



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3289
Objector: Shropshire Council
Admission Authority: Shrewsbury Academies Trust for Shrewsbury Academy in Shrewsbury, Shropshire
Date of decision: 1 August 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2018 determined by the Shrewsbury Academies Trust for Shrewsbury Academy in Shropshire.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by Shropshire Council about the admission arrangements for admissions in September 2018 (the arrangements) for Shrewsbury Academy (the school), a school for students aged between 11 and 16. The referral concerns the reduction in the published admission number (PAN) for the school from 237 for previous years to 187 for 2018 and, in addition, that the consultation on this matter was misleading.
2. The parties to the objection are:
 - a) The governing body of Shrewsbury Academy (the school);
 - b) The Shrewsbury Academies Trust (the trust) which is the admission authority for the school; and
 - c) Shropshire Council (the local authority) which is the local authority for the area in which the school is situated and is also the objector.

Jurisdiction

3. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the trust on that basis.
4. The objector submitted its objection to these determined arrangements on 10 May 2017. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

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 local authority's form of objection dated 10 May 2017 and supporting documentation including forecasts of future student numbers in Shrewsbury secondary schools, responses to my questions and information on the local authority's website;
 - b) the trust's response to the objection and my questions and information on the school's website and the *Child Law Advice* website used by the trust;
 - c) the trust's business plan dated 23 April 2015 to merge two former schools and open the school;
 - d) the revised funding agreement for the school dated 31 August 2016;
 - e) maps of the area identifying the school's sites, other relevant schools, the catchment area for the school and proposed and existing house building sites in the area;
 - f) information on the most recent consultation on the arrangements;
 - g) the Department for Education's advice, *Making significant changes to an open academy* dated March 2016; and
 - h) a copy of the determined arrangements.
7. I have also taken account of information received during a meeting I convened on 23 June 2017 at the school with representatives of the school, the trust and the local authority (the meeting). In advance of the meeting I had a tour of the school to familiarise myself with the context.

The Objection

8. The objection is that the trust has reduced the PAN of 237 which applied in previous years to 187 for 2018. The local authority argues that its pupil place projections show that there will be insufficient secondary school places for students in Shrewsbury as a result. Paragraph 1.3 of the Code relates to the setting of the PAN. The local

authority says capital funds would have to be invested in replacement school buildings to make up the shortfall in places created by the reduction in PAN. It argues that this is not good use of public resources when there are existing school buildings at the school which could be used to accommodate a growing secondary school population in the area.

9. The trust consulted on reducing the PAN. The local authority says that the consultation was unfair because the wording implied that the local authority agreed with the proposed reduction in the PAN and so there was no reason for a parent to be concerned. The local authority says that this was not its position as it believes that the reduction in PAN could lead to Shrewsbury children being without a local secondary school place in 2018. The local authority says this is unfair to parents and in contravention of paragraphs 12 and 14 of the Code.

Other Matters

10. There are other matters which may make the arrangements unclear and so not comply with paragraph 14 of the Code; other relevant paragraphs of the Code are shown in brackets as appropriate. The other matters are:
 - a. the arrangements say that they are a general guide and suggest that readers look at local authority information for full details of the oversubscription criteria for the school (1.47);
 - b. the arrangements do not give definitions of the terms looked after children and previously looked after children (1.7);
 - c. the oversubscription criteria refer to the catchment area of the school in the arrangements but do not define it (1.14); and
 - d. the arrangements say that there is priority given to a child if there are health reasons why the child needs to attend the school but the level of priority given may not be clear (1.6 and 1.8).

Background

11. Sundorne School and Grange School were two academy secondary schools in Shrewsbury. Sundorne School converted to become an academy in 2013 and sponsored Grange School in 2013 to become an academy with both schools coming under the aegis of the Shrewsbury Academies Trust. In 2014, the trust consulted on reducing the PAN for Grange School from 125 to 95 for September 2015. The local authority objected on the grounds that the places would be needed in the future. That proposed reduction in PAN did not go ahead.
12. The trust proposed that Grange School and Sundorne School should become one school through a business case dated 23 April 2015. The formation of one school from two schools is commonly called a merger or an amalgamation and I shall use the terms, merge or merger, in this determination. In this instance, the merger was achieved formally through the closure of the Grange School and the expansion of Sundorne School. The two schools were academies and the Education and Skills Funding Agency (ESFA) is the body responsible for such

decisions for academies. The ESFA was at the time called the Education Funding Agency (EFA) but I will refer to it as the ESFA throughout this determination for simplicity. The ESFA agreed to the proposal to merge the schools. The funding agreements for the schools were amended in the recognition of the change to one school and the amendment was signed on 31 August 2016. The funding agreement gives a capacity for the school of 1185. This is based on a PAN of 237 which is the combination of the PANs of the previous schools. The funding agreement also described the Worcester Road site (the previous Grange School site) as temporary. There is no explanation of what temporary means.

