

## DETERMINATION

**Case reference:** VAR/000543

**Admission Authority:** Slough Borough Council

**Date of decision:** 23 January 2012

### **Determination**

**In accordance with section 88E of the School Standards and Framework Act 1998, I approve variations to the admission arrangements for September 2012 for Claycots Primary School, James Elliman Primary School, Montem Primary School, St Mary's Church of England Primary School and Willow Primary School. In accordance with sections 88I and 88J, I am specifying other changes to be made with regard to the arrangements for St Mary's Church of England Primary School and all community primary and secondary schools. All these changes are to be as set out in paragraph 18 of this adjudication.**

### **The referral**

1. Slough Borough Council (the Council) has, on 24 October 2011, referred variations to the Adjudicator about the admission arrangements (the arrangements) for Claycots Primary School (Claycots), James Elliman Primary School (James Elliman), Montem Primary School (Montem), all of which are community schools, and St Mary's CE Primary School (St Mary's), which is a voluntary controlled school. The requests were for re-ordering the oversubscription criteria for all these schools, changes to the catchment areas for some of the schools and the addition of a second set of arrangements for Claycots with respect to a proposed annex. No variation was requested for Willow Primary School (Willow), but such a variation was inevitable if I was to approve the proposed variation to the catchment area of St Mary's.

### **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 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.

3. I am satisfied that the proposed variations are within my jurisdiction.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code).

5. The documents I have considered in reaching my decision include:

the Council's variation request form of 24 October 2011, together with supporting documents, and further letters and information in response to my enquiries;

the arrangements as originally determined by the Council, within the Council's admissions booklets for primary and secondary schools for 2012;

minutes of governors meetings and emails from the schools principally affected; and

evidence of those originally consulted about the arrangements having been notified of the proposed variations.

6. I held a meeting on 6 December 2011, to gain a clearer understanding of various points from representatives of the Council and the four schools to which the proposed variations principally related. I have considered the information given to me and the views expressed at that meeting. It had proved difficult, before the meeting, to elicit from the Council the full details and intentions of their proposed variations and the Council's intentions with regard to notifying all the required parties of the proposed variations and with regard to publishing a statutory proposal to enlarge Claycots. After the meeting, instead of simply notifying the required parties of the proposed variations, which could have been accomplished within a few days, the Council chose to embark on a consultation process and, without reference to me, set a closing date for their consultation of 13<sup>th</sup> January, thereby effectively postponing my opportunity to conclude this adjudication process.

### **Consideration of Factors**

7. Due to a major change of circumstances, namely an immediate and rapid increase in demand for primary school places, the Council, with the approval of Claycots, intends to make a significant enlargement to Claycots by means of an annex in a former Town Hall building. Both Claycots and the Claycots Annex would provide for children aged 4 to 11, and the Annex would be for two forms of entry (with 60 children in each year group). The Council intends, following consultation, to publish in January 2012 a notice of a statutory proposal to establish this Annex. The variations proposed by the Council would, among other things, provide a separate set of arrangements for the Annex, as if it were a separate school. Indeed, although the Annex would remain part of Claycots, it would for the whole of the admissions process be treated as if it were a separate school. Thus, parents would if they wished be able to give Claycots Annex as one of their preferences, or even to state preferences for both Claycots and Claycots Annex as two of their three

allowed preferences.

8. The Council has proposed a variation for Claycots which would have the effect of establishing a second set of arrangements specifically for the Annex, which would provide for admissions by reference to the existing oversubscription criteria for community schools, but in a different order, so that the result for the Annexe would be, in summary:

looked after children;  
siblings of children (at the Annex only as clarified during the process of this adjudication);  
medical and social grounds;  
catchment area; and  
other applicants.

9. I have ascertained that the Council's intention is that the part of the present tie-breaker that refers to distance from home to school would, in the case of the Annex, refer to distance to the Annex only. The Council has explained that it believes that the logical impossibility of children being admitted to the Annex on the basis of sibling priority in the first year of operating the varied arrangements would have the effect of enabling local and incoming families to gain a foothold in the Annex as their local primary provision.

