

## **DETERMINATION**

<b>Case reference:</b>	<b>ADA/2491</b>
<b>Objector:</b>	<b>The Local Authority</b>
<b>Admission Authority:</b>	<b>St Leonard's Academy</b>
<b>Date of decision:</b>	<b>11 September 2013</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for the St Leonard's Academy determined by the Board of Governors for the Hastings Academy Trust.**

**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 as quickly as possible.**

### **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 East Sussex County Council (the objector) which is also the local authority for the area, about the admission arrangements (the arrangements) for September 2014 for the St Leonard's Academy (the school), an academy school with age range 11 - 16. The objection is to a proposed reduction in the published admission number (PAN) from 300 to 270.

### **Jurisdiction**

2. The terms of the academy agreement between St Leonard's Academy 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 governing body of the Academy Trust, which is the admission authority for the academy school, on that basis. The objector submitted the objection to these determined arrangements on 28 June 2013. 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.

## **Procedure**

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
  - a. the objector's email of objection dated 28 June 2013, and subsequent submissions from the objector;
  - b. the school's responses to the objection including supporting documents;
  - c. pupil number forecasts for the Hastings area;
  - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2013;
  - e. confirmation of when consultation on the arrangements last took place;
  - f. a copy of the minutes of the meeting of 27 March 2013 at which the governing body of the school determined the arrangements; and
  - g. a copy of the determined arrangements for 2014.

## **The Objection**

5. The objection is that the arrangements propose a reduction in the PAN for the school from 300 to 270 and, in making its objection, the local authority considers that this will reduce spare capacity in local schools and limit parents' ability to have their first preference for a school in the area. It is also concerned that the school is occupying a new building that was designed and built for a PAN of 300.

## **Background**

6. The school was established as an academy on 1 September 2011 and is part of a federation called the Hastings Academies Trust. The school is in a new building that was created following the closure of two local secondary schools. The school was designed and built to accommodate 300 children in each year group.
7. The school was inspected by Ofsted in May 2013 and the school was judged to be good.
8. The PAN was originally set to ensure that, in the medium to long term, when secondary numbers in Hastings had recovered from their decline, there would be sufficient places available in the town. The academy sponsors were fully involved in these decisions.
9. The aim of the sponsors of the Hastings Academies Trust (the University of Brighton, as lead sponsor, in partnership with its co-sponsors British Telecom and East Sussex County Council) is to work in partnership to improve the performance of its academies. The school is one of these two academies. The Trust's vision is to ensure that the academies will be able to offer the highest standards of education to its

students coming from an area where historically educational standards have been low. It wishes to bring the performance of all their pupils to the top quartile in England (starting with the first academy Year 7 intake, which will complete its final year in the school in 2016).

### **Consideration of Factors**

10. The local authority is objecting to the proposed reduction in PAN for the St Leonard's Academy because it predicts there will be very little spare capacity. This could impact on parents' ability to have their preferences met. It accepts that current projections do not show there will be a shortfall in the immediate future,
11. The school is purpose-built for 300 pupils in each year group. It received capital funding in 2011 to replace the two predecessor schools onto one site to make this provision. The local authority considers that it is a perverse action for the school to take advantage of the capital development resources and then reduce the number of places that the resource has provided and that this action reflects negatively on the use of public funds. The local authority is concerned that there is a risk that should numbers increase, then resources will be required to produce additional places that should already be available.
12. The school has responded to these concerns with the arguments that:
  - the PAN for the school is in excess of the number required to meet local demand for the foreseeable future;
  - the unprecedented volume of in-year admissions in its first two years of operation represents a major, and unexpected, change of circumstances for the school that is impacting directly on its ability to raise standards; and
  - the public consultation has shown unequivocally that there is no local opposition from parents or other schools to this reduction.
13. Taken together, the Trust believes that these factors justify its decision to reduce the PAN for the Year 7 intakes until secondary numbers begin to increase in 2017. Over the intervening period the Trust has agreed to monitor the PAN for both its secondary academies (The St Leonards Academy and The Hastings Academy), in discussion with the County Council, in order to ensure that the supply of places matches demand when numbers begin to rise.
14. In my consideration of this objection I have identified two different arguments concerning this proposed reduction in the PAN. The first concerns the demand for places in the area and the second concerns in-year admissions to the school. I shall consider these arguments separately.
15. In first considering the demand for places, the local authority argues that the pupil number forecasts demonstrate that the 300 places are required at the school to meet the requirement for pupil places in the

area in future years, while the school responds that the figures do not support this and that the places will not be required until 2017.