13. Shrewsbury Academies Trust is a multi-academy trust (MAT). Shrewsbury Academy is the only secondary school in the MAT; there are also two primary schools. One is in the town of Market Drayton and the other in Shrewsbury adjacent to the former Grange School. The last Ofsted inspection for the Sundorne School in 2013 judged it as good. The trust told me that the Grange School was judged in 2012 by Ofsted to require special measures; at its last inspection in 2015 the Grange School was judged to require improvement.
14. Shrewsbury Academy opened on 1 September 2016 across the two sites of the original schools which are just under one mile apart. One site, where Sundorne School had been, is known as the Corndon Crescent Campus and the other, where the Grange School had been, as the Worcester Road Campus. Sundorne School had a PAN of 112 and the Grange School had a PAN of 125 making a PAN of 237 for admissions in 2017. The trust consulted on reducing the PAN to 187, which is a reduction of 50 places, for 2018. I note that it would not be possible to accommodate all the children that would result from a PAN of 187 (935) solely on either school site without additional buildings.
15. The local admissions forum discussed the proposal and raised a number of concerns. These include the lack of certainty for any capital to replace the student places removed, the future level of need for places and increased transport costs if there were insufficient places in the town. The forum agreed that it opposed the reduction. The local authority said in its response to the consultation that it too opposed the reduction in the PAN.
16. The trust determined its arrangements on 23 February 2017 with a PAN set at 187. The oversubscription criteria in the arrangements are, in summary:
 1. Looked after and previously looked after children.
 2. Children living in the catchment area with a sibling at the school.
 3. Children living in the catchment area.
 4. Children living outside the catchment area with a sibling at the school.
 5. Children living outside the catchment area.Where the PAN is reached and exceeded within any given oversubscription category, then those who live closest to the school have priority.

17. There are four secondary schools in Shrewsbury including the school. They all share the same catchment area which is the town of Shrewsbury and its surrounding area. The local authority explained to me that *“Shrewsbury town is made up of large areas of housing serviced by footpaths and cycle routes enabling all Shrewsbury residents to travel easily to any of the Shrewsbury schools on foot or by bicycle.”* The next nearest secondary school to the school outside of the catchment area is over six miles away. There are several independent fee paying schools in the town.

Consideration of Case

18. The trust has told me that it anticipates that a PAN of 187 is sufficient to meet the demand for places in 2018. It acknowledges that there will be a greater demand for places in the early 2020s but states that the current number of students, which is similar to that of the last ten years, is unsustainable across two sites. The trust described to me at the meeting its vision of a single site school with a PAN of 237 in the longer term.

19. The local authority has said that there will be a need for more places than 187 at the school in 2018 and that it will not be able to fulfil its duty to provide sufficient places if the reduction goes ahead. A reduction of 50 places in the PAN, if it were to remain at 187, would mean a loss of 250 places over the five year groups catered for by the school. If the capacity to provide for these 250 students is removed, there is no guarantee that that capacity will be replaced. The local authority says that there will be insufficient places to meet demand in Shrewsbury if the places are removed and it would be poor use of the public purse to have subsequently to invest in new school buildings.

20. In my consideration of this objection I will review first the information provided about the demand for places and then the reasons why the trust believes that the reduction in PAN is justified.

Student numbers and forecast demand

21. The number of students attending Shrewsbury schools has been relatively stable for many years but the local authority expects demand to increase significantly. An increase has been expected (see Table 3 below) due to the known birth rate and the numbers of pupils attending the primary schools but a higher increase is expected due to the building of many new houses in the area as part of the local plan. The local plan runs from 2006 to 2026 but it is only recently that the house building that is in the plan has started to materialise.

22. The student numbers relate to what were two separate schools until September 2016. The numbers admitted to the Grange School in recent years were considerably below its PAN of 125 as shown in Table 1. The trust described this as being for reasons of demographics and adverse Ofsted judgements. The low number of admissions to the

former Grange School has meant there is a considerable number of places available in each year group.

