 2024. The table below shows what each of the three measures of preference was as a percentage of the actual number of Year 3 admissions at the school that followed.

Year	On-time first preferences	All first preferences including those made late	All expressed preferences	Number admitted to Year 3
2021	121 (98%)	129 (92%)	149 (80%)	119
2022	109 (100%)	113 (96%)	132 (83%)	109
2023	97 (112%)	108 (115%)	133 (84%)	112
2024	92	unknown	105	unknown

(figures in brackets are the actual Year 3 admissions as a percentage of the numbers of expressed preference in the different categories)

12. As can be seen from the table, there had been a not insignificant number of late first preferences expressed for a place at the school in each of the years, and that the trend across all categories of expressed preference was that year-on-year an increasing percentage of each figure was represented in subsequent actual admissions. So in 2023 the percentage across each category of preference which translated into Year 3 admissions at the school was the highest for the three years for which I have information.

13. In order to help clarify what the potential effect of this might be on admissions for 2024, I asked the LA to confirm that the school is the only one in the planning area that admits to Year 3 as a normal year of entry, which it did. I also asked it to give me the current number of Year 2 children at each of the schools in the planning area, which was as follows:

Boughton Leigh Infant School: 58

Brownsover Community Infant School: 44

Riverside Academy (a primary school): 30

Rugby Free Primary School: 60

In other words, the number of children who might currently be expected to transfer from Year 2 from the two infant schools in September 2024 is 102, assuming 90 remain at the two primary schools and there are no other effects.

14. In its variation request, the LA had said that it was forecasting a total of 184 children as the Year 3 “intake” for the planning area for 2024 and 217 for 2025, which (given the 90 children already in place at the two primary schools) would leave 94 (and not 102) to be admitted to Boughton Leigh Junior School in 2024 and 127 for 2025. The LA said that these were “maximum, end of year forecasts to take account of expected in-year admissions”.

15. When I asked the LA to help me understand these figures, it said that its forecast “are largely not based on applications and preferences but on current pupils in the planning area”, and it pointed out that “historically there is a slightly lower Y3 cohort than Y2 for the previous year -as some pupils move to schools outside the planning area”. It said that “For September 2024 our forecast is 179 based on a current Y2 2023 of 192 [as listed above] and historical patterns of movement between these year groups.” That is, it was saying that it forecast 184 Year 3 pupils “allowing for in-year applications” but that this was expected to reduce to 179 because historically pupils move out of the area. Although I had asked it to, the LA did not provide me with either the arithmetic behind these forecasts, or its own forecast of the total demand for year 3 places at the school in 2024, saying only that it considered the PAN of 99 would be “more than sufficient”.

16. It is the case that the relationship between the previous Year 2 total for the planning area has historically shown fewer children admitted to the school in Year 3 than might have been expected from the total transferring from the two infant schools, as follows:

Year	Year 2 total previous year for the planning area	Total not in a place at a primary school	Total admitted to Year 3 at school and as a percentage of previous column
2022	213	123	109 (88.6%)
2023	207	117	112 (96.7%)
2024	192	102	unknown

17. Without the LA’s actual calculations it is not possible for me to know how it has arrived at the figures quoted above, but just as there has been a higher percentage of expressed preferences translating into actual admissions in recent years, so the figures above show a higher percentage of what might be seen as the “expected” number of admissions to Year 3 at the school (by looking at the actual number of children in the planning area not already in a primary school place) translating into actual Year 3 admissions. So, using the same approach as the LA, but for instance assuming this rising trend were to be halted and only the same relationship between the two figures will hold as in 2023, all 99 of the proposed places would be needed in 2024 (96.7% of 102).

18. Going back to the preference data, and using the same conservative approach of not assuming that the percentage of preferences translating into actual admission continues to rise, but only remains the same as in 2023, for the known preference data at the point of the LA’s request, first preferences would translate into the need for 103 places (112% of 102) and the figure for all on-time preferences would give a figure of 88 places needed (84% of 105 preferences).

19. Taking the three estimations which I have made, using the known data when the LA’s request was made and using a conservative approach to recent trends (resulting, in turn, of figures of 99 using preference data and 103 and 84 using numbers exiting the two infant schools), it seemed to me that a PAN of 99 could well be insufficient to meet the actual need for places in September 2024 at the school.

