



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2393

Admission authority: Royal Borough of Windsor and Maidenhead for Homer First School and Nursery, Windsor

Date of decision: 15 May 2024

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 the Royal Borough of Windsor and Maidenhead for Homer First School and Nursery, Windsor, for September 2024.

I determine that the Published Admission Number will reduce from 45 to 30.

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 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. The Royal Borough of Windsor and Maidenhead (the local authority), the admission authority for the school, has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for Homer First School and Nursery (the school) to the adjudicator. The school is a community school for children aged 3 to 9, located in Windsor, Berkshire. Its most recent Ofsted report, dated 7 October 2021, rated the school as 'Good'.

2. The proposed variation is to reduce the Reception Year (YR) Published Admission Number (PAN) 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 and 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. The information I have considered in reaching my decision includes:

- a. the determined arrangements for September 2024;
- b. the minutes of the meeting at which the arrangements for September 2024 were determined, dated 19 October 2022;
- c. a copy of an email sent to schools, admission authorities and religious authorities in the local authority area setting out the local authority’s proposal for a YR PAN reduction at the school to 30 for September 2024, dated 1 December 2023;
- d. a letter from the governing board of the school to the local authority requesting that the YR PAN for September 2024 be reduced from 45 to 30, dated 8 December 2023;
- e. the ‘request for a variation’ form completed by the local authority, dated 3 January 2024, together with supporting documents and further information provided at my request;
- f. comments on the proposed variation from the school;
- g. a map showing the location of the school and other relevant schools; and

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

The proposed variation

6. The proposed variation is to reduce the YR PAN for the school for September 2024 from 45 to 30.

7. 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 major change in circumstances.

Consideration of proposed variation

8. 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, and I have taken this into account in my consideration of this request for a variation.

9. The major change in circumstances relied upon by the local authority is a decline in the demand for YR places at the school, causing financial difficulty due to having to run classes with low numbers of pupils. The local authority has told me that, despite taking action to reduce costs (including reducing the number of classes at the school and not replacing some staff that have left), the school currently has a deficit budget of £161,731.

10. The local authority reports that the school has experienced a trend of an increasing surplus number of places – rising from 19 spare places (7.9 per cent) in 2019-20 to 32 spare places (14.2 per cent) in the current academic year 2023-24. The local authority states that the increasing surplus is due to a decline in the YR intake over the past five years:

Table 1: Numbers of pupils on roll at the school in YR at the October census

| Academic Year | YR PAN | YR numbers on roll at October census (*places allocated) |
|----------------------|---------------|---|
| 2019-2020 | 45 | 41 |

| | | |
|------------------|----|-----|
| 2020-2021 | 45 | 40 |
| 2021-2022 | 45 | 34 |
| 2022-2023 | 45 | 38 |
| 2023-2024 | 45 | 37 |
| 2024-2025 | 45 | 23* |

11. This data shows that the numbers on roll in YR at the school have gradually declined from a high of 41 in 2019-2020 to 37 in the current academic year 2023-2024. I note that the number on roll has always been below the PAN of 45 throughout that period but has never fallen below the requested PAN of 30. However, I note that – looking at the numbers of YR places allocated for the coming academic year 2024-2025 – there has been a dramatic decline in demand. As at National Offer Day, only 23 YR places have been allocated for September 2024.

12. The local authority has drawn my attention to the extent to which places allocated in YR at the school have been first, second, third preferences or “diverts” (pupils allocated a place at the school, having not expressed a preference for it) over the past five years:

