



Office of
the Schools
Adjudicator

Determination

Case references: VAR2526 VAR2527

Admission authority: Kent County Council for Tunbury Primary School

Date of decision: 25 February 2025

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 Kent County Council for Tunbury Primary School for September 2024.

I determine that the published admission number for 2024 will be 60.

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Kent County Council for Tunbury Primary School for September 2025.

I determine that the published admission number for 2025 will be 60.

The referrals

1. Kent County Council (the local authority) has referred two proposals for variations to the admission arrangements (the arrangements) for Tunbury Primary School (the school, Tunbury) to the adjudicator. The proposals are for September 2024 and September 2025. The school is a community school for children aged four to eleven years in Chatham, Kent. The local authority is the admission authority for the school.

2. The proposed variations are that the published admission number (PAN) be reduced from 90 to 60 for admissions to the reception year (Year R) in both 2024 and 2025.

Jurisdiction and procedure

3. The referrals were 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 evidence that the arrangements, which are those for all community and voluntary controlled primary, infant and junior schools in its area, were determined. The arrangements for 2024 were determined on 17 January 2023, and the arrangements for 2025 on 16 January 2024. The local authority has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing body 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.

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 referrals from the local authority dated 14 January 2025, supporting documents and further information provided at my request;
- b. the determined arrangements for 2024 and 2025 and the proposed variations to those arrangements;
- c. the website Google Maps; and
- d. information available on the websites of the local authority, the school and the Department for Education (the DfE), including the website “Get Information About School” (GIAS).

7. There was some delay in my consideration of this case as the local authority had not fulfilled the statutory requirements for notification in respect of the proposed variation for 2024. I am grateful to all parties for their patience whilst this requirement was met, and for the information they supplied.

The proposed variations

8. It is proposed to reduce the PAN from 90 to 60 for entry to Year R in 2024 and 2025. The proposed variations have the support of the governing body.
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.

Consideration of proposed variations

10. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. 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 so it is particularly important that the proposed variations are properly scrutinised. I note here that the local authority stated, in respect of the proposed variation to the arrangements for 2025 (my underlining for emphasis):

“Kent County Council, as the Admission Authority, with the support of the school’s Governing Body, is seeking agreement to decrease the admission number of Tunbury Primary School from 90 (3FE) [three form entry] to 60 (2FE) [two form entry] for its Reception year entry in September 2025 and all subsequent years.”

11. To be clear, an adjudicator’s jurisdiction is limited to arrangements that have been determined; in this case, this means the arrangements for 2024 and 2025. As the arrangements for 2026 and beyond have not yet been determined I have no jurisdiction to consider them. However, 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 for which arrangements have not yet been determined.

12. The major change in circumstances relied upon by the local authority is set out in the referrals, both of which state:

“Tunbury Primary School has a PAN of 90, this means that the school must legally accept up to 90 pupils into Year R if the school receives applications for those places or if the County Council allocates pupils to the school as part of the co-ordinated admissions round.

Tunbury is currently structured and staffed to accommodate up to 90 pupils in each year group. However, in recent years, the school has experienced a significant decrease in parental preferences. A decline in pupil numbers within the area has resulted in first preferences dropping to around 60 and 2nd, 3rd and 4th [preferences] sharply declining with only 1 2nd preference in 2024/25.

Forecasts [for] Tunbury and the area from which the school's [sic] main intake area indicate that the school will likely remain significantly below their [sic] PAN of 90 Year R pupils for the foreseeable future".

13. As an aside, I note the local authority's statement that the school must, with a PAN of 90, admit "up to" that number of pupils. To be clear, the PAN is not a maximum; where enough children seek places, the PAN represents the minimum number of children which must be admitted.

14. The referrals also stated:

"Over the past few years, the decrease in roll has resulted in a reduction in the per pupil formula funding received by the school. This reduction has undermined the school's finances; whereby, the funding income cannot cover the expenditure needed to support the staffing and school structure that is required for a PAN of 90. Should the school continue to run with a 90 PAN, but with markedly reduced roll, it will be financially unviable."

15. A statement from the school adds:

"These variations are needed to enable to [sic] Tunbury Primary School to continue functioning in a financially viable way, with staffing costs for each cohort being based on a two-class structure.

We can clearly see local evidence of falling birth rates and lower pupil numbers. Without a variation to our PAN, we could be required to continue to admit 60-70 pupils per year group into a three-class structure. This is not financially viable and would result in a lower quality of education for pupils throughout the school."