Table 1: patterns of admission

Year of admission	Grange School PAN 125	Sundorne School PAN 112	Total number and then Shrewsbury Academy from 2016 PAN 237
2014	55	121	176
2015	50	124	174
2016	<i>n/a</i>	<i>n/a</i>	180
2017 (allocated)	<i>n/a</i>	<i>n/a</i>	178

23. There is no indication in the data provided to me that student numbers have increased through children moving into the area and joining the school in later year groups. In fact, there are fewer places allocated for 2017 for the four schools in Shrewsbury than for previous years. In each of 2014, 2015 and 2016 about 760 students were admitted and for admission in 2017 743 places have been allocated. The projected impact of the house building has not been substantiated yet by increased numbers either in Year 7 (Y7) or entries at other points (known as in year admissions).

24. Table 2 shows the numbers on each campus as at 13 June 2017. This shows 209 students at the Worcester Road Campus. All current Y7 students are now on the Corndon Crescent Campus and the new Y7 to be admitted in September 2017 will also be on that campus. If the schools had not merged there would be about 260 students attending Grange School and this would not have been viable financially. The financial problems caused by such low numbers created the imperative for the merger of the schools. The trust had hoped to merge the schools sooner than 2016 in order to minimise the financial difficulties but this did not prove possible.

Table 2: Numbers on roll as at 13th June 2017 on each campus

Year Group	Corndon Crescent Campus	Worcester Road Campus	Total numbers in each year group
7	174	-	174
8	133	37	170
9	112	60	172
10	89	51	130
11	105	61	166
Total	613	209	822 total in school

25. The other schools in the area are largely full although one other school has some capacity for 2017 admissions. The trust explained to me that some parents have preferred their children to go to almost any other school, including those outside of Shrewsbury or an independent fee paying school, rather than see their children attend the school. The

trust told me that this relates partly to the sociodemographic nature of the area; much of the town, particularly to the south is prosperous and the north area, where the school is situated, contains considerable social housing and areas of deprivation. The adverse Ofsted judgements on the Grange School will have also been a significant factor. Two of the other three secondary schools in Shrewsbury were judged as outstanding at their last Ofsted inspection, the third was judged as good.

26. The local authority acknowledges that the numbers for Grange School were very low. In no current year group does the merged school have numbers above the PAN of 187 determined by the trust for 2018. The overall number of unfilled secondary school places in Shrewsbury, across the four schools, in each year in the last five years has been over 300; and the vast majority of these vacant places were at the school. Most recently, in January 2017 there were 370 unfilled secondary school places in Shrewsbury and these were almost all at the school. The trust says that maintaining the capacity to fill these places, year after year, is unsustainable financially. I note that the surplus capacity overall in Shrewsbury has been around eight or nine per cent. This is in line with accepted good practice in school place planning with regard to surplus capacity. It does not remove the difficulty for a school if all the surplus capacity is within that school and that school is across two sites.

27. The local authority provided me with its place planning spreadsheets for the town of Shrewsbury. I have summarised these in Table 3 below on the basis that:

- a. The local authority plans the number of places needed on a town-wide basis. The other three schools usually fill on the basis of parental preference so any unfilled places will be at the school;
- b. The figures are based upon a PAN of 237 and 187 being applied across the school rather than just for Y7 and working up through the school so assuming capacity of 1185 and 935 respectively. I think that this presentation of the forecasts is justified as the trust is clear that it is its intention to reduce its capacity to 935; and
- c. The local authority forecasts include admissions made at other points than Y7 to reflect in year admissions area as this would reflect house-building.

Table 3: the effect of the school's PAN on forecasts of surplus capacity across the secondary schools in Shrewsbury based on information provided by the local authority.

