



DETERMINATION

Case reference: REF3348

Referrer: The Governing Body of Blatchington Mill School and Sixth Form College, Brighton and Hove

Admission Authority: Brighton and Hove City Council

Date of decision: 19 December 2017

Determination

I have considered the admission arrangements for September 2018 determined for Blatchington Mill School and Sixth Form College by Brighton and Hove City Council in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the published admission number (PAN), the arrangements do not conform to the requirements of the Code. I determine that the PAN for admission to the school in September 2018 is 330.

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.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of Schools Adjudicator (OSA) by the governing body of Blatchington Mill School and Sixth Form College, (the referrer), about the admission arrangements (the arrangements) for Blatchington Mill School and Sixth Form College (the school). The date of the objection is 12 October 2017. The School Admissions Code (the Code) requires objections to admission arrangements for 2018 to be made to the OSA by 15 May 2017. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to the attention of the OSA, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform to the requirements relating to admission arrangements. I am therefore treating the objection as a referral.

2. The referral relates to the Published Admission Number (PAN) of 300 determined by Brighton and Hove City Council, which is the admission authority for the school, for admission to the school in September 2018. The referrer considers that the PAN should be increased from 300 to 330.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by Brighton and Hove City Council, the local authority (LA), which is the admission authority for the school. The referrer submitted a referral to these determined arrangements on 12 October 2017. I am satisfied the referral has been properly made to me in accordance with section 88I of the Act and is within my jurisdiction.

Procedure

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

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

- a. the referrer's form of objection dated 12 October 2017;
- b. the LA's response to the referral and supporting documents;
- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2018;
- d. a map of the area identifying relevant schools;
- e. confirmation of when consultation on the arrangements last took place;
- f. copies of the minutes of the meeting of the LA at which the arrangements were determined; and
- g. a copy of the determined arrangements.

The Referral

6. The PAN of 300 has been set by the LA for admission to Year 7 at the school in September 2018. The referrer wishes the PAN to be increased to 330 in order to make full use of the school's existing accommodation, facilities and teaching staff. Paragraph 1.2 of the Code requires that all admission authorities must set a PAN for the age group at which pupils will normally be admitted to the school.

Background

7. The school is a mixed non-selective community school with an age range of 11-18 situated in Hove. The school was rated as Good in its latest Ofsted report of 9 March 2017. The admission arrangements for entry to the school in September 2018 were determined by the LA on 9 January 2017. They include the following oversubscription criteria:

"1. Children in the care of the local authority (looked after children), and children who were looked after but ceased to be so because they were adopted (or became subject to a residence order or special

guardianship order).

2. Compelling medical or other exceptional reasons for attending the school.

3. A sibling link applied to those living within the designated catchment area only.

4. Those pupils living within the designated catchment area for the school(s).

5. Other children.”

A map of the catchment areas for the various secondary schools situated within the LA boundary was also included as part of the arrangements.

8. The arrangements stated: *“The proposed admission numbers for each school are attached to this bulletin. Schools are asked to comment on whether they agree with the number shown. These numbers are based on the net capacity range of each school, or in some cases a higher figure... I should be grateful for a response from all schools as to whether they agree with the number shown on the attached list.”* As noted above, the PAN for the school was set at 300.

Consideration of Case

9. Paragraph 1.2 of the Code states that *“As part of determining their admission arrangements, all admission authorities **must** set an admission number for each ‘relevant age group’.”* Paragraph 1.3 of the Code states that: *“For a community or voluntary controlled school, the local authority (as admission authority) **must** consult at least the governing body of the school where it proposes either to increase or keep the same PAN. All admission authorities **must** consult in accordance with paragraph 1.42 below where they propose to decrease the PAN. Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. 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.”*

10. I have considered all of the information submitted to me together with the representations made by the referrer and the LA. I have summarised those representations below.

