



Office of
the Schools
Adjudicator

Determination

Case reference: VAR914

Admission authority: London Borough of Havering for Newtons Primary School

Date of decision: 1 April 2020

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 the London Borough of Havering for Newtons Primary School for September 2020.

The referral

1. The London Borough of Havering (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 for Newtons Primary School (the school), to the Office of the Schools Adjudicator (OSA). The school is a community school for children aged 3 to 11 in Rainham, in the London Borough of Havering.
2. The proposed variation is that the published admission number (PAN) is reduced from 60 to 30 for admissions in 2020.

Jurisdiction

3. 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 variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations*".
4. I am satisfied that the proposed variation is within my jurisdiction.

Procedure

5. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the referral from the local authority dated 7 February 2020, supporting documents and further information sent at my request;
 - b. the determined arrangements for 2020/21 and the proposed variation to those arrangements;
 - c. a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2020;
 - d. a copy of a letter of 24 February 2020 from the executive headteacher confirming that the governing board of the school had been consulted about the proposed variation;
 - e. a map showing the location of the school and other relevant schools; and
 - f. a copy of the email sent on 17 February 2020 notifying the appropriate bodies about the proposed variation.

The proposed variation

7. The local authority has applied for a variation to reduce the PAN at the school for the third year in a row and told me "*The PAN reduction is necessary as delays to housing delivery for the Rainham and Beam Park Housing Zone means some housing will be delivered later than expected. Therefore, school places for children requiring one will be made available later to meet the demand arising from the new housing development.*"
8. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is 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.
9. Paragraph 3.6 of the Code also requires that relevant bodies be notified of a proposed variation. Although the process to apply for a variation requires the admission authority to notify relevant bodies in the area about the proposal, the local authority did not notify the relevant bodies until 17 February 2020 and at my request. The local authority asked for comments by 28 February but no responses were received.
10. The executive headteacher and the acting chair of governors of the school wrote on 24 February 2020 "*We can confirm that the governing body has [been] consulted on the proposed variation to our admission arrangements. We are in agreement with the proposal*

due to significant delays in the regeneration of the housing estate, we have been unable to attract sufficient numbers of pupils for our two form entry Reception classes.” The vice chair of the governing board of The Growing Together Federation (the school is a member) wrote to the local authority on 25 February 2020 *“We, the governing body at The Growing Together Federation, agree to changing the PAN for Reception pupils at Newtons Primary School from 60 to 30 for September 2020.”*

11. I am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

12. In the notification to relevant bodies, the local authority wrote *“The PAN reduction is necessary as delays to housing delivery for the Rainham and Beam Park Housing Zone means some housing will be delivered later than expected. Therefore, school places for children requiring one will need to be made available later to meet the demand arising from the new housing development.”*

Consideration of proposed variation

13. I am concerned about the timing of this application to reduce the PAN at the school for admission in September 2020 as parents had to complete the application form and set out their preferences by 15 January 2020. The application was submitted to the OSA on 7 February 2020 and parents may not have been aware about the proposal to reduce the number of places available and may indeed have changed their preferences if they had been aware. To consider this application, I will look at the possible impact of the proposed reduction on the preferences that parents have made for the school. I also want to look at the impact that the reduction may have on the local authority’s duty to provide school places in the area.

14. The local authority divides its provision for schools into a number of planning areas. It had originally expanded provision at several schools in the planning area in which the school is located to meet the anticipated school place demand arising from new housing in the Rainham and Beam Park Housing Zone. The Housing Zone would deliver 3,500 new homes and the expectation of additional children seeking places in the area. The local authority told me that delays in the completion of the new homes has resulted in less demand than anticipated.

15. The local authority has seven planning areas and the school is one of six schools in the Rainham and South Hornchurch Planning Area. The local authority also applied for a reduction in the PAN of Rainham Village Primary School (VAR915 determined on 27 March 2020) which is in the same planning area. I asked to see the numbers in Reception (YR) for all schools in the planning area in the October census for the last three years to ensure there were sufficient places for children.

Table 1: The number of children in Reception (YR) at the October census in schools in the Rainham and South Hornchurch planning area for the last three years.