January census (relates to previous September)	Surplus capacity based on PAN of 237	Surplus capacity based on PAN of 187	Surplus capacity based on PAN of 237 with new houses effect	Surplus capacity based on PAN of 187 with new houses effect
			1185 places	

admissions)	1185 places	935 places		935 places
January 2018	350	100	311	61
January 2019	306	56	228	-22
January 2020	251	1	96	-155
January 2021	202	-48	7	-243
January 2022	146	-109	-88	-343
January 2023	76	-194	-236	-506
January 2024	20	-296	-370	-686

28. The key points from these forecasts (assuming the January figure reflects the admissions in the previous September) are:
- if the PAN were 237 and there was no effect from house building then by September 2023 there would be capacity of 20 places (or 0.5 per cent) across the five schools in Shrewsbury;
 - if the PAN were at 187 with no effect from house building then all places would be taken up by September 2019;
 - if the PAN were 237 and taking into account major housebuilding all places would be taken up by September 2020; and
 - if the PAN were 187 and taking into account major housebuilding then there would be an insufficiency of places by September 2018.
29. The local authority has told me that its forecasting methods are examined externally and found to be robust. However, the trust has not seen the student numbers forecast previously materialising and said, *“there has been significant variance between the Local Authority data forecasts and the actual number of children in Year 7 and on the school roll. In respect of Year 7 actual v forecast this has been in the order of 50% variance in more than one instance.”* The local authority told me, *“It is not anticipated that the forecast would be 100% correct, but there is a tolerance of accuracy that the local authority maintains has not been breached. The Department for Education measures the local authority accuracy and even three years ahead, has found a low level of variance (as evidenced in the local authority school place scorecard).”*
30. The local authority told me that the house building, proposed for so long, is now taking place and that, *“Ten developments of over 50 dwellings have obtained planning permission and have started to be built. The total number of dwellings in these developments is 2,200.”* In addition, there are further developments going through the planning process. The local authority explained that its forecasts are based on

an additional 14 secondary school aged students for every new 100 houses. The additional number of student is not normally a simple matter of new families moving in to the area but also families moving within the area; the overall effect remains that of an overall increase of 14 for each 100 additional houses. The local authority assured me that this factor is tested twice a year and continues to be shown to be an accurate predictor of numbers of children.

31. These developments do not need to be near the school to have an effect. The other schools in the area are largely full and the local authority has told me that the other schools do not wish to expand. This means that those living closer to the school will be '*pushed back*' to the school as they are less likely to get a place at the other schools due to the increased demand created by the new house building near them.
32. The addition of housing into the place planning spreadsheets brings forward the date by which insufficient places are available. If the school, as it plans, were to move onto one site for 2018 it would seek to provide 935 places in total initially. Based on the local authority forecasts this would mean that in Shrewsbury there would be a shortage of capacity by September 2018. I note that the trust anticipates that the move to one site is unlikely to be before 2019 given the lack of capital funding available.
33. The trust sent me a spreadsheet dated 1 June 2017 and provided to the trust by the local authority. This spreadsheet is based upon the school, not the town of Shrewsbury. This provides a very different picture to the one based upon the town and is summarised in Table 4. Table 4 also assumes that the reduction in PAN has a whole school effect and relates to children moving into all years as well as Y7.

Table 4: the effect of the school's PAN on forecasts on the demand for places and surplus capacity in the school based on local authority information.

January census (relates to previous September admissions)	Surplus capacity based on PAN of 237	Surplus capacity based on PAN of 187	Surplus capacity based on PAN of 237 with new houses effect	Surplus capacity based on PAN of 187 with new houses effect
	1185	935	1185	935
January 2018	346	96	336	86
January 2019	329	79	309	79
January 2020	333	83	293	43
January 2021	323	73	273	23
January 2022	319	69	260	10

January 2023	310	60	231	-19
January 2024	274	24	175	-75

34. The key points from these forecasts (assuming the January figure reflects the admissions in the previous September) are:
- if the PAN were 237 and there was no effect from house building then the school would have considerable capacity to beyond September 2023;
 - if the PAN were at 187 and no effect from house building then the school would have capacity until September 2023;
 - if the PAN were 237 and taking into account major housebuilding then the school would have considerable capacity beyond 2023; and
 - if the PAN were 187 and taking into account major housebuilding then the school would be nearly full from September 2021.
35. I asked the local authority to explain the different messages provided by its data. The local authority explained that factors such as Grange School being judged as requiring special measures and the increase in the intake of other schools would have affected parental preference and admissions in the past. Looking forward the local authority has explained that *“The individual school forecast (that is, the forecasts summarised in Table 4) does not take into account the pupils who cannot be accommodated at the other Shrewsbury schools due to oversubscription. The individual forecast projects a trend of parental preference not a place planning forecast. In the event that pupils cannot be accommodated at any other Shrewsbury secondary school, there will be a rise in numbers requiring places at Shrewsbury Academy.”*
36. It seemed to me that it would be helpful to look at the available data focussing on the number of students likely to need a place at the school. In order to do this, I have taken account of the numbers of pupils attending primary schools in Shrewsbury and the proportion of them who continue into secondary education in the town. This information was included in that provided to me and shared with the trust and school. The local authority has told me that, across the town the percentage of pupils who move into one of the four Shrewsbury secondary schools is, across a four-year average, 97.7 per cent. However, the proportion has increased lately and the local authority has based its forecasts for 2018 on the more recent figure of 99.2 per cent.
37. Table 5, shown below, assumes that the current pattern of parental preference will continue and the other three secondary schools will fill and the remaining children attend the school. If the pattern of parental preference changes it will not alter the overall need for places across

