



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2461 Brockhurst Primary School, Hampshire

Admission authority: Hampshire County Council

Date of decision: 19 November 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 Hampshire County Council for Brockhurst Primary School for September 2024.

I determine that the published admission number for admissions to Year R in 2024 shall be 45.

The referral

1. Hampshire County Council (the local authority, the LA) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for Brockhurst Primary School (the school) to the adjudicator. The school is a community school for children aged 4 to 11 in Gosport, Hampshire. The LA is the admission authority for the school.
2. The proposed variation is that the PAN for Year R for admissions in 2024 be reduced from 60 to 45.

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 these matters I have had regard to all relevant legislation, and the Code.

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

- a. the referral from the local authority dated 30 July 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. information available on the websites of the local authority, the school and the Department for Education.

The proposed variation

7. The LA has proposed that the PAN for Year R admissions in the school year 2024/25 be reduced from 60 to 45.

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.

Consideration of proposed variation

9. 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 body 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.

10. The requested variation did not refer to the PAN for admissions in 2025, and correspondence from the LA in August 2024 said that the school had not wished to reduce its PAN for 2025 at the point in time when the LA was consulting on what it referred to as “permanent” PAN reductions for September 2025 admissions”, and so the school had not been included in this consultation. However, the LA had set out in this same correspondence a table showing how the school proposed to organise its teaching arrangements in 2025/26 and 2026/27 which showed a Year R PAN of 45 for 2025 and one of 30 for 2026.

11. The LA said that it was its intention to set a PAN for the school for 2026 of 30. I therefore wrote to the LA pointing out that the school’s website currently states a PAN of 60 for 2025. I have looked at the Hampshire County Council website and found there that the PAN determined on 20 February 2024 by the LA for the school for 2025 was also 60. As I shall explain below, a PAN of 45 for admissions in September 2025 is implicit in the plans to enable the school to move to having one fewer class in operation from September 2026, which is the purpose of the present variation request. It would have been possible for me to consider a request that the PAN for 2025 be varied accordingly had such a request been made to me by the LA and if the appropriate procedures had been followed. The relevant procedures, such as the notification of the appropriate bodies concerning any variation of the 2025 arrangements, have not been complied with, and there has been no request to vary the school’s PAN for 2025. It will therefore be necessary for the LA to seek a variation separately concerning the school’s PAN for 2025, which remains 60, as determined on 24 February 2024. It has confirmed to me that this is its intention.

12. The LA’s form requesting the variation for the 2024 arrangements said that on 16 April 2024, the national offer day for primary school admissions, there had been 45 offers of places for admission to Year R at the school. It said that the local planning area in which the school is situated, Gosport Central, had 360 Year R places currently, but that only 312 offers had been made. It said that if the PAN for the school for admissions in 2024 was not reduced from the determined figure of 60, this could result in “the school needing to operate 11 classes”, saying that this would “not be financially viable” but did not explain further. At the end of July 2024 when the variation request was submitted, the school was operating with two Year R classes and three mixed age classes in Years 1 and 2, three in Years 3 and 4 and three in Years 5 and 6.

13. The information provided by the LA to support the variation request showed that its forecast of the need for Year R places at the school was 22 places for 2024, and 24 places for 2025. This was at odds with what I had been told about the number of offers which had already been made for 2024 admissions, and since the forecast of the need for places at the school is critical in determining whether a PAN reduction is justified, I asked the LA to

provide supporting evidence for its forecast. I also asked the LA to confirm my understanding, since the LA had not said this in terms, that the intention of the request was to enable the school to operate 10 instead of 11 classes. I had also not been told the likely class organisation that would result.

14. At the same time, I explained to the LA that information concerning consultations with the school's Governing Body about possible PAN reductions for 2025 and 2026 which it had given me as part of its variation request could not be accepted as evidence that it had been consulted about the proposed PAN reduction for admissions in 2024. I had been given evidence of a minuted discussion with the Governing Body in February 2024 about the possibility of a PAN reduction in 2026 related to the consolidation of the school's operation onto one site, and a possible "emergency PAN reduction for 2025", but nothing concerning the request for a PAN reduction for 2024. Since I could not consider the request until I had such evidence, I also asked the LA to provide this to me. The school wrote to me on 16 August confirming that the Governors of the school had been consulted about the proposed variation, and that they supported it, and provided evidence in the form of a minute of a meeting of the Governing Body in July 2024. The letter also said:

"If the variation in PAN is agreed, the school is able to move to one site with two modular buildings and manage its financial situation as it is in a huge deficit."

15. Again, although the school's letter and the minutes of the Governing Body meeting on 11 July 2024 referred explicitly to the need to reduce the school's PAN to 45 for September 2024 admissions, neither of these documents referred specifically to any proposed PAN reduction for September 2025. Therefore, I can only assume that both the LA and the school have assumed that if the requested variation for 2024 is approved the PAN for 2025 will also automatically be amended, but this is not the case.

16. On 21 August 2024 I asked the LA to confirm the number of offers for places which had been made for Year R for September 2024 and to confirm its intentions, in view of the requested variation, if this number had gone above 45.

17. On 22 August 2024 the LA replied to my earlier questions about the forecast data for the school and the intended organisation of the school if the request were approved. It said that the forecast information which had been sent as part of the original request had been in error, and its revised figures showed a forecast need for Year R places at the school of 45 for 2024 and 40 for 2025. It was in this same correspondence that it told me that:

"[Sic] For context, Brockhurst Primary School used to be a separate infant and junior school located on two different sites, they amalgamated back in 2016 and are currently still working across two sites which is impacting on the school's viability. The response gave the school's likely class organisation for 2024, 2025 and 2026, and referred to "a permanent PAN of 30 on one site in the future".