16. I have given careful consideration to the latest available data in order to form a view about the sufficiency of school places in the local area if the PAN is reduced from 90 to 60 for 2024 and 2025. I have also considered the demand for places at the school, the reasons given for the changes, the potential effect on parental preference and whether the changes are justified taking into account all relevant circumstances.

17. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical areas each containing a number of schools, for this purpose. The school is based in the Medway Gap planning area and I have considered the data that the local authority has provided for that area.

18. In the planning area there are three schools, other than the school, which admit pupils to Year R: Burham Church of England Primary School, St Marks Church of England Primary School and Wouldham All Saints' Church of England Voluntary Controlled Primary School. The data set out in table 1 show the number of Year R places and the numbers of

pupils admitted to, or forecast to require a place at, the four schools in the Medway Gap planning area. Table 1 also demonstrates the effect of the proposed PANs on surplus places in that area.

Table 1: School places in the Medway Gap planning area, and the number of children admitted, or forecast to require a place

| | 2022 | 2023 | 2024 | 2025 | 2026 |
|--|------|------|------|------|------|
| Number of places in Year R in schools in the planning area (with a PAN of 90 at the school) | 198 | 198 | 198 | 198 | 198 |
| Number of children admitted (2022 to 2024) or forecast to require a place (2025 and 2026) | 160 | 149 | 163 | 181 | 195 |
| Vacant places | 38 | 49 | 35 | 17 | 3 |
| Vacant places as a percentage | 19.2 | 24.7 | 17.7 | 8.6 | 1.51 |
| Number of places in Year R if variations approved (with a PAN of 60 at the school) | | | 168 | 168 | 168 |
| Vacant places if variations approved | | | 5 | -13 | -27 |
| Vacant places as a percentage if variations approved | | | 3.0 | n/a | n/a |

19. The DfE document, “Basic need allocations 2025-26: Explanatory note on methodology”, refers to the need for two per cent surplus capacity “to provide an operating margin for local authorities. This helps to support parental choice, pupil population movement, and general manageability of the system”. From the data above, it is clear that surplus capacity in the area has been above this level for some years and would continue to be so in 2024 if the proposed variation was approved. I am satisfied therefore that if the PAN for 2024 is reduced to 60 there will be sufficient places left in the planning area for any child who might be seeking a Year R place. However, the data also show that there would be insufficient places in the area to meet forecast demand in 2025, and indeed in 2026.

20. The local authority explained that in its view, the data for the planning area to which the school belongs does not necessarily provide an accurate picture in respect of demand for places and surplus places in the locality:

“The main forecast demand within the Medway Gap Planning Group is driven by the popularity of Wouldham school (which is circa 6 miles away by road and geographically distinct from Tunbury). We would anticipate that this demand will be met within the Neighbouring Snodland and East Malling Planning Groups that have more than sufficient surplus places.

The forecasts represent the continuation of existing travel to school patterns, this means that where cohorts of pupils have travelled from one planning group to another, the forecast shows that this scenario will continue. Of the current roles [sic] of the Medway Gap schools, only 49% are resident in Medway Gap, with 31% of children living in Medway and 13% living in Maidstone North. For the majority these children schools within Medway Gap do not represent their nearest schools geographically. Should school[s] within the planning group receive more applications than places available, the County Council anticipates meeting its statutory duty by offering school places to those children not resident in Medway Gap places at school[s] closer to their homes, where there is anticipated to be sufficient places.”

21. The local authority also stated:

“Although the KCC [Kent County Council] forecasts. . . places [sic] Tunbury within the Medway Gap planning [area], in reality the population accessing Tunbury would not be that likely to access the other schools in the group as an alternative. This is due to the proximity of Tunbury to the county boundary with Medway and its location above the M2 that geographically isolates the school from Kent. Therefore, the KCC planning area forecasts are not as applicable to Tunbury as an individual school than they would be for the majority of the other Kent planning groups.

In this case, the current rolls of Medway [local authority] schools in the Walderslade area and the Medway [local authority] forecasts for the adjacent group have significant impact on the demand for places at Tunbury.”

22. I have considered the location of the four schools in the Medway Gap planning area. Google Maps shows that Tunbury is roughly to the east of the M2 motorway whilst the three other schools are all to the west of that road. The statutory walking distance for a child under the age of 8 is 2 miles (as set out in the DfE statutory guidance “Travel to school for children of compulsory school age”, January 2024). The distances from Tunbury to the other schools are, according to GIAS: Burham Church of England Primary School 1.76 miles; St Marks Church of England Primary School 2.03 miles; and Wouldham All Saints’ Church of England Voluntary Controlled Primary School 2.74 miles. That is, two of the three other schools in the Medway Gap planning area are further than the statutory walking distance from Tunbury, and the location of the schools in relation to the motorway seems to make it unlikely that children living near to Tunbury would seek admittance to the other schools in the planning area.