the town. Instead, it will distribute the children among the schools differently and, as the gap between the total PAN and number of children reduces, there will be less flexibility to meet parental preference. I have used the figures the local authority provided to me as part of its forecasts for Y7 given that the estimates of transfer are near to 100 per cent.

Table 5: pupil numbers in Shrewsbury primary schools compared by year group to the PAN of the other schools and showing the number of places required at the school.

Current year group	Start Y7	Number in year group not including effect from housebuilding	Total PAN of other three schools	Minimum number of places required if other three schools are full
Year 6	2017	742	579	163 Actual places allocated 174
Year 5	2018	758	579	179
Year 4	2019	811	579	232
Year 3	2020	801	579	222
Year 2	2021	816	579	237

38. Table 5 shows that without housebuilding, more than 187 places would be needed in 2019 and 237 places, the previous PAN, would be needed by 2021. This is without the effect of housebuilding which will increase the number of places required.

39. The information provided by the local authority has convinced me that there will be a need for more Y7 places in the area than has previously been the case. It appears likely that if the school reduced its PAN to 187 in September 2018, there could be more children requiring a Y7 school place than there are places available. As table 5 is based on children who are known to be in primary schools now, it would appear certain that a PAN of 187 would be insufficient to meet requirements in subsequent years even without the effect of house building. The increase in house-building is significant and all the other secondary schools in the town and area are either full or very close to full. The only scope to accommodate any additional students in existing schools is within the school.

Reasons for reducing the PAN

40. I will now consider the reasons the trust has given for reducing its PAN. The trust said that it had been aware of forecasts like the ones above for several years but the students anticipated have never materialised. At the meeting the trust talked of the “*point of pick-up always drifting into the future.*” In its consultation letter the trust said, “*Currently there are 183 students in Year 7 and we anticipate a similar number for September 2017 and September 2018. Based on these figures, Shrewsbury Academies Trust believe it is important to adjust the PAN to reflect the historical intake, current intake and predicted*

intake into the immediate future. There are risks in having a PAN which is substantially above the number of students admitted to the school which include:

- a. Vulnerability to receive students permanently excluded from other schools*
- b. Publication of oversubscribed/undersubscribed data which suggests a school is not popular or is unsuccessful*
- c. The necessity to maintain significant vacant capacity at considerable cost to the Trust.”*

41. I asked the trust for further information on the above points. The trust acknowledged that the local Fair Access Protocol worked well and that the school had not been asked to admit a high number of students permanently excluded from other schools. The trust did say that having surplus capacity meant that “*a very significant number*” of students who joined the school at a point other than the main admission point had problems such as attendance, mental health and child protection. The trust provided me with information on this which showed 18 children joined the school over the last three years making on average about six children a year. Such needs will place additional demands on the school’s resources but would be insufficient justification to reduce the PAN if there were a basic need for the school places.

42. The unfavourable impression given by the school having surplus capacity may be a matter of perception but I note that some parents will only believe that a school is a good school if it is oversubscribed. At the meeting the trust told me that its surplus capacity had led the Department for Education judge the school as less successful. I can understand that this is an irritation. The major points made to me by the trust related to the commitment made to moving onto one site and the expense of the current situation of using two sites, which the trust told me was what it meant by its third point in the consultation. I will explore these matters in some detail.

43. I will look first at the information on the consultation on the merger of the two schools provided in the business case made to the ESFA in 2015. The consultation on the merger created considerable feedback with 1561 stakeholder questionnaires returned. The consultation also included meetings which were well attended. The stakeholder responses tended to vary depending on whether the response was from a parent, a student or a member of staff. For example, the general response to the proposed merger was 48 per cent in favour and 52 percent against but parents were 67 per cent in favour and staff 90 per cent in favour.