Table 2: Applications and allocations to YR at the school

| Academic year | YR PAN | First preference applications (number allocated a place) | Second preference applications (number allocated a place) | Third preference applications (number allocated a place) | Other applications (number allocated a place) | “Diverts” allocated a place | Total applications (number allocated a place) |
|----------------------|---------------|---|--|---|--|------------------------------------|--|
| 2019-2020 | 45 | 33 (33) | 16(0) | 17(0) | 14(0) | 1 | 81(34) |
| 2020-2021 | 45 | 34(34) | 23(3) | 17(0) | 16(0) | 1 | 91(38) |
| 2021-2022 | 45 | 32(32) | 15(1) | 8(0) | 10(0) | 0 | 65(33) |
| 2022-2023 | 45 | 34(34) | 11(0) | 11(0) | 12(0) | 0 | 68(34) |

| | | | | | | | |
|------------------|----|--------|-------|-------|-------|---|--------|
| 2023-2024 | 45 | 34(34) | 24(0) | 10(0) | 11(0) | 0 | 79(34) |
| 2024-2025 | 45 | 22(22) | 17(0) | 7(0) | 16(0) | 1 | 62(23) |

13. This data shows that the number of first preference applications for the school remained stable in recent years between 2019-2020 and 2023-24, resting between 32 and 34. However, for 2024-25 there has been a dramatic decline in demand for YR places at the school, with only 22 first preference applications.

14. The data shows that, although the school generally receives sizeable numbers of second and third preference applications, very few of them result in place allocations at the school because the higher preference applications of those applicants have been met. Indeed, since 2022 no second or third preference applicants have been allocated places at the school.

15. The data also shows that the total number of places allocated at National Offer Day ranged between 33 and 38 in recent years between 2019-2020, although I note from Table 1 above that the numbers on roll by the October census have generally been slightly higher than the number of places offered (at between 34 and 41 over the same period). However, looking at the data for 2024-2025, there has been a sharp drop in the number of places allocated at National Offer Day. Only 23 YR places were allocated, comprising 22 first preference applications and one “diverted” application. I note, therefore, that even if there was a slight increase in the YR numbers between now and the October census later this year, unless that increase is more than seven (which seems unlikely based on the trends in previous years) the figure will not exceed the requested PAN of 30.

16. The local authority reports that demand for places at first schools across the Windsor planning area has dropped from 2,512 in 2019-2020 to 2,306 in the current academic year 2023-2024. This is a fall of 206 school places in four years and represents an increase in the number of surplus places from 243 (8.8 per cent) to 374 (14 per cent). This trend is borne out in the numbers on roll in YR across Windsor, where the number has fallen from 503 in 2019-2020 to 455 in the current academic year 2023-2024. This is a fall of 33 YR places in four years and represents an increase in the number of surplus YR places from 42 (7.7 per cent) to 75 (14.2 per cent).

17. The local authority believes that this downward trend in demand for first school (including YR) places across Windsor is set to continue. It points to the following evidence in support of that view:

- a. The local authority had reported to the DfE School Capacity Survey in July 2023 that it forecasted demand for first school places to continue falling, reaching 2,176 by 2027-2028 (resulting in a surplus of 474 places, that is, 17.9 per cent);

- b. The local authority projects that demand for YR places in Windsor will be 421 places in 2026-2027 (I note that that is a fall of 34 from the current 455 YR numbers on roll across Windsor);
- c. Net inward migration into the pre-school age groups in Windsor had previously seen two per cent growth figures. However, this fell during the pandemic period and is currently showing a zero per cent growth – that is, no growth; and
- d. Health authority demographic data for Windsor shows a predicted gradual drop in the YR age population from 456 in 2024-2025, 438 in 2025-2026, 428 in 2026-2027 and 376 in 2027-2028.

18. In terms of local demand for YR places at the school, the local authority highlights that the school’s catchment area covers the whole of Windsor. However, it draws the majority of its YR intake from the Windsor North and Windsor South sub-planning areas. The local authority has explained that the YR cohort in both of those sub-planning areas has declined in recent years, with this trend forecast to continue in the years ahead.