16. The local authority has provided its most recent projections. These update the earlier figures used by the school to make its decision. The updated figures do not in the school's view require it to modify its decision. The projections are as follows:

### Hastings Secondary School Pupil Forecasts (published July 2013)

Hastings Secondary Schools	PAN	Capacity	2012/13 Year group								2013/14 Year group							
			7	8	9	10	11	12	13/14	NOR	7	8	9	10	11	12	13/14	NOR
The St Leonards Academy	300	1500	237	236	276	242	301	0	0	1292	260	240	230	278	232	0	0	1240
Helenswood School	216	1281	176	213	214	217	214	78	71	1183	177	175	214	210	217	76	68	1137
The Hastings Academy	180	900	150	139	142	154	147	0	0	732	170	159	148	145	153	0	0	775
William Parker Sports College	232	1411	187	196	227	219	221	82	68	1200	132	183	195	228	215	75	68	1096
Additional pupils from new housing											3	2	2	2	2	1	1	13
Hastings Borough Total	928	5092	750	784	859	832	883	160	139	4407	742	759	789	863	819	152	137	4260

Hastings Secondary Schools - Year Group								
Academic Year	7	8	9	10	11	12	13/14	NOR
20012/13	750	784	859	832	883	160	139	4407
2013/14	742	759	789	832	819	152	137	4260
2014/15	721	754	766	793	849	151	130	4165
2015/16	800	735	763	773	783	153	131	4138
2016/17	791	817	746	773	764	144	133	4169
2017/18	843	808	829	756	764	128	126	4253
2018/19	892	858	818	837	746	111	111	4373
2019/20	923	906	867	826	825	108	96	4552
2020/21	876	936	913	874	814	122	94	4630
2021/22	896	890	944	921	861	120	106	4739
2022/23	1001	910	899	952	908	134	104	4908

17. The PAN establishes the admission number for the normal point of entry to the school, in this case for Year 7. From the forecasts provided it can be seen that there is an increasing trend in the size of year cohorts but that this does not begin until 2015. The school and the local authority agree that there is an increasing trend, the difference is that the school wishes to reflect the dip that can be seen in the numbers and reduce its PAN until the numbers demonstrate that it needs to increase it again, and the local authority does not think that it should.
18. The local authority argues that the school should retain the places because a) they will be needed as the year cohorts pass through the school and b) the places will ensure there is the capacity to reflect parental preferences. The overall capacity of the schools shown in the table is 5092 and the total PAN for Hastings is 928. From the figures provided the first time that there will not be spare capacity in the Year 7 cohort in the area will be in 2021.
19. The second part of the argument about demand for places is that a reduction in PAN could reduce the capacity for parents to have their admission preferences met. The Code enables schools to increase their PAN without consultation but it is silent on the benefits or otherwise of a reduction in PAN. However, it is self-evident that if there are more places available, then parents are more likely to receive their first preference for a place for their child. The school argues that it will be able to deliver this even with a reduced PAN of 270. The numbers admitted to the school in Year 7 in 2012 were 237 and in 2013 were 260 this does appear to be the case. The forecast number for Year 7 admissions at the school has not been provided by the local authority within its forecasts. The local authority has commented that in 2013 there were 286 preferences expressed for the school which rose to 350 if late applications are taken into account. This then resulted in 260 admissions.
20. The pupil number forecasts lead me to conclude that a reduction in PAN is unlikely to lead to a shortage of places in the area before 2021, but the figures are inconclusive on the question as to whether parents will still be able to have their first preferences for school. The forecasts will be updated annually in the light of the actual admission pattern and so this situation may change with time.
21. I now consider the second part of the argument where the issue is about in-year admissions. The school has provided the figures to show that it has received a disproportionately high number of in-year admissions since it opened as an academy. In 2011 there were 128 and in 2012 there were 76. The school says that these in-year admissions destabilise the progress being made on learning and standards. Under the funding agreement for the school there were special arrangements about admissions to Years 8 -11 in 2011 resulting from the merger of the two predecessor schools and designed to help to create some stability in the newly established school. These arrangements are working through the school and the PAN of 300 has

now been applied to the admissions at Year 7 in 2011, 2012 and 2013 so that from September 2013 only Years 10 and 11 will be subject to the transitional arrangements set out in the funding agreement. In 2014 it will only be Year 11 where any transitional arrangements will be applied.