44. The initial proposal was that the new school would have Years 7 and 8 on one site and Years 9, 10 and 11 on the other. This received support from 18 per cent of those who responded to the questionnaire and 79 per cent were against. In light of this strong feeling, which the trust told me was energetically reinforced at meetings, an alternative approach

was pursued. The business case said, "*The most favoured alternative proposal is that from September 2016 the current Sundorne site capacity is increased to allow all Year 7 students to attend Sundorne School and over a period of 4-5 years this site be developed to accommodate the vast majority of students (49% in favour, 46% against).*"

45. The trust told me that the merger of the two schools was agreed by the Regional Schools Commissioner and a letter from the ESFA dated 26 June 2015 says, "*The two schools can merge to form Shrewsbury Academy from September 2016, with the condition that all pupils are housed on the Sundorne site by September 2018.*" No information was provided with regard to how the condition would be enforced or funded. The local authority told me that it was not made aware of this condition or given the opportunity to express its views on it to the ESFA.
46. The trust explained that it has invested to achieve the aim of all the students being on one site and so from September 2017 there will be 700 students on the Corndon Crescent Campus and 114 on the Worcester Road Campus. From September 2017, the Worcester Road Campus will have the original intakes to the Grange School, which will be Years 9, 10 and 11. Some students travel between sites on minibuses depending on their subjects but largely it is staff who move between the sites, which are just under a mile apart.
47. The trust said, "*The costs in terms of staffing and maintaining two sites in the current financial climate and the current poor level of funding per pupil, in Shropshire in particular, is that the one site solution is the only financially sustainable way forward.*" The trust told me it made an unsuccessful bid for capital to make it possible to accommodate all existing students and the PAN of 187 on one site with a second phase to accommodate the higher PAN of 237 and so capacity for 1185 students. The trust told me that it is currently appealing the outcome of the bid. The local authority told me that it had not been able to support the bid because of the reduction in capacity from 1185 to 935 pupil places and the basic need for such places.
48. It is the trust's vision to move to one site, the Corndon Crescent Campus. The trust has said that it could, given the necessary capital investment, accommodate 1185 students on this site although it would be a relatively small site for that number of students. The trust is investigating possible ways of using the Worcester Road Campus. These include using different parts of the site for a special free school; as the trust's headquarters; hiring out sports facilities; a vocational teaching block; and coming to an arrangement with the local authority, which holds the freehold for the property, to release part of the campus for building development and investing the capital receipt into the Corndon Crescent Campus. At the meeting the local authority pointed out that any such decision would be a political decision and that there was no guarantee that any capital receipt, if any such action was

agreed, would be spent on replacing existing school buildings.

49. The Worcester Road Campus has capacity for 625 places. These would be removed through the reduction in PAN and the move to one site. The Corndon Crescent Campus can now accommodate 700 students which is an increase of 140 places from the original 560. The infrastructure of this school building was designed for 560 students so there would be pressure on communal spaces such as dining areas and corridors if many more students were on the site. It would take significant capital investment in terms of new build and remodelling to increase the capacity of the Corndon Crescent site to 1185. There is no guarantee of any such investment being available or, indeed, to provide capacity for 935 students.
50. I can understand the difficulties for the trust. The merger of the two schools, the low number of students and working across two sites with split year groups will have put its finances under considerable pressure. The ESFA allowed the merger on the condition that the school was on one site by September 2018. The trust has "*mothballed*" part of the current Worcester Road Campus so there is a whole block without appropriate technology or furniture. It would require significant investment to make the campus fit for purpose again. The trust estimates this cost at £500,000 and sees investing in the site as "*nonsense*" because in recent years the student numbers have not been there to justify it.
51. The business case to the ESFA for the merger of the schools said that the PAN would not be reduced. At the meeting the trust explained that it knew, from its previous consultation on reducing the PAN, that reducing the PAN would be contentious so it concentrated on its priority of the merger of the two schools and then moved to reducing the PAN. I note that the funding agreement signed on 31 August 2016 is based on capacity for 1185 and so a PAN of 237 and that the trust signalled to the local authority its intention to reduce the PAN on 8 September 2016 which was just over a week later. The Department for Education guidance on *Making significant changes to an open academy*, which provides advice, says that it expects, "*that academy trusts do not propose changes that will have a negative impact on basic need.*" It also anticipates that a business case will be made if there is a reduction in the PAN planned; this was not included in the business case for the merger.
52. The business case for the merger said that, "*it is anticipated that the cost of the combination will be managed within the Trust's cashflow.*" At the meeting the trust explained that it could no longer afford the costs of the move to one site as there had been other unexpected costs for the merger as at the time of the business case the trust had understood that some of the costs would be met by the ESFA but this did not happen.
53. The trust has kept the Department for Education and the ESFA