23. I now turn to alternative schools to which children living near the school may seek admittance, namely those in the Walderslade planning area mentioned by the local authority. The local authority provided data showing the PANs of the schools in that area and the forecast demand for places in 2025. This is set out in table 2, below, to which I have added the distance from each school to Tunbury (as shown on GIAS).

Table 2: The PANs of the schools in the Walderslade planning area for 2025, forecast demand for places at those schools and the distance from each school to Tunbury

| School | PAN for 2025 | Forecast demand | Distance from Tunbury (miles) |
|--|--------------|-----------------|-------------------------------|
| Horsted Infant School | 60 | 54 | 1.2 |
| Kingfisher Community Primary School | 30 | 26 | 1.94 |
| Lordswood School | 60 | 47 | 0.86 |
| Maundene School | 60 | 44 | 1.31 |
| Oaklands School | 60 | 50 | 0.9 |
| St Benedict's Catholic Primary School | 30 | 25 | 1.0 |
| St Thomas More Roman Catholic Primary School | 60 | 50 | 0.99 |
| Swingate Primary | 90 | 81 | 1.02 |
| Walderslade Primary | 30 | 27 | 0.68 |
| Wayfield Primary School | 60 | 52 | 1.86 |
| Totals | 540 | 456 | |

24. Table 2 shows that, if the forecast is correct, in 2025 there would be 84 surplus places in the Walderslade planning area, equivalent to 15.6 per cent. It is forecast that every school in that area would have some surplus places, and all these schools are within two miles of Tunbury. Google Maps shows that each of the schools can be accessed from Tunbury without crossing a motorway. Having carefully considered all the data and information presented by the local authority, I am satisfied that if the PAN of the school is varied for 2025 as proposed, there will be sufficient places in the area for any child who requires one.

25. I turn now to the demand for places at the school. Table 3 shows the number of children admitted to Tunbury in recent years and the number of first preference applications for the school, plus local authority projections for future years. This table uses the proposed PAN of 60 from 2024 onwards.

Table 3: The number of children admitted to the school in recent years, with projections for future years

| | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|
| The PAN for the school | 90 | 90 | 60 | 60 | 60 | 60 |
| Number of first preferences | 62 | 58 | 58 | 51 | | |
| Number of children admitted (as shown on the October census, 2022-2024) or forecast to require a place (2025-2027) | 68 | 63 | 57 | 71 | 75 | 77 |
| Surplus places | 22 | 27 | 3 | -11 | -15 | -17 |

26. The local authority also provided data showing that in 2024, sixty children were offered places at the school; this comprised 59 children for whom the school was listed as a preference and one for whom the local authority allocated a place. In other words, all applicants to the school were offered a place unless they expressed a higher preference for another school which could be met. As it is now approximately halfway through the school year, it seems likely that most children who require a place in Year R in the area will have secured one. The local authority told me that, as of January 2025, there were 58 children in Year R at the school. This means that if the PAN is reduced to 60 there will be two available places for any further children who require one. I am satisfied that the proposed variation for 2024 would result in no significant frustration of parental preference and I need say no more on that matter.

27. I will now consider demand for places at the school in 2025. Data from 2022 to 2025 (as set out in table 3) show that the number of first preference applications has fallen over time; the number admitted decreased each year from 2022 to 2024. In 2023 the school admitted five more children than the number of first preferences; in 2024 it admitted one less. As I have set out above, the number of children offered places in 2024 was at the level of the proposed PAN; table 3 shows that the number on roll in October of that year was below. First preference applications for 2025 were, by the 15 January application deadline, lower than those in 2024 and nine below the proposed PAN.

28. First preference applications are only one indicator of demand; applications are made months in advance of admission and people's lives can change considerably in that time. There may also be applicants for whom the school is, say, a second preference but who are refused a place at their first preference school. Although data from recent years indicates that it is unlikely that many more children than those for whom the school is their first preference will seek admittance, some applications may be made after the deadline and I note that the local authority forecast that 71 children will require a place at the school in 2025. I accordingly asked the local authority for the number of children likely not to be offered a place at the school if the PAN is reduced to 60, and the names of the schools where such children are likely to be admitted. The local authority responded:

“We have included a school level forecast, however, there is more variability at school level than in a Planning Group level forecast. Therefore, the potential total number of children not offered a place is considered to be a maximum of 10, however, it is probable that no children will be displaced due to the variability of the forecast at such a granular level.”

