



Office of
the Schools
Adjudicator

Office of the Schools Adjudicator
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Darlington
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Mr David Board
School Organisation
Education & Skills Infrastructure
PO Box 15843
Birmingham
B2 2RT

6 July 2017

Dear Mr Board

Park Hill Primary School, Birmingham
Case reference:VAR719

I am writing to inform you that the adjudicator, Mr Thomas Brooke, has reached a decision on the above case.

A copy of his determination is enclosed and will be published on the Office of the Schools Adjudicator (OSA) website. The determination can be accessed by entering the case reference number in the search box of the link:
www.gov.uk/government/publications.

Once a determination is issued the adjudicator is "*functus officio*" which means his statutory role is completed and neither he nor anyone else in the OSA can make any comment on matters considered within the determination. The only route of appeal against the determination is by a judicial review, information on which can be found at: www.judiciary.gov.uk.

Yours sincerely

Wilf Fleming
Secretary to the Office of the Schools Adjudicator

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DETERMINATION

Case reference: VAR719

Admission Authority: Birmingham City Council for Park Hill Primary School

Date of decision: 6 July 2017

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the variation to the admission arrangements determined by Birmingham City Council as admission authority for Park Hill Primary School for September 2017.

The referral

1. Birmingham City Council, the local authority in which Park Hill Primary School (the school) is sited, which is the admission authority for the school, has referred a variation to the Adjudicator. The variation concerns the admission arrangements for the school, a community school for pupils aged 3-11 years, for September 2017. The variation requested is to reduce the published admission number (PAN) of the school from 90 to 60 as there is a reduction in the birth rates in the Moseley, Kings Heath and Sparkbrook wards within the local authority's area, and in which the school is located.

Jurisdiction

2. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined the authority must [except in a case where the authority's proposed variations fall within any description of variation prescribed] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

I am satisfied that the appropriate bodies have been notified and the proposed variation is within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:
 - a. the local authority's form of referral received by the Office of the Schools Adjudicator on 27th June 2017 and supporting documents;
 - b. the determined arrangements for 2017/2018 and the proposed variation to those arrangements; and
 - c. a copy of the notice in the form of a consultation document informing the appropriate bodies about the proposed variation.

Background and consideration of factors

4. The local authority carried out a consultation exercise on the proposed reduction of the school's PAN for 2017. This ran over six weeks from 3 May 2017 to 13 June 2017 and parents/carers and local schools were consulted. Two responses were received. One, a staff member at the school, was in favour. The other, a local resident, was neither in favour nor against.
5. The data supplied by the local authority shows a declining birth rate in the locality of the school over ten years from 2005-06 to 2014-15. Data shows a fluctuating pattern but an overall decline of about one quarter from 1221 births in 2005-6 to 919 in 2014-15. Since 2014 the number of pupils commencing at the school has declined. The current PAN for entry to the school in Reception is 90. The numbers on roll at the school in May 2017 were 90 in each of years 5 and 6, 89 in years 3 and 4, 80 in Year 2, 75 in Year 1 and 79 in Reception. These figures demonstrate that the school has not been maintaining numbers at the level of its PAN in recent years. The local authority reports that, as of June 2017, for entry to the school in September it made 68 offers of places at the school. The local authority states that there is a pattern of decline in numbers from the number of offers made prior to September entry and the numbers on roll at the time of the October census. However, the data supplied shows that the difference between the number of offers and the number on roll in October of the same year declined by 7 in 2013 (86/79) and by 8 in 2015 (82/74). However, the number rose by 1 in 2014 (63/64) and remained constant in 2016 (73/73). I find that these figures show a fluctuating pattern and do not demonstrate with any certainty that numbers will fall to, at or near 60 for September 2017. For September 2017, the local authority received 123 applications, of which 60 were first preference applications, and made offers to 68 pupils. The projected numbers are 111 applications and 63 offers for 2018 and 81 applications and 33 offers for 2019. These figures show that offers above the lower PAN of 60 for which this variation is sought have been made for 2017 and are anticipated for 2018. As stated above, it cannot be reliably anticipated that numbers actually enrolling

in September of each year will be at 60 or below. The PAN for 2019 will fall to be determined by 28 February 2018. The local authority may, if it wishes to do so, consult on lowering the PAN for 2019 in accordance with the relevant provisions of the Code.

