

DETERMINATION

Case reference: ADA/002205

Objector: West Sussex County Council

Admission Authority: The Governing Body of St Andrew's Voluntary Aided Church of England High School for Boys, Worthing.

Date of decision: 10th August 2011

Determination

In accordance with section 88 H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the increased year 7 admission number of St Andrew's Voluntary Aided Church of England High School for Boys.

However, I am using my power under section 88J(2)(b) of the Act to require the School to change its year 8 oversubscription criteria for 2012 so that criterion 1 for year 8 exactly mirrors oversubscription criterion 1 for year 7.

The referral

1 An objection has been referred to the Adjudicator by West Sussex County Council ("the Council") about the decision of the Governing Body of St Andrew's Voluntary Aided Church of England High School ("the School") in Worthing to increase its year 7 admission number ("AN") from 30 to 40 for admissions in 2012.

Jurisdiction

2 These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body, which is the admissions authority for the School. The objection from the Council was received by the Office of the Schools Adjudicator in July 2011. I am satisfied these objections have been properly referred to me in accordance with section 88H of the Act and that they fall within my jurisdiction.

3 In addition to investigating the matters raised by the objectors I have also reviewed the admissions arrangements as a whole and considered whether I should use my power under section 88J(2)(b) of the Act. I am using

my powers under the Act to make the change to the arrangements described in paragraph 21 below.

Procedure

4 In coming to my conclusions, I have had full regard to all relevant legislation and guidance.

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

- the completed OSA “objection to an admission number” form submitted by West Sussex County Council;
- the School’s determined admission arrangements for 2012;
- a letter from the headteacher of Durrington High School to the School’s headteacher dated 16th February 2011;
- a statement on admission arrangements made by the School dated 15th March 2011;
- the most recent Ofsted inspection report on the work of the School.

The Objection

6 The objection is to the School’s decision to increase its year 7 AN from 30 to 40. The School started admitting pupils to year 7 in 2009 when the AN stood at 30 and this figure remained unchanged until the arrangements for 2012 were determined.

Background

7 The School is a smaller than average voluntary aided boys secondary school in Worthing. The School admits a small number of pupils into year 7, where the AN is 30, the majority, if not all of whom, come from outside the local area. The majority of pupils who do come from the local area enter the school in year 8 where the AN is 145 (which, when added to the 30 pupils transferring from year 7, gives a year 8 group roll of 175 if all places are taken). In recent years, the School has been over-subscribed, particularly into the small year 7 group although the number of first preferences in both years 7 and 8 declined from 2010 to 2011 and not all year 8 places were filled in September 2011. Ofsted judge the School to be good. There is no sixth form.

8 Transfer to secondary schools in the Worthing area takes place at the end of year 7. However, in the neighbouring Adur district, to the west of Worthing (comprising of Lancing and Shoreham), a change of transfer age from the end of year 7 to the end of year 6 took place in September 2009. Prior to this date, pupils attending St Nicholas and St Mary’s VA Primary School in Shoreham had traditionally transferred to the School and the nearby Davison VC High School for Girls.

9 Consequently, to fill a gap in year 7 provision for parents who sought a continuous Church of England education for their child, year 7 classes with an AN of 30 were established at the School and at Davison to enable this link to continue. To further help ensure access to the year 7 class at the School for parents who live in Adur district and who are regular worshippers, the School's highest priority oversubscription criteria (after children in care) for year 7 combined attendance at an Adur district primary school with regular worship.

10 The School has set an increased AN for year 7 to meet the demand *"relating to pressure for year 7 places largely from the Adur district and outside of Central Worthing."*

11 The Council objects to the Schools decision to increase its year 7 AN for the following reasons.

- (i) The evidence suggests that an AN of 30 is sufficient to meet the demand from parents who meet the faith related admissions criterion – the specific reason why the School received investment to establish its year 7 class.
- (ii) An increase in the AN to 40 would result in an imbalance in the number of year 7 places at the School and Davison as the Council has no plans to increase the AN of the latter. This means there will be 30 such places available for girls and 40 for boys.
- (iii) The Council believes that the School intends to establish two year 7 classes, that this would result in the School losing appeals and lead to more pupils leaving local middle schools a year early.
- (iv) The School has over-estimated the demand for year 7 places at the School.
- (v) The year 8 places at the School, which could be lost if year 7 expands, are needed to meet a medium term increase in demand for such places in the Worthing area;
- (vi) There are other ways of ensuring that all siblings can obtain a place at the School. (The Council states this was one reason which the School had used to justify the increased AN).
- (vii) That the School did not fill all its year 8 places in 2011 and that there is a surplus of secondary school places in the short term. The Council believes that an increase in the year 7 AN for 2012 is therefore mistimed as it wishes to *"work with all the schools in Worthing over the coming year or two to support them through a period of lower intakes and plan with them to agree the best way to meet the identified increased demand from 2015/16"*.