The referrer’s representations

11. The referrer states that the LA is consulting upon changing the age range of pupils at the school from 11-18 to 11-16 for implementation in September 2018. As a result of a decline in the number of sixth form students on roll, the school has surplus capacity in terms of accommodation, staff and facilities. The school says that some of this surplus capacity will exist even if the school keeps its sixth form. The school has been oversubscribed for admission to Year 7 for the past 10 years. The net capacity for the school is

calculated as 1638 on a PAN of 300, however the census return shows that there are currently 1559 pupils on roll. The referrer suggests that the school can accommodate an additional intake of 30 in Year 7, and year-on-year.

12. The referrer also states that the school has operated above PAN in the past, and a proposed increase of 30 to the PAN can be accommodated without additional funding for site adaptation or growth fund applications. In summer 2016, two new classrooms were added to the school site, which is fully accessible for wheelchair access. Roughly one third of all Brighton and Hove secondary school pupils who have statements of special educational need (SEN) or Education and Healthcare Plans attend the school. The school does not have a specific special needs unit, so these children are integrated into the school. The school says that the additional money which it would receive if the PAN were increased and more children admitted could be used to enhance the provision for pupils with SEN.

13. The school's budget is currently in year one of a three year licensed deficit of £220,000. This is said by the referrer to have arisen as a result of the declining sixth form rolls and disproportionately high SEN intake. The school has managed to reduce the deficit to £140,000 within six months. The additional funding which the school would attract as a result of an increase in the PAN - if accompanied by a rising roll - would help to reduce further, or eliminate, the deficit, and is said to be "*a core part of the school's long-term financial strategy.*"

14. The referrer states that the LA has been promoting the need for additional secondary school places as some catchment areas do not have sufficient places to meet demand. In light of this projected shortfall, the referrer says it is unclear as to the reason for the LA's refusal to increase the PAN for the school to 330 as requested, particularly since the projection of numbers for the catchment area of the school is said to be "*above PAN by at least 50 students in each of the next five years.*" The referrer bases this argument upon the LA figures attached to the proposals to make changes to the authority's catchment areas, which the LA was consulting upon at the time of the referral.

15. I looked at the press release relating to this consultation dated 2 October 2017 relating to this consultation is which on the LA's website. This says that the proposal by the LA to make changes to its catchment areas was prompted by two factors. It said:

"One [of the two factors] is that rising pupil numbers are causing pressure on school places in some catchment areas. The other is the decision by the Education and Skills Funding Agency to delay the opening of the new University of Brighton Academies Trust secondary free school, which will be called the Brighton and Hove Academy. The proposals have been deliberately designed to be as 'light-touch' as possible, and to take into account as many factors as possible including accessibility and travel times. They include three measures aimed at the Dorothy Stringer / Varndean catchment area:

- *An area north and east of Elm Grove would be incorporated into the Longhill High School catchment*
- *An area at the northern end of the catchment area would be incorporated into the Patcham High School catchment area*
- *Two areas to the west of the catchment area would be incorporated into the Blatchington Mill / Hove Park catchment area.*

With regards to the Blatchington Mill / Hove Park catchment area:

A section to the west of the catchment area would be incorporated into the Portslade Aldridge Community Academy catchment area.

The consultation opened on 2 October and the closing date is 19 November 2017.”

16. The press release provided a link to a report of the LA's Children, Young People and Skills Committee 18 September 2017. Agenda Item 28 related to Amendments to Catchment Areas for 2019. It stated that the amendments were due to an increase in numbers of secondary school pupils which was set to continue, and refers to the Brighton Aldridge Community Academy, Blatchington Mill/Hove Park and Dorothy Stringer/Varndean catchment areas being predicted to have more pupils than places available for admissions in September 2019. The report stated at paragraph 3.23 that, *“whilst the Council has sufficient places to ensure that all pupils who require a place will be offered one, however it cannot guarantee that all pupils in a catchment area will be offered a place at that school.”* It also stated at paragraph 3.52 that a total of 52 pupils will not be able to be accommodated in the Hove Park/Blatchington Mill and Brighton Aldridge Community Academy catchment areas in 2019, and at paragraph 3.53 that the number will be 74 for the Hove Park/Blatchington Mill, Dorothy Stringer/Varndean and Longhill High School catchment areas. It is clear that the LA is taking steps to address the fact that parents in the catchment area of some schools are not able to obtain a place for their child within their relevant catchment school.