6. Figures supplied by the local authority for the 30 schools nearest to the school show that for the ten schools within half a mile of the school eight admitted to PAN in 2016 and one below PAN (60/48). Overall, of those 30 schools (discounting the Harper Day Seventh Day Adventist School which is likely to cater only to that particular faith group) 16 schools admitted to PAN in September 2016 and 14 admitted below PAN. The overall number of surplus places in September was 93, which over all 30 schools gives an average surplus number of three places. The data indicates that over the 30 schools combined there would be 61 Reception classes, giving an average number per class of 28 or 29 pupils. This does not appear to be an unsustainable number of surplus places across 30 schools.
7. The local authority state that the school in recent years has experienced large numbers of in-year admissions, with 40 pupils being admitted across all age groups in 2016. Some of these children only stay for a short time before moving to other schools. The figures quoted above show that the school is one of only two schools in the immediate vicinity which will be likely at any given moment to have places available when one is required. As a result, it is likely to receive a higher percentage of in-year admissions than most other local schools. It is commonly the case that children who need places in-year tend to present greater challenges, for example English may not be their first language or they may have had recent disruptive experiences. For schools to manage their integration and for them to thrive educationally thereafter may well require additional resources and create consequent financial pressure on school budgets.
8. There are in addition specific rules regarding infant class sizes (for Reception, Year 1 and Year 2). These are set out in paragraph 2.15 of the School Admissions Code 2014 (the Code). With limited exceptions these rules stipulate that "*infant classes **must not contain more than 30 pupils with a single teacher***". The effect of this in practice is that a Reception intake of between 60 and 90 pupils will usually require the school to have three reception classes, with three teachers. Some schools with PANS which are not neatly divisible by 30 manage by operating mixed age classes across year groups. This is common, for example, in small, rural primary schools. However, this is likely to be impractical for the school given the numbers involved and the complex learning requirements of the pupils coming into the school. Schools are funded according to numbers on roll and for funding purposes the optimum number in each infant class is 30, a total of 90 across three classes. The local authority figures demonstrate that for 2017 and in future years the numbers in infant classes, if three infant classes are required,

are likely to be significantly below this figure. If the outcome is that the school is required to maintain three classes with average numbers significantly below 30 then this will inevitably lead to financial pressure.

9. The financial pressure referred to above will be compounded by a projected fall in the annual budgets of Birmingham schools of 1.5 per cent when the changes to the National Funding Formula take effect in 2018.
10. In April 2017 the school had an Ofsted inspection which judged the school to be Requiring Improvement. Consequently, the school needs to raise standards. It is likely that a combination of financial pressure and high numbers of in-year admissions, some short term, will increase the difficulty of achieving this. The school and the local authority wish to ameliorate this situation by reducing the school's PAN to 60. However, the school has admitted above this number in all recent years, currently holds 68 offers for September 2017 and the local authority predicts it will make 63 offers for 2018. If the numbers on roll in September are at or below 60 then the school will only need to have two reception classes. If the numbers on roll in September are above 60 then the school will probably need to have three reception classes (or arrange flexibility over more than one year group).
11. The variation sought, if granted, would not be likely significantly to affect this position. Admission authorities, where a parent expresses a preference for a particular school, must comply with that preference and offer a place unless compliance would prejudice efficient education or the efficient use of resources. No prejudice is taken to arise in the normal age group for admission (in this case to Reception) until numbers exceed PAN. So, if there are applicants for places in Reception, pupils will have to be admitted until PAN is reached. However, in later periods this does not apply and the admission authority may argue that prejudice would arise were a place offered. It is likely that a case for prejudice will be strong where the school has two infant classes of 30 and admission would require an increase to three classes, whatever the school's PAN, although this will depend on all relevant circumstances at the relevant time.

Conclusion

12. The admission authority, with the support of the school's governing body, wish to reduce the school's PAN for 2017 to 60, from the current PAN of 90. This is due to a falling birth rate in the area of the school and a drop in numbers applying to the school and consequently in offers made. This situation is placing pressure on the school financially and, together with a recent Ofsted judgement of Requires Improvement, on the school's efforts to raise standards. However, 68 offers have been made for September 2017 and the local authority predicts 63 offers for September 2018. Maintaining PAN at the current level will ensure that demand for places is met for 2017 and 2018. If,

as the admission authority anticipates, actual numbers starting in reception drop to 60 or below, only two reception classes will be needed and following the conclusion of the normal admissions round further pupils need not be admitted as long as prejudice can be demonstrated.

Determination

13. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the variation to the admission arrangements determined by Birmingham City Council for Park Hill Primary School.

Dated: 6 July 2017

Signed:

Schools Adjudicator: Tom Brooke