10. The Council, with the support of Claycots but with misgivings on the part of Montem, wishes to change the catchment area for Claycots, by making the eastern section of the present Montem catchment area (known as Chalvey) a catchment area jointly for Montem and the Claycots Annex. On this basis, parents in this area would have an equal opportunity to claim catchment area priority for Montem and the Claycots Annex.

11. The Council, with the support of James Elliman and Montem, wishes the oversubscription criteria (but not the tie-breaker) for these schools to be varied in the same way as those for the Claycots Annex, in order to bring about some continuity and greater certainty for Slough families, many of whose children in the same families are caused at present to attend a variety of schools.

12. The Council, with the support of St Mary's, wishes the oversubscription criteria for St Mary's to be varied, similarly to those for the community schools described above and for the same reason, such that, in summary, they would be in the order:

looked after children;  
siblings  
catchment area;  
denominational;  
medical and social grounds; and  
other applicants.

13. I have checked with the Council that it was intentional that the place of children with medical and social needs was correctly stated for St Mary's in

the determined arrangements and in the proposed variation, and have been assured that it is, but that the Council may consider the matter in future in conjunction with the two voluntary controlled Church of England schools and their diocesan authority.

14. The Council, with the support of St Mary's and the acquiescence of Willow, wishes to transfer a small amount of territory immediately to the south-west of the junction of Wellington Street and Uxbridge Road) from Willow's catchment area to that of St Mary's, such that Aldin Avenue South would be in St Mary's catchment area.

15. It is unusual to propose that there should be two sets of arrangements for the same year of initial entry to the same school. It is unusual to request a variation relating to a significant enlargement before that enlargement has been approved. It is unusual to propose the enlargement of a primary school by means of an annex two miles distant when there are other nearer primary schools, including the one in whose present catchment area the Annex is proposed to be set. However, neither the legislation nor the Code precludes any of these occurrences. My task is not to consider the statutory proposal to enlarge Claycots, but simply the proposed variations. I recognise the pressure that the Council is under to provide sufficient primary school places within a short space of time, and the steps that it is taking in that direction, with the Claycots Annex being proposed now, along with two additional school enlargements for 2014 and 2015. I recognise the particular needs of the Chalvey community, where the Claycots Annex is proposed to be established, as it has been described to me, and the importance of family continuity being encouraged by enhancing the place of siblings in priority for admission to the schools for which such reordering is proposed. I have noted the anxiety expressed by Montem about the potential effect on admission numbers at Montem, particularly at Key Stage 2, which I believe is a natural reaction to the proposed variation to provide a shared catchment area. However, it is important to recognise that a catchment area provides an enhanced priority for local residents, and does not have the effect of directing children to particular schools, particularly if schools reach their admission numbers. On this basis, I share the Council's and Claycots's confidence that sharing the eastern section of Montem's present catchment area with the Claycots Annex is a practical way of providing for Chalvey families. I have no reason to question the agreement by Willow (based on Willow's lack of response to the Council's notification of the proposed variations, and the headteacher's telephone assurance) and St Mary's to the adjustment to their shared catchment area boundary.

16. I have considered whether it would be desirable to vary the arrangements so late in the admissions cycle preceding admissions in September 2012, and also how essential it is that all the elements in the Council's proposals should be approved at this stage. I have concluded that, on the basis of the possibility of approval of a statutory proposal to establish the Annex, it is reasonable for the Council to propose the variations consequent upon such approval, and that all the proposed variations taken together constitute a whole plan to improve opportunities for families in the wider area. I am therefore approving the proposed variations, with the clarification over the tie-breaker that I have described above.

17. In addition, I have considered the arrangements in accordance with section 88I of the Act. I have raised with the Council and the Schools a number of ways in which I consider that the arrangements as determined for 2012 do not conform with the requirements of the legislation and Code. Consequently, I have decided that it is appropriate for changes to be made to the arrangements and, using my powers under section 88J, I specify the modifications to be made to the arrangements as follows.

a. No arrangements for St Mary's are included in the Council's 2012 admissions booklet for parents. I understand that this is a typographical error, and that St Mary's has already arranged for the Council to add the name of St Mary's to that of Colnbrook CE Primary School in the online version of the booklet. I am determining that this change should indeed be made online, and that opportunities be taken to add a note to paper copies of the booklet that are in future distributed.