17. Whilst I appreciate that the consultation I have been referred to relates to admissions for September 2019, whereas the referral relates to admissions for September 2018, the LA has not challenged the truth of any of the factual representations put forward by the referrer. I have, in the absence of any indication to the contrary, taken this to mean that the statements made by the referrer about the school being oversubscribed are not disputed. The referrer concludes: *“In summary, the school has the staffing, facilities and space to accommodate a larger PAN – which can be demonstrated against net capacity. The school is oversubscribed (336 first choices, 323 2nd, 238 3rd choices meaning around 900 choices in total for 300 places in 2017/2018 resulting in a large number of appeals every year and there is clear evidence that the large PAN would be filled...Leadership at the school is considered good – and the school was inspected by Ofsted in 2017 and considered to be good. It is believed that there is an inbuilt bias to approve a request to increase a PAN, and the local context makes it difficult to appreciate the logic of refusal of a PAN increase by the Local Authority.”*

The LA's response

18. The LA has said in response that, when the council last consulted on

admission arrangements in October 2016, the school did not make any request to increase its PAN. There was no change proposed by the LA for the admission arrangements to the school for September 2018.

19. The LA states that there are sufficient places available in the relevant catchment area for admission in September 2018. The school shares its catchment area with Hove Park School and Sixth Form. Each school has a PAN of 300 pupils, therefore there are 600 available places in total. The current pupil projections suggest the following numbers of pupils will require places in Year 7:

2018 – 570 pupils
2019 – 629 pupils
2020 – 602 pupils.

20. In June 2017, the school's Chair of Governors wrote requesting that the LA increase the school's PAN from 300 to 330 "*at the earliest opportunity.*" The LA says that due consideration was given to the school's request. However, the LA says it believes there are sufficient places across the city for September 2018, and that the forecast pupil numbers for the shared Blatchington Mill School and Hove Park School catchment area demonstrate sufficient capacity in this area for September 2018. Against this background, the LA considered that increasing capacity in an area of the city where there are already sufficient school places would have a negative impact on other schools in the city which already have surplus places.

21. There are 2615 places available across the city, and the LA's projections indicate the following numbers of pupils will require Year 7 places:

2018 - 2519
2019 - 2597
2020 - 2591

It was proposed that a new secondary Free School would open in September 2018. However, the University of Brighton Academies Trust is not now expected to open the Brighton & Hove Academy until September 2019. The academy school will admit 180 pupils in each year group.

22. At the time this referral was submitted a decision had not been made on whether to proceed with a proposal to close the school's sixth form and amend the age range. The LA considers that the proposal for the school to end its sixth form provision is at a very early stage, and is still subject to public consultation and the required statutory procedures. If the proposal to end the sixth form provision does go ahead, any extra capacity at the school will be taken into account when setting the school's PAN for future years.

23. The closing date for secondary school admission applications for September 2018 passed on 31 October 2017; only 12 days after the referral was made. It is the LA's view that, if the school's PAN were to increase from September 2018, this would cause unfairness to parents who have expressed their preferences on the basis of the school offering 300 places. Parents may have made decisions that they might not otherwise have made had the PAN

been 330. The LA is currently undergoing a consultation on admission arrangements for September 2019, and a request from the school to increase its PAN for September 2019 will be considered accordingly.

24. On 15 November 2017 an email was sent to the LA on my behalf drawing their attention to paragraph 1.3 of the Code, and the strong presumption in favour of an increase to the PAN to which the Schools Adjudicator must have regard. I requested that the LA respond to the evidence submitted by the referrer that the school is unable to accommodate all first preferences with the current PAN, and that there are high numbers of appeals. I also asked the LA to explain what exactly would the effect be of increasing the school's PAN for September 2018 admissions on other secondary schools; which schools would be affected; what would the effects be; and what would the consequences be for these schools. The LA replied on 28 November 2018 stating that it wished to offer no further information in addition to that already supplied.

25. I have considered carefully all of information submitted by both parties. I accept that the process for making applications to secondary schools in Brighton and Hove is already underway. The LA's website indicates that the closing date for secondary school applications was 31 October 2017. Late applications may be made until 22 January 2018 where there is a good reason for lateness. The majority of parents applying for secondary school places will have already ordered and expressed their preferences to the LA in the Common Application Form.