22. The school has found that as its success has increased so has its popularity. As a result of this parents from other schools in the area have sought to transfer their children to the school as in-year admissions. The school has found that it is destabilising for the children already in the school and it adds an unnecessary distraction to its main aim of improving the standards in the school. The school considers that by limiting the PAN to 270 it will reduce the number of available places and provide stability for the school by limiting the potential for these in-year admissions.
23. I can see the logic in the school's argument if it were the case that a reduction in the PAN were to apply to all admissions across the school at the time the change is made. However, this is not the case because it will take five years for the change to work its way through the school. The school drew attention to the academy transitional arrangements within its comments about this objection. These transitional arrangements were designed to provide some protection to the school while it is becoming established and while the local preferences for school places settle to the new school provision in the area. The school has indicated that the motivation for the proposed change is not to limit admissions during the normal admission round because it can plan for these places but it is to limit the opportunities for in-year admissions that create a destabilising effect upon the school.
24. The school opened in 2011 and by 2014 there will have been three years during which parents have been able to consider which school they want their children to attend. If they were going to consider an in-year school move for their child about to begin two years of GCSE work, they may already have made this decision and by 2014 will have had three years to move their child. Those parents with children in primary school will be more likely to decide upon school admission during the normal school admission process. I am unconvinced therefore that a reduction in the PAN is going to have the effect of reducing in-year admissions that the school seeks to achieve by this action.
25. The local authority has agreed with the school to support efforts to reduce the number of students whose parents seek to move them from their existing school to the academies where there is no change of address. The local authority attendance and behaviour team contact the parents to discuss with them whether their wish to change schools in-year (sometimes at a very late stage in their child's education) is in their child's best interests and to explore this with their existing school. This is a positive action that will help to ensure that if parents are taking

action, they do so having considered the possible outcomes of their decisions to seek to move their children from one school to another.

26. In addition to the arguments already discussed, the local authority draws attention to the capital funding and the fact that the school building has been designed for a PAN of 300. It argues that it is perverse to be reducing capacity in an improving school from a level that the school was built and funded for. The local authority is concerned that there is a risk that at the point of the numbers requiring places to be available at the school, the school will seek additional resources to provide the places that have already been funded. The school has made no suggestion that there would be any future disagreement about the capacity calculation for the school and has said that it will monitor the pupil number forecasts year on year and will increase the PAN when the numbers increase.
27. Paragraph 14 of the Code says “parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated”. The arrangements for this school are not difficult to understand, but it is clear that some stability is required in the area following the changes that took place in 2011. The school was designed and built for a PAN of 300 and the school has indicated that this is not the subject of any disagreement. If this is the case, I am left concerned that parents will see the change as creating instability rather than stability.
28. I have concluded that I am unconvinced by the argument that in-year admissions will be limited by this reduction in PAN and there is a separate process of in-year admissions that may be necessary through the fair access protocol. If I am right in this and the reduction will not reduce in-year admissions then the counter argument about ensuring that parents clearly understand the admissions arrangements becomes a stronger one. In my view, the stability that the school seeks will be better achieved by keeping the admissions arrangements unchanged and by working with local parents to discourage in-year moves.
29. I have considered other factors that may be important in this case. The first of these is the impact on other schools. Whether or not the PAN is reduced will not lead to oversubscription in other schools based upon the figures provided and apart from those made by the local authority there have been no comments from other bodies about this proposal.

## **Conclusion**

30. The local authority made two arguments about this proposed reduction in PAN at the school. The first was that it would reduce capacity and lead to a potential shortage of places in the area. I have considered the figures provided and do not think that they support this argument. The second is that a reduction in PAN would reduce the opportunity for parents to gain their first preference for a school. I do not think there is

sufficient information to be able to reach a firm conclusion about this argument, but it is self-evident that if there are more places available then it is more likely that parents will allocated there highest preference of school.

31. The school argues that the reduction will allow it to reduce in-year admissions. I have not been convinced by this argument. The figures show a reducing trend for in-year admissions and the proposed PAN reduction would only operate for admissions to Year 7 in 2014. As the school has capacity for more pupils each request for an in-year place would need to be considered and would not be limited by a change to the PAN.
32. The final argument was that school was designed and funded for a PAN of 300 and it is perverse to be seeking a reduction after the capital funding has been spent. While it is clear that the school is not in disagreement about the capacity of the building there is a question about stability within the area and parental views about the schools in the area. The balance of the matter is therefore tipped for me by the declared wish for stability which is more likely to be attained with stable and unchanging admission arrangements. For this reason I uphold the objection.

### **Determination**

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for the St Leonards Academy determined by the Board of Governors for the Hastings Schools Trust.
34. 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 as quickly as possible.

Dated: 11 September 2013

Signed:

Schools Adjudicator: David Lennard Jones