informed of its plans. In an email to the ESFA dated 2 May 2017 the trust said, "*The Shrewsbury Academies Trust does not itself object to a PAN of 237 if the funding is in place to expand the Corndon Crescent (ex Sundorne site) to do so. However right now we are struggling (i.e. we can't accommodate a PAN of 187 on the one site, never mind 237). We do accept that by September 2019 numbers will increase and that the 50 PAN places lost will be required as we move into the 2020s. It is our intention only to increase the PAN again should funding be available.*"

Balance of the arguments

54. The local authority's forecast data shows, and the email from the trust quoted above supports the view that, in the next few years, there will be a need for the places currently spread across the school's two sites. If the PAN for the school is reduced and the school moves to one site then the capacity that exists for 1185 students will be lost. The forecasts show that a PAN of 187 is likely to be insufficient by September 2018. I recognise that there are many variables and forecasts are just that, what actually comes to pass can be different. However, the evidence of needing more than 187 Y7 places at the school in the near future is convincing as it is based on the number of children known to be in local primary schools. It cannot be known with absolute certainty in what years further increased demand, created by families moving into new houses being built, will materialise. The increased demand may not show itself in numbers above the PAN of 187 in 2018 but is likely to do by 2019.
55. I am conscious of paragraph 1.3 of the Code. The relevant parts of the paragraph are, "*Own admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN... All admission authorities **must** consult in accordance with paragraph 1.42 below where they propose a decrease to the PAN... There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.*" I have also taken into account paragraph 3.3b of the Code which prohibits "*objections about own authority admission's decisions to increase or keep the same PAN*". A decrease in the PAN is a significant step because there is no requirement to consult on any aspect of its arrangements, including the PAN, for seven years if they remain the same and there is no scope for anyone to object if the PAN is the same as the PAN which applied in the previous year. In effect, once a PAN is reduced, there is no power to make an admission authority raise it again. The only exception to this rule is relevant solely to schools for which the local authority is the admission authority.
56. The local authority has a duty to make sure that there are sufficient places for the children who live in the local authority area and reducing the PAN is likely to mean that it could not do so. The local authority explained at the meeting that it respected the commitment of the trust

to return to a PAN of 237 when capital became available but that the local authority's duty makes it necessary to deal in certainties. There is no certainty that if the PAN were set at 187 that there would be capital funding to replace the existing school buildings.

57. In this case, because the number of children requiring secondary school places locally will increase, the reduction in PAN is not fair to children who are likely to need places which will no longer be available nor reasonable given the negative impact on the availability of places and the local authority's duty to secure the provision of places. I therefore uphold the part of the objection which relates to the reduction in PAN from 237 to 187 and the PAN may not be reduced from 237.

Consultation

58. I will now consider the part of the objection which was that the consultation on reducing the PAN was unfair. The trust wrote in its consultation letter that, "*The PAN applies to every Year Group into which students can be admitted. This admission number is the maximum number of students that the admission authority will admit to each Year Group. Each school has a Published Number to Admit. This number will have been agreed with the Local Authority (Shropshire) The Published Number is divided evenly into each Year Group to arrive at the PAN.*" I note that this is not an accurate definition of a PAN. The definition given in the Code is the "*admission number for each 'relevant age group'*" and the '*relevant age group*' is defined as "*The age group at which pupils are or will normally be admitted to the school*". The relevant age group is Y7 for the school.
59. The local authority said that it had not agreed the reduced PAN with the trust but the wording quoted above may have given the impression that it had and this, in effect, could have given false comfort to parents so they would not foresee a potential difficulty in securing a place at their local school if the PAN were reduced. The trust said that it had taken this form of words from a website on admissions law in order to provide a definition that was easy for parents to understand.
60. I looked at the website used by the trust (*Child Law Advice*) and I can see how confusion may have arisen. The website information was referring to the overall capacity of a school when it referred to "*this number will have been agreed with the local authority.*" Unfortunately, as written in the consultation letter, this phrase could have given the impression that that the local authority had agreed that there would be a sufficiency of places with the reduction in the PAN. This would have made the consultation information unclear and potentially misleading. The requirements as to consultation are set out in paragraphs 1.42 to 1.45 of the Code and in all other regards the trust met the requirements of the Code.
61. The requirements of the Code with regard to consultation do not address circumstances such as this where an admission authority has