19. The local authority has analysed the recent application preferences for the school and reports that the majority of first preferences come from the Windsor North and Windsor South sub-planning areas, one or two from other parts of Windsor, and around four from outside of Windsor (including out of the local authority area). Based on that data and analysis, the local authority asserts that a reduction in the school’s YR PAN to 30 in September 2024 is likely to have little to no impact on the likelihood that local Windsor residents will get a place at the school if they would like one. Rather, the impact (if any) is likely to be a small number of applicants from further afield not getting their preferred school place.

20. The local authority has stated that there will be significant available YR capacity in other local schools in the Windsor North and Windsor South sub-planning areas to meet any demand from applicants unable to obtain a YR place at the school. It has provided the following data in support of the assertion:

Table 3: Actual and projected numbers on roll in YR at Windsor North sub-planning area first schools

| Year of intake | YR places available | YR numbers on roll (*projected numbers) | Surplus/Deficit of places |
|-----------------------|----------------------------|--|----------------------------------|
| 2019-2020 | 135 | 130 | +5 |
| 2020-2021 | 135 | 125 | +10 |
| 2021-2022 | 135 | 112 | +23 |

| | | | |
|------------------|-----|------|-----|
| 2022-2023 | 135 | 109 | +26 |
| 2023-2024 | 135 | 113 | +22 |
| 2024-2025 | 135 | 108* | +27 |
| 2025-2026 | 135 | 112* | +23 |
| 2026-2027 | 135 | 102* | +33 |
| 2027-2028 | 135 | 103* | +32 |

Table 4: Actual and projected numbers on roll in YR at Windsor South sub-planning area first schools

| Year of intake | YR places available | YR numbers on roll (*projected numbers) | Surplus/Deficit of places |
|-----------------------|----------------------------|--|----------------------------------|
| 2019-2020 | 135 | 127 | +8 |
| 2020-2021 | 135 | 130 | +5 |
| 2021-2022 | 135 | 111 | +24 |
| 2022-2023 | 135 | 105 | +30 |
| 2023-2024 | 135 | 105 | +30 |
| 2024-2025 | 135 | 101* | +34 |
| 2025-2026 | 135 | 103* | +32 |
| 2026-2027 | 135 | 95* | +40 |
| 2027-2028 | 135 | 135* | +40 |

21. This data shows that, based on current PANs, the local authority is forecasting a combined surplus across the two sub-planning areas of 61 YR places for 2024-2025. I note that there would remain a significant surplus (of 46 YR places) if the YR PAN for the school were to be reduced by 15 places from 45 to 30.

22. The local authority states that, given the continued downward trend in demand for YR places at the school, the school's current class and staff structure is not financially sustainable. The local authority has explained that if the school were full with 45 pupils in

each year group, it would have 225 pupils that could be spread across eight classes. The arrangement would look like this:

Table 5: Class structure if the school was full with 45 pupils in each year group (eight classes)

| Class Name | YR | Y1 | Y2 | Y3 | Y4 | Total |
|-------------------|-----------|-----------|-----------|-----------|-----------|--------------|
| Diamond | 22 | | | | | 22 |
| Garnet | 23 | | | | | 23 |
| Beryl | | 30 | | | | 30 |
| Topaz | | 15 | 15 | | | 30 |
| Emerald | | | 30 | | | 30 |
| Opal | | | | 30 | | 30 |
| Sapphire | | | | 15 | 15 | 30 |
| Amethyst | | | | | 30 | 30 |
| Total | 45 | 45 | 45 | 45 | 45 | 225 |

23. In this configuration of classes, the local authority has explained that the school would receive funding amounting to 94 per cent of the Age Weighted Pupil Units funding for eight full classes.