School	PAN	October 2019	October 2018	October 2017
Brady Primary School	30	29	29	30
La Salette Catholic Primary School	30	30	26	30
Newtons Primary School	60	38	39	42
Parsonage Farm Primary School	90	77	88	90
Rainham Village Primary School	60*	59	60	59
Whybridge Infant School	90	73	78	81
TOTALS	360	306	320	332

*PAN reduced to 60 in 2018 and 2019

Table 2: Forecast number of children to be admitted in the following two years

School	2021/22	2022/23
Brady Primary School	60	60
La Salette Catholic Primary School	30	30
Newtons Primary School	40	60
Parsonage Farm Primary School	88	90
Rainham Village Primary School	60	60
Whybridge Infant School	90	90
New school	-	30
TOTALS	368	420

16. It is clear from Table 1 that there is an overprovision of places in the area and I am satisfied that the local authority is able to meet its duty to provide sufficient places. I now consider the situation at the school itself and whether the reduction in places will impact on parental preferences. At the October census the school has had more than 30 pupils in YR over the last three years (38 in 2019, 39 in 2018 and 42 in 2017). The local authority told me that there had been 39 first preferences made for the school for 2020. This means that there are at least nine parents who would like their child to attend the school but would not

gain a place if the PAN is reduced. I say “at least” as some children for whom the school was a second or lower preference may have a higher priority than some first preference applicants. In this case, that seems less likely as I was told that, if the PAN was reduced to 30, four children would be offered their second preference with five children offered a place at a school in the area. Of those nine children, and using approximate distances, three would be offered a place at a school nearer than Newtons and six would be offered a place at a school further away. On the other hand, some of those who are offered places in the first round of offers may move, opt for places at independent schools or, if the school is not their first preference, receive an offer in due course of a place at a preferred school. From the information provided to me, I am satisfied that a number of children will have to attend a school which was a lower preference if I approve the reduction in PAN.

17. The local authority told me *“It will be financially unviable for the school to arrange the reception cohort over two classes for the academic year, as it is very unlikely that the school will fill to 60.”* *“The school had a budget deficit at the end of the 2018/19 financial year. Running two reception classes, with very low numbers in each, would impede the school in its task of returning to surplus within a three year period. The additional strain on the budget, and the need to reduce costs further, would have an impact across the whole school.”*

18. If the PAN is not reduced and the school admits over 30 but under 60 pupils, the school has to determine how to meet the requirements of the School Admissions (Infant Class Sizes) (England) Regulations 2012. The Regulations require that for infant aged children, there must not be more than 30 children to a single school teacher (except in limited circumstances). In addition, in a normal year of entry a school must admit all those who apply up to the PAN. With a PAN of 60 and 38 children in YR in October 2019, the school would have to provide two teachers to teach them. A PAN of 30 would mean that the school could have one class for YR rather than two. As schools are funded primarily on the basis of pupil numbers, it would clearly be more financially efficient if the PAN was reduced to 30. However, I need to balance the financial impact of two smaller classes with meeting parental preference which may have been different if parents had been aware of the proposed reduction in places before they made their preferences.

19. I also take into account that where a PAN is reduced in the normal course of determining arrangements, there must be consultation before determination and there is scope for making an objection to the adjudicator once a lower PAN has been determined. By contrast, where a variation is sought there is no requirement for consultation and no possibility of objecting to the adjudicator. It is likely that the school will admit more than 30 pupils for admission in 2020 if the PAN remains at 60. Parental preferences may have changed if it was clear that there was a proposal to reduce places at the school, but parents would not have known of the proposal in good time for their choices to be influenced. I note that the local authority has determined a PAN of 60 for the school in 2021 and forecast an intake of 40 pupils. Taking account of all the information provided to me, I have decided that the proposed variation is not justified by the circumstances.

Determination

20. 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 the London Borough of Havering for Newtons Primary School for September 2020.

Dated: 1 April 2020

Signed:

A handwritten signature in black ink that reads "L. J. Chapman". The signature is written in a cursive style with a clear, legible font.

Schools Adjudicator: Lorraine Chapman