26. The evidence submitted by the referrer indicates that the school is a popular choice for local parents, and that there is a demand for places at the school which is not being met under the current PAN. The school was oversubscribed by 36 on first preferences alone last year, and has been oversubscribed for the past 10 years. The LA has not refuted this statement. I have concluded, therefore, that the effect of increasing the school's PAN to 330 for admission in September 2018 is that there will be more successful applications to a popular school than would otherwise be the case, and that the school will have to resource fewer appeals. I have also concluded that the school can accommodate the admission of an additional 30 pupils to Year 7 in September 2018 within its existing net capacity of 1638. I accept the referrer's arguments that the extra funding which would be brought in by the admission of an additional 30 pupils could be used to the benefit of the school's SEN pupils, and that it will assist in reducing the budget deficit. The referrer has asserted, as noted above, that it could admit this higher number of 330 in each subsequent. My jurisdiction is for September 2018 only in this case and PANs fall to be determined annually. I am not therefore making a judgment about the school's capacity to admit 330 pupils in the years 2019 and thereafter. If the LA wishes to reduce the PAN it will, of course, need to consult before doing so.

27. The LA submits that increasing the school's PAN for September 2018 will have an adverse effect on other schools, but has declined to provide any details of what that effect will be. I can surmise that there may be fewer admissions to Hove Park School and Sixth Form College, but I do not know

what the effect of this will be or even whether this will be what transpires in practice. It is possible that, if there is a shortfall of places in the adjoining Dorothy Stringer/Varndean area, any increase in the number of vacant places at Hove Park could be used to accommodate pupils who are unable to gain admission to schools within this adjoining catchment area. In the absence of any evidence of what adverse effect an increase in the school's PAN would have, I am unable to reach any meaningful conclusion on the nature or the extent of any adverse effect on any other schools. I do not accept the LA's suggestion that it would be unfair to parents to increase the school's PAN at this stage in the admissions process. On the contrary, it appears that, for many years, parents have been disappointed in not gaining a place for their children at the school, and that more will be able to do so in September 2018 if the PAN is increased.

28. Paragraph 1.3 of the Code states that community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. The governing body of the school has made an objection after the closing date for objections to admission arrangements for September 2018. I have used the power under section 88I(5) of the Act to consider whether the arrangements conform to the requirements relating to admission arrangements since they have been brought to my attention, and I have treated the objection as a referral. Paragraph 1.3 of the Code also states that 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 had regard to this presumption and, in accordance with it, I have determined that the PAN for admission to the school in September 2018 shall be increased to 330.

Summary of Findings

29. I find, on the basis of the undisputed representations made by the referrer, that the school has been oversubscribed for the past 10 years. It was oversubscribed by more than 30 first preferences alone for admission in September 2017, therefore the effect of an increase in the PAN to 330 for admission to the school in September 2018 will be that more applicants will be successful in gaining admission to this popular school. This will benefit local parents and children. The school has the capacity to accommodate 30 additional pupils in Year 7 in September 2018 regardless of whether or not it will lose its sixth-form. The increase in funding resulting from additional pupil numbers will benefit the school and assist in reducing its budget deficit. I note that there are predicted to be sufficient places for admissions to schools across the city as a whole in September 2018 if the school's PAN is not increased. That said, no evidence has been presented to me showing that the increase in PAN to 330 for this school will have an adverse effect on any other particular school in the LA area, or what that adverse effect would be. Accordingly, my finding is that there are compelling reasons for me to determine that the PAN for admission to the school in September 2018 shall be increased to 330.

Determination

30. I have considered the admission arrangements for September 2018

determined for Blatchington Mill School and Sixth Form College by Brighton and Hove City Council in accordance with section 88I (5) of the School Standards and Framework Act 1998 and find that in relation to the published admission number (PAN), the arrangements do not conform to the requirements of the Code. I determine that the PAN for admission to the school in September 2018 is 330.

31. 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: 19 December 2017

Signed:

Schools Adjudicator: Dr Marisa Vallely