29. I asked the local authority for the distances any children displaced from Tunbury are likely to have to travel to alternative schools compared to the distances they would travel to the school. The local authority told me:

“Oaklands, Walderslade and Lordswood (all Medway schools) are anticipated to have around 26 surplus places available in 2025 between them.

Oaklands, Walderslade and Lordeswood [sic] are all within 1.5 miles of Tunbury school but we would anticipate that all potential displaced pupils will be closer than 1.5 miles as they are highly likely to live within the Medway boundary. Tunbury school sits within the northern boundary of Kent, but the majority of the housing in the local area is within Medway and is therefore closer to Medway schools.”

30. The pattern of applications and admissions in previous years indicates that, if the proposed variation is agreed for 2025, those children whose parents most want them to attend the school would be admitted. It also seems likely that any child who was displaced from the school would have a choice of alternative schools within two miles of their home. I am therefore satisfied that there is unlikely to be significant frustration of parental preference.

31. For the sake of completeness, I have considered whether the benefits to the school of lowering the PAN are a reasonable justification of any potential frustration of parental preference. I have also considered whether there are alternative steps which the school could take to mitigate the negative financial impact which it and the local authority assert would be caused by maintaining the current PAN.

32. 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 (paragraph 2.16 of the Code). The infant class size regulations apply to Year R, Year 1 and Year 2.

33. The school organises all its pupils into single-age classes, with two classes for the 58 children currently in Year R. If the PAN of 90 remains in place, then if more than 60 children were to be admitted the school would, under its existing structure, need to organise those pupils into three classes of a size that may not be financially efficient. If fewer than 60 children were admitted initially in 2025, who could be accommodated in two Year R classes, the school would be obliged to admit up to PAN if additional applications were received during the year. As soon as more than 60 children were in Year R, three classes would be

required. This situation creates uncertainties in school organisation and staffing as the school would not know if or when an additional class would be required. The local authority stated:

“Decreasing the admission number from 90 to 60 places will enable the school to progress to a class structure necessary to secure the financial viability of the school based on 2FE.”

34. There are many primary schools which organise their pupils into mixed-age classes so that class sizes are financially efficient. I asked the local authority for a full explanation as to what consideration, if any, has been given to the use of mixed-age classes. The local authority responded:

“The number of places needed at the school has decreased significantly to just below 60. Had the number of places needed fallen to a value that did not sit within a multiple of 30; for example 75, then consideration to the introduction of a PAN of 75 with permanent mixed aged classes would have taken place. There is a demonstrable need for the school to make available up to 60 places, however there is also a demonstrable set of data showing that far fewer than 75 1st preference applications are likely to be received. The school cannot run a mixed aged class structure with fewer than 75 pupils each year, which it will not receive.”

The County Council considers that a mixed aged class structure has been appropriately explored and rejected as not necessary for the local population and likely to be detrimental for the school's financial sustainability.”

35. The DfE website “Financial Benchmarking and Insights Tool” shows that for the financial year ending March 2024, the school had an in-year balance of -£88.4K and a revenue reserve of £281k. As the referrals mentioned financial pressures, I asked the local authority to provide the current financial position of the school together with any projected financial implications or other consequences of not decreasing the PAN. The local authority responded:

“The school is not currently in a financial deficit. However if it were required to continue to run three Year R classes for more than one year with a total cohort size of fewer than 70 children, which is anticipated, then the school will be in an in-year deficit in FY25/26 and current surplus reserves would put the school into a critical financial position by the end of FY25/26.

If the OSA requires a forecast budget based on no management action being taken, this will take some time to generate. However the County Council can confirm that without a reduction in PAN the school's finances would be unsustainable.”

36. I note the following: there are surplus places in the local area, and there is likely to be so at a choice of schools in 2025; there has been no frustration of parental preference in 2024 and the number of on-time first preference applications for 2025 is below the

proposed PAN. Also, maintaining the current PAN creates uncertainties in school organisation and staffing as the school would not know if or when an additional class would be required. A move to mixed-age teaching may be difficult given the pupil numbers involved and does not seem to be justified by demand for places at the school or in the planning area.

37. For all of the reasons above I agree that a reduction of PAN to 60 for 2024 and 2025 would provide greater stability for the school and its pupils and benefit the school financially, and that this outweighs any potential frustration of parental preference in the longer term.

38. I find that the proposed variations for 2024 and 2025 are justified by the circumstances and I approve them.

Determination

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

40. I determine that the published admission number for 2024 will be 60.

41. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Kent County Council for Tunbury Primary School for September 2025.

42. I determine that the published admission number for 2025 will be 60.

Dated: 25 February 2025

Signed:

Schools adjudicator: Jennifer Gamble