used words which may have given an erroneous impression. The local authority referred to paragraphs 12 and 14 in their objection because paragraph 12 says that all school places are to be “*allocated in an open and fair way,*” and paragraph 14 to the necessity for arrangements to be fair and clear. Here any lack of fairness or clarity is not in the allocation of places or in the arrangements but in the consultation and so paragraphs 12 and 14 do not apply.

62. The consultation met the requirements of paragraphs 1.42 to 1.45 of the Code in all other aspects but it would be against common sense to judge a consultation effective if it included erroneous information or, as in this case, an incorrect impression. I cannot uphold this part of the objection as paragraphs 12 and 14 of the Code do not specify that consultations need to be clear or fair but I do note that the paragraph 1.45 says, “*Failure to consult effectively may be grounds for subsequent complaints and appeals.*”

Other matters

63. The arrangements provided to the adjudicator dated 23 February 2017 say, “*Where there are more applications than there are places available, allocations will be made in accordance with the oversubscription criteria. Full details of these criteria are given in the "Parents Guide to Education" booklet; therefore it is recommended that parents read the booklet before completing an application. In general terms, they are based upon the following (in order)...*” The trust is the admission authority and it is its responsibility to determine and publish its arrangements as per paragraph 1.47 of the Code. It is not appropriate for an admission authority to provide general statements and refer parents to another publication from another organisation. This will make the arrangements unclear and will not comply with paragraph 14 of the Code which says, “*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*”
64. The ‘*general*’ oversubscription criteria meet the requirement of paragraph 1.7 of the Code to have looked after children and previously looked after children as the highest priority. The arrangements refer the reader to the Code for the definitions as opposed to providing them. This will make the arrangements unclear and so not comply with paragraphs 14 and 1.8 of the Code. Paragraph 1.8 of the Code says that oversubscription criteria **must** be clear.
65. The oversubscription criteria refer to the catchment area of the school. Paragraph 1.14 of the Code says, “*Catchment areas **must** be designed so that they are reasonable and clearly defined.*” I could not find any information on the catchment area on the school’s website; the link provided in the arrangements to the local authority’s website did not show catchment area information. This will make the

arrangements unclear and so they do not comply with paragraph 14 of the Code.

66. The arrangements say, “*Very exceptionally, where a child has a particular health reason requiring them to attend a specific school, that child may be given a place before any of the children who qualify under Priorities 2 and 3 above. This will only be allowed if parents /carers can provide written evidence from a medical professional that attending that particular school is essential to the medical wellbeing of the child. The Council [sic] reserves the right to check the relevance of the medical condition.*” Paragraph 1.16 permits the use of social and medical need as an oversubscription criterion. The priority for children with a “*particular health reason*” is not included in the oversubscription criteria and so do not comply with the Code. The arrangements also refer to the “*Council*” which, as the trust is the admission authority, makes the arrangements unclear. The arrangements therefore do not comply with paragraphs 14 and 1.16 in this regard.

Summary of Findings

67. The local authority has provided forecasts showing that a PAN of 187 is unlikely to be sufficient for 2018 and subsequent years. Existing school places should not be removed when there is an expected need for those places and no guaranteed means of replacing them. There is no justification for any reduction in the PAN and I uphold this part of the objection.

68. The wording in the consultation on the PAN of 187 could have been misleading and so the consultation was not totally clear but I cannot uphold this part of the objection on the grounds of paragraphs 12 and 14 of the Code which apply to the arrangements themselves or on the basis of any other part of the Code.

69. There are other matters in the arrangements which do not comply with the Code as described above. The Code requires the arrangements to be revised to address these matters.

Determination

70. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2018 determined by the Shrewsbury Academy Trust for Shrewsbury Academy in Shropshire.

71. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

72. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two

months of the date of the determination.

Dated: 1 August 2017

Signed:

Schools Adjudicator: Deborah Pritchard