18. The tables showing the school's proposed organisation over the next three years have clarified the intended school organisation, but not in the way that I had imagined. Eleven

classes are shown in operation in both 2024 and 2025, but ten in 2026. A PAN of 45 is shown for 2024 and 2025, and a PAN of 30 for 2026. The LA commentary says that “[Sic] Therefore, this year and next year will be 11 classes moving to 10 classes, subject to the permanent reduction to 30 being agreed via the Main Admissions Consultation in autumn 2024 and implemented in 2026.”

19. What I therefore now understand is that the reduction in PAN for 2024 is being requested in order to ensure that the year group formed as a result of admissions this year will be no more than 45, and that this will mean that the school will be able, in its and the LA’s understanding, to operate with one fewer class while conforming with the Infant Class Sizes regulations, from 2026. This will be possible at that point if there are three classes of 30 each covering Years 1 and 2 (each of which it is assumed will have 45 children) and one Year R class of 30 (assuming a PAN of 30 for admissions to Year R in 2026). It would have been helpful if all this had been explained at the outset by the LA.

20. However, two points immediately arise. First, this scenario for 2026 assumes that the school’s PAN in 2025 will be 45, and as I have said, I have ascertained that it has been determined as 60. Since no request has made for this to be varied, even though it is a clear assumption in the LA’s thinking, I have raised this matter with the LA, but at the time of writing have received no reply.

21. The second point which I need to make here is that the school organisation tables which the LA has sent me appear to show that PANs which applied to the normal year of admission to the school (Year R) will continue to be relevant concerning future admissions to each year group as they move through the school. This is not the case since, other than in a normal admission year, admissions are governed by the question of whether the admission of the child in question would give rise to prejudice to the efficient provision of education or use of resources, and there is therefore no PAN that applies to such year groups. This is set out in paragraph 2.28 of the Code.

22. In other words, if there were pressure for places in future years, the LA could not necessarily assume that it would be possible, for example, to limit admissions to Year 3 to a maximum of 45 because that was the PAN that had applied to the year group when it was Year R or because it was the current Year R PAN (as seems to be the LA’s understanding). I therefore find it hard to understand the use of the terms “PAN” and “admission limit” shown against individual year groups in the tables showing the school’s intended class structure for the next three years in what has been provided to me.

23. Nevertheless, concerning the requested variation, the LA has expressed the opinion strongly that a reduction in the school’s PAN will not compromise its duty to ensure that there are sufficient school places in the locality. The school is located at the heart of the urbanised area of Gosport. Its catchment area is surrounded by those of other schools in its planning area, and so the future need for places there can be gauged with some certainty based on what is forecast for the planning area as a whole. The other primary schools in the planning area which the LA uses are five paired infant and junior school. So there are

five other Year R PANs and five Year 3 PANs which will have the following totals, assuming that the school's PAN were to be reduced to 45 for both 2024 and 2025:

Year R PAN total (as reduced): 345 Year 3 PAN total: 300

24. The forecast made by the LA of the need for admissions across the schools in Year R and Year 3 (using the correct Year R figures for the school now provided to me by the LA), were:

Year R forecasts need 2024: 328 and 2025: 291

Year 3 forecast need 2024: 264 and 2025: 273

In other words, the information given to me by the LA shows that there are expected to a comfortable surplus of Year R places in both years, and also that at least for Year 3 places in the area, the same is true. For Year R places, if the PAN were reduced for both 2024 and 2025, the projected number of surplus places would be 17 (or 5 percent of the total) in 2024, and 54 (or over 15 percent) in 2025.

25. I was concerned that the originally projected number of admissions in September 2024 was given as 45, and that this may have meant that a greater number of children may have requested a place and therefore been admitted before it was possible to determine the request for a lowering of the PAN, given the late date on which the request was made. I therefore made enquiries to ascertain the latest position on 21 August 2024, and in the absence of a reply I wrote again on 17 September also seeking to know what the LA as the admission authority for the school intended to do in the light of actual admissions and any future requests, assuming the PAN reduction were to be approved. The LA replied on 9 October saying that 46 children had been admitted, and that if the PAN reduction were approved, then if the 46th child were to leave, then the intention would be to limit the size of the group to 45 thereafter in line with the plans outlined above to eventually adopt a school organisation requiring only 10 classes. I have been told in the last week that there remain 46 children on roll in Year R at the school. This does not mean that the school is currently in breach of the Infant Class Sizes regulations, but the LA will need to be aware this matter going forwards, for the reasons explained above.

26. Taking all these matters together, I am satisfied that a variation of the school's PAN from 60 to 45 for admissions in 2024:

- (i) will not impinge on the LA's ability to provide sufficient school places locally, and
- (ii) will be a necessary (although not sufficient) condition if the school is to move by 2026 to an organisation based on 10 rather than 11 classes, and that this will provide it with needed financial stability and facilitate the school's amalgamation onto a single site.

27. I therefore approve the proposed variation to the school's admission arrangements for 2024.

Determination

28. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Hampshire County Council for Brockhurst Primary School for September 2024.

29. I determine that the published admission number for admissions to Year R in 2024 shall be 45.

Dated: 19 November 2024

Signed:

Schools adjudicator: Dr Bryan Slater