12 The headteacher of Durrington High School, one of the two other secondary schools in Worthing (the other being Worthing High School), wrote to the School during the statutory consultation period objecting to the increased year 7 AN. She noted that Durrington and Worthing are now the only schools in the Council's area without any year 7 provision and that, if such provision is to be expanded, it should be in these schools where parental demand for such places also exists. She also refers to a possible detrimental impact on local middle schools, to the short term fall in secondary school rolls, and the possibility that the School may further increase its year 7 AN in future years.

13 The School's governing body considered all the representations made about the increase in the year 7 AN at its meeting on 3rd March 2011. They *"recognised that there were genuine concerns which needed to be addressed. It was acknowledged that this would be a one-off change relating to pressure for year 7 places largely from the Adur district and outside of Central Worthing. This in no way would become a precedent. Existing staffing and accommodation issues would prevent the School revisiting this situation."* The governing body voted unanimously to increase the year 7 AN to 40.

Consideration

14 The key requirements in relation to the setting of ANs are set out in paragraphs 1.16, 1.17, 1.20 and 1.22 of the Code.

15 Paragraph 1.17 states that an admission authority must set admission numbers with regard to the capacity assessment for the school. In this case, the School's latest net capacity assessment is 816. If the number of pupils on roll reflects the year 7 and year 8 AN's, the total roll would be 740 (assuming 40 in year 7 and 175 in each of years 8-11). Therefore, I am satisfied that not only is there no need to exceed the net capacity assessment but the figures show that the school has sufficient spare physical capacity to cater for additional pupils.

16 Paragraph 1.20 states that statutory proposals to increase an AN are not required if the proposed increase is for less than 27 pupils which it is not in this case. The same paragraph requires statutory proposals where a school is proposing to enlarge its premises to increase its physical capacity within certain parameters. In this case, the School is planning to cater for additional pupils without any increase in its physical capacity. Given the net capacity assessment and the relatively small number of pupils involved this is entirely reasonable.

17 Paragraph 1.22 states that the Adjudicator *"should have regard to the presumption that proposals to expand successful and popular schools ... should be approved."* The School meets both of these criteria. Its success is attested by the Ofsted judgement that the School is "good" and its popularity by the fact that, from 2009 to 2011, more parents expressed a first preference

for a year 7 place at the School than were able to be offered one. (According to the Council, the number of first preferences for year 7 places was 44 in 2009, 52 in 2010, and 43 in 2011)

18 Paragraph 1.22 goes on to state “*the existence of surplus capacity in neighbouring schools should not in itself be sufficient to prevent expansion, but the local authority should consider how they can take parallel action to remove surplus places.*” One of the reasons put forward by the Council as reasons for their objection (see point (vii) in paragraph 11) relates to surplus places. Given the Code’s guidance, I am unable to accept this as a reason for deciding against the presumption referred to above.

19 The Council has not claimed that the School did not properly consult on its increased year 7 AN. Certainly, there is evidence that several other interested parties commented on this matter during the consultation period and the School’s governing body properly considered the responses at its meeting on 3rd March 2011.

20 In addition to investigating the matters raised by the objector I have also reviewed the admissions arrangements as a whole and considered whether I should use my power under section 88J(2)(b) of the Act. I have decided to use these powers for the following reason.

21 I have noted that over-subscription criterion 1 for year 8 is: “*boys with the boy or his parent a regular worshipper at an Anglican or other Christian church or boys with exceptional and compelling social, psychological or medical reasons or Boys in care.*” Paragraph 2.9 of the Code requires that all admission authorities give the highest priority in their oversubscription criteria to children in care. The School’s current criterion 1 for year 8 does not do this as it gives equal status to three separate groups of applicants. However, I have also noted that the oversubscription criterion 1 for year 7 does meet this requirement of the Code. The School should amend its oversubscription criterion 1 for year 8 so that it mirrors oversubscription criterion 1 for year 7. The School can decide for itself the importance it gives to applicants with social, psychological or medical needs and to regular worshippers.

Conclusion

22 The Council’s reasons for making this objection do not refer to a breach of any of the above requirements of the Code and I cannot identify any. The demand for places, for whatever reason, exceeds the supply and this is an established pattern (see paragraph 11(i) and 11(iv)). The fact that the Council do not intend to expand Davison does not provide a reasonable basis for objecting to the expansion plans of another school (see paragraph 11(ii)). Neither, as paragraph 1.22 of the Code states, does the existence of surplus capacity at other schools (see paragraph 11(v) and 11(vii)). The internal arrangements for organising teaching and learning are entirely a matter for the School (see paragraph 11(iii)), as is the way in which the School organises its

admission arrangements to ensure that siblings are better able to obtain a place at the School (see paragraph 11(vi)). I can find no valid reason for not accepting the School's increased year 7 AN. I therefore do not uphold the objection.

Determination

23 In accordance with section 88 H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the increased year 7 admission number of St Andrew's Voluntary Aided Church of England High School for Boys

However, I am using my power under section 88J(2)(b) of the Act to require the School to change its year 8 oversubscription criteria for 2012 so that criterion 1 for year 8 exactly mirrors oversubscription criterion 1 for year 7.

Dated: 10th August 2011

Signed:

Schools Adjudicator: John Simpson