24. As the school has fewer pupils than this, the local authority reports that the school has taken action to reduce its number of classes to seven as follows:

Table 6: Current academic year class structure at the school (seven classes)

| Class Name | YR | Y1 | Y2 | Y3 | Y4 | Total |
|-------------------|-----------|-----------|-----------|-----------|-----------|--------------|
| Diamond | 27 | | | | | 27 |
| Garnet | 10 | 18 | | | | 28 |
| Topaz | | 20 | 4 | | | 24 |
| Emerald | | | 28 | | | 28 |

| | | | | | | |
|-----------------|----|----|----|----|----|-----|
| Opal | | | | 28 | | 28 |
| Sapphire | | | | 15 | 15 | 30 |
| Amethyst | | | | | 29 | 29 |
| Total | 37 | 38 | 32 | 43 | 44 | 194 |

25. This data shows that, with further mixed year group classes, the school has been able to reduce from eight to seven classes. The local authority has explained that this configuration means that the school receives funding amounting to 93 per cent of the Age Weighted Pupil Units funding for seven full classes.

26. The local authority has stated that if the YR intake for 2024-2025 is, for example, 34 pupils, then the overall number of pupils on roll will fall to 184 pupils. In order to ensure that infant class sizes do not exceed 30 (as is required by education legislation), the local authority states that the school will be forced to continue to run seven classes. However, these will be less full than the current year's classes and so the level of funding received would amount to 88 per cent of the Age Weighted Pupil Units funding for seven full classes. The local authority states that this is equivalent to a shortfall of £93,198.04.

27. The local authority asserts that a YR PAN reduction to 30 in 2024-25 would assist the school in seeking to reduce its current deficit, in that it would result in a total number of pupils on roll of 180, which can be accommodated across six classes and result in the school receiving funding amounting to 100 per cent of the Age Weighted Pupil Units funding for six full classes.

28. The local authority has confirmed that it has received only one response to its email to schools, admission authorities and religious authorities in the local authority area setting out the PAN reduction proposal, and that response was from a primary school in Maidenhead that indicated that it had no objection to the proposed PAN reduction.

29. The local authority provided details of its consultation on the admission arrangements for the school for 2025-26, which included a proposal to reduce the YR PAN from 45 to 30. The consultation closed at the end of January 2024 and the local authority reports that it received four responses. Three were from parents of children at the school and were in favour of the proposal to reduce the PAN for both 2025 and 2024. One was from a middle school in Windsor and made no comment on the proposed PAN reduction.

30. The school governing board has written to me to confirm its support for the proposed PAN reduction from 45 to 30 for 2024-25. In its letter dated 23 January 2024, the school confirmed that the reason for the requested PAN reduction is to enable a reduction in the number of classes operated across the school, maximising the efficiency of the use of per pupil funding. The school stated that if the PAN reduction is not approved, they will

encounter continued financial difficulties because “we would be running classes that have many spare spaces. These spaces are not needed but still funding a teacher and a TA [teaching assistant] annually without the pupil numbers to support this financially”.

31. Taking into account all of the information provided to me by the local authority and the school, I am satisfied that the major change in circumstances justifies the proposed reduction in the YR PAN from 45 to 30 for September 2024. Demand for YR places at the school has been on a gradual decline over the past five years and has seen its most dramatic fall in 2024-2025. Whereas the school has previously always allocated more than 30 YR places on National Offer Day, for September 2024 that number has fallen to just 23. I have taken into account that the school may gain a few more YR applicants between now and September. However, based on trends in previous years, that is unlikely to be more than five. Therefore, a reduction in the YR PAN from 45 to 30 for September 2024 is highly unlikely to frustrate any parental preferences for a place at the school. I note that the YR PAN reduction to 30 will assist the school in seeking to address its current budget deficit, by allowing the school to organise its pupils into six classes in total and maximising the efficiency of its teacher to pupil ratios. Based on the data provided by the local authority, I am satisfied that should there be an unexpected surge in demand for YR places in the local area in September 2024, and that cannot be met by any surplus places at the school, there remain a sufficient number of available places across the Windsor planning area as a whole (and the Windsor North and Windsor South sub-planning areas in particular) to meet that demand.