20. The deadline for preferences for places in primary schools in September 2024 to be expressed was 15 January 2024 and that for the offer of places was 16 April 2024. I therefore asked the LA on 24 April 2024 to tell me the number of first and other preferences which had been expressed for a place at the school by that date, and the number of places which had then been allocated. On 26 April, the LA told me that 99 preferences had been stated for a place at the school and that 93 places had been confirmed. It believed that a

maximum of 98 places would be needed and also that “reallocations and appeals have not yet commenced” and that it was possible that two children whose parents had not confirmed their preferences might ultimately not attend the school.

21. The first table above shows the number of late first preferences expressed by parents for a place at the school in recent years (the difference between the first two columns). In 2023 there were 11, and in none of the last three year were there fewer than 4. It is in my view extremely likely that there will be more than the two such preferences which have been expressed so far.

22. Taken together, the information which the LA has most recently given to me confirms my view that 99 places will be insufficient to meet the likely demand which will have manifested itself by September.

The need to vary the PAN

23. The LA has told me that if there were only 99 admissions to Year 3 at the school in September 2024, then the school would operate three classes of 33 pupils. Although an admission authority for a school is able to exceed a PAN if it wishes to do so, it does not have to do so (unless places are allocated on appeal). The LA has also told me that it intends that the classroom released by the school operating three instead of four classes for this year’s intake will be used for a “bulge class” for another Year 6 class (presumably comprised of children from other local schools, since the school only admitted 119 to this year group in 2021).

24. If the PAN remained at 120, the LA (as admission authority) would not be able to refuse to admit children up to this number should applications for places beyond 99 be made. By contrast, were the PAN set at 99, the LA would feel able to argue that admissions above this number would cause prejudice to the provision of efficient education or the efficient use of resources should a parent seeking a place above this number appeal against a refused admission. I am concerned that if the PAN were 99 and more than that number of places were sought, some Year 3 children who might live locally would not have a local school place as a result (since the school is the only local school with a normal year of admission in Year 3), or they would face the uncertainty of appealing for a place either at the school or at one of the two local primary schools, which have both admitted up to their Year R PAN in this age group. If they were not living locally then this situation would constitute a frustration of the pattern of parental preferences which, as far as I can see, have pertained in recent years.

25. The organisation of the arrangements for teaching in a school, including the organisation of classes, is in law a matter for the headteacher of that school. So other than in schools which have classes covering the infant years (where the Infant Class Size regulations apply) a PAN does not dictate the organisation of classes or their maximum size. It is therefore not necessary for a PAN of 33 to be set for an intake of 99 children to be taught in three, as opposed to four, classes. A headteacher can simply decide to do this.

The effect of such a PAN, however, is to seek to limit admissions to this number. If there are not 99 or more children needing a place, then the organisation into three classes will meet this need. If there are more, however, some children will be in the position I have outlined above.

26. I have been given no details of the need for a “bulge” class (and therefore a classroom) for Year 6 children in the locality and therefore have no more understanding than that is how any released classroom is intended to be used. Whatever that situation is, it cannot in my view take precedence over the need for places in the locality for Year 3 children who would probably need to travel outside the area to have a school place.

27. I have explained above my reasons for considering it likely that the final need in September 2024 is very likely to exceed 99 Year 3 places. Given that and the other matters discussed above, I do not consider that the variation of the school’s admission arrangements by reducing the PAN from 120 to 99 is necessary or justified. I do not approve the requested variation.

Summary

28. The reasons for my decision not to approve the requested variation are:

- (i) the LA has stated that it hopes that there will be a vacant classroom at the school in 2024-25, and this requires the admissions to be limited to no more than 99. It would be easier for the LA as admission authority for the school to resist any admissions over 99 if this were the PAN than if the PAN remained at 120. However, there is a strong possibility that more Year 3 places will be needed at the school in September 2024 than would be provided by a reduced PAN of 99;
- (ii) this is the only school in the locality which admits children to Year 3, and so any children living locally who were unable to secure a place would have to seek one through an appeal, or travel out of the area;
- (iii) a PAN of 99 is likely to frustrate parental preference and it is not necessary to set such a PAN to ensure an organisation of teaching into three classes (which is stated as, in part, the reason for making the request).

Determination

29. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by Warwickshire County Council for Boughton Leigh Junior School for September 2024.

30. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

Dated: 29 April 2024

Signed:

Schools adjudicator: Dr Bryan Slater