b. Contrary to the legislation and the Code, looked after children are not included as the first oversubscription criterion for community primary schools, but are included in a preamble to the oversubscription criteria along with children with statements of special educational needs. More seriously, the preamble refers to children 'in the care of *the Local Authority*' [my italics], thus implying that only children in the care of the Council, as opposed to other local authorities, will be treated as looked after for school admission purposes. The preamble also says that looked after children 'will be *considered next*' [my italics], thus implying some discretion over their admission. Although the Council's representatives have assured me that these errors are not reflected in its practice, it is nevertheless important that they are corrected. I am therefore determining that online, and by whatever other means are practical, the reference to looked after children in the present arrangements for community primary schools be removed and replaced by a first criterion similar to that for voluntary controlled schools, with a supplementary note applicable to all primary schools explaining the basis of this criterion. I further determine that the same changes be made in the Council's booklet relating to secondary school admissions in 2012. I am most concerned that the Council, having been made aware at the meeting I held (which was before the closing date for parents' applications for places) of these deficiencies (which are in breach of mandatory matters in the Code) had not by 18th January 2012 made corrections on its website, and I urge the Council to rectify this immediately.

## **Conclusion**

18. It is very late in the current year's admissions cycle to be varying admission arrangements. However, the Council has convinced me that it has adequate plans to deal with difficulties that might arise as a result of the proposed variations. I believe that the proposed variations are in the interests of local and incoming families and their children. I am therefore approving the requested variations, with additional modifications to the arrangements as a whole to deal with the breaches of the Code that I have described. I am

mindful of the fact that the proposed statutory proposal to make a significant enlargement to Claycots (to bring the Annex into existence) might not be approved. If that should occur: either the Council could decide that the provision in the variations for admission arrangements for the Annex should simply be considered redundant; or, if it considers that the provision could cause public confusion, the Council could return to the Adjudicator for a further variation. The changes that are to be made with respect to 2012 admissions are as follows.

a. The admission arrangements for Claycots shall be varied so as to include a separate set of arrangements for the proposed Claycots Annex.

b. The arrangements for the Claycots Annex shall include oversubscription criteria summarised here as:

looked after children;  
siblings of children at the Annex only;  
medical and social grounds;  
catchment area; and  
other applicants.

c. Distance measuring in the tie-breaker for the Claycots Annex shall be from homes to the Annex only.

d. The Claycots Annex arrangements shall include a catchment area comprising the part of the Montem catchment area to the east of Tuns Lane, on a shared basis with Montem.

e. The oversubscription criteria for Montem and James Elliman shall be varied so that they appear in the same order as those being set for the Claycots Annex (as in b., above).

f. The oversubscription criteria for St Mary's shall be varied so that, summarised here, they appear in the order:

looked after children;  
siblings  
catchment area;  
denominational;  
medical and social grounds; and  
other applicants.

g. The catchment areas for St Mary's and Willow shall be redefined, so that the area immediately to the south west of the junction between Wellington Street and Uxbridge Road that includes Aldin Avenue South be transferred from Willow's catchment area to that of St Mary's.

h. The title of the arrangements for Colnbrook CE Primary school in the Council's admissions booklet for 2012 shall be amended to refer to Colnbrook and St Mary's CE Primary Schools, immediately online

and with whatever opportunities are possible with the paper version.

i. The reference to looked after children in the preamble to the oversubscription criteria for community primary and secondary schools in the Council's respective admissions booklets for 2012 shall be removed and replaced by a first criterion similar to that for voluntary controlled primary schools; references to 'the Local Authority' shall be replaced by 'a Local Authority'; and a supplementary explanatory note shall be added elsewhere in the arrangements – these changes being made immediately online and with whatever opportunities are possible with the paper version.

### **Determination**

19. In accordance with sections 88E of the School Standards and Framework Act 1998, I approve variations to the admission arrangements for September 2012 for Claycots Primary School, James Elliman Primary School, Montem Primary School, St Mary's Church of England Primary School and Willow Primary School. In accordance with sections 88I and 88J, I am specifying other changes to be made with regard to the arrangements for St Mary's Church of England Primary School and all community primary and secondary schools. All these changes are to be as set out in paragraph 18 of this adjudication.

Dated: 12 January 2012

Signed:

Schools Adjudicator: Canon Richard Lindley