32. For the reasons set out above, I approve the request for a reduction in the YR PAN at the school from 45 to 30 for September 2024.

Consideration of the arrangements

33. 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 them below setting out the relevant paragraphs of the Code and where the arrangements did not conform to requirements:

- a. Oversubscription criterion 1 (at paragraph 1.18) and the corresponding footnotes 1 and 2 – The definition employed of looked after and previously looked after children in this part of the arrangements does not expressly include those previously looked after children who appear to the admission authority to have been in state care outside of England. For that reason, the definition does not comply with paragraph 1.7 of the Code.
- b. A more expansive definition of looked after and previously looked after children is employed at paragraph 5.9 of the arrangements and the corresponding footnote 1, which more closely follows that set out in the Code. However, that definition is provided in a different context – applications outside of the normal admissions round – and so does not appear to have application to admissions as part of the normal

admissions round. Furthermore, having two different definitions for the same terms within the arrangements, without a clear justification for doing so, creates a lack of clarity, contrary to the requirement of clarity at paragraphs 14 and 1.8 of the Code.

- c. Oversubscription criterion 3 (at paragraph 1.18) is “Children attending a priority linked infant school” and includes reference to “note 3”. However, note 3 (at paragraph 1.22) is about children of a member of staff. This mismatch creates a lack of clarity, contrary to the requirement of clarity at paragraphs 14 and 1.8 of the Code. Indeed, none of the notes sets out what a priority linked infant school is. If they are feeder schools, then the Code requires that they are named in the arrangements in order to ensure transparency. I have been unable to identify any feeder schools named in the arrangements and therefore find that this aspect of the arrangements is in breach of the requirement for transparency at paragraph 1.15 of the Code.
- d. Paragraph 1.21 (Note 2) of the arrangements states that “Linked schools are described in criterion 6 of the oversubscription criteria”. However, oversubscription criterion 6 is not about linked schools, but rather “Children who have a sibling who attends the school”. This mismatch creates a lack of clarity, contrary to the requirement of clarity at paragraphs 14 and 1.8 of the Code.
- e. Section 7 of the arrangements sets out definitions and explanations. The definition of Published Admission Number (PAN) is given as “the maximum number of pupils that a school is required to admit into each Year Group”. This gives the impression that the PAN applies to every year group. It does not. It only applies to normal years of entry. For example, at the school this is only YR. The PAN does not apply to the subsequent year groups. As the definition is potentially misleading, it lacks clarity, contrary to the requirement of clarity at paragraphs 14 and 1.8 of the Code.

34. The local authority has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the local authority has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires the arrangements be amended to address the points set out here.

Summary

35. I am satisfied that the major change in circumstances justifies the proposed reduction in the YR PAN from 45 to 30 for September 2024. Demand for YR places at the school has been on a gradual decline over the past five years and has fallen to 23 places for September 2024. On that basis, I find it highly unlikely that a PAN reduction to 30 would frustrate any parental preferences for a place at the school. I note that the YR PAN reduction to 30 will assist the school in seeking to address its current budget deficit, and that there is a significant surplus of places across the Windsor planning area to meet any demand for YR places that could not be met by the school due to the reduction of its YR PAN from 45 to 30.

36. I have identified a number of concerns with aspects of the arrangements as set out above. The local authority has agreed with my concerns and indicated its willingness to amend the arrangements to address them.

37. I note that the arrangements for the school for September 2025 have not yet been determined. Therefore, the varied arrangements for 2024 (incorporating the reduced PAN and the necessary amendments to other parts of the arrangements) will form a new 'baseline' for the September 2025 arrangements.

Determination

38. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the Royal Borough of Windsor and Maidenhead for Homer First School and Nursery, Windsor, for September 2024.

39. I determine that the Published Admission Number will reduce from 45 to 30.

40. 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 ways set out in this determination.

41. **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: 15 May 2024

Signed:

Schools adjudicator: Jane Kilgannon