



DETERMINATION

Case reference: ADA3256

Objector: Royal Borough of Windsor and Maidenhead

Admission Authority: The Upton Court Educational Trust for Trevelyan Middle School, Windsor

Date of decision: 19 June 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the Upton Court Educational Trust for Trevelyan Middle School in Windsor.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters which do not conform with the requirements relating to admission arrangements.

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 unless an alternative timescale is specified by the adjudicator. In this case I specify a deadline of 30 September 2017.

The referral

- 1. The admission arrangements for September 2018 (the arrangements) for Trevelyan Middle School (the school), an academy school in Windsor for pupils aged between 9 to 13 years, were referred to the Office of the Schools Adjudicator by an objection made by the Royal Borough of Windsor and Maidenhead.**
- 2. The referral concerned the reduction of the published admission number (PAN) from 150 in previous years to 120 for admissions in 2018.**

Jurisdiction

- 3. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. The admission authority for the school is the Upton Court Educational Trust which determined the arrangements for September 2018 on 8 February**

2017. I am satisfied that it is within my jurisdiction to consider the objection.

4. I have also used my power under section 88I of the Act to consider the arrangements as a whole as it appeared to me, when I considered the arrangements, that there may be other matters that do not conform with the requirements for admission arrangements.
5. In this determination the parties to the objection are:
 - a) Trevelyan Middle School (the school);
 - b) the Upton Court Educational Trust (the trust) which is the admission authority for the school; and
 - c) The Royal Borough of Windsor and Maidenhead (the local authority) which made the objection and which is the local authority for the area in which the school is situated.

Procedure

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
7. The documents I have considered in reaching my decision include:
 - a. the form of objection and accompanying information dated 13 March 2017, and further information provided by the local authority;
 - b. the response of the trust to the objection and my questions, and supporting documents;
 - c. information available on the school's and the local authority's websites;
 - d. maps of the area showing relevant schools, the catchment area for the school for admission in 2017, and the home locations of pupils in each of the year groups currently attending the school;
 - e. extracts from minutes of meetings of the local governing body and the minutes of the meeting at which the trust determined the arrangements; and
 - f. a copy of the determined arrangements (the arrangements).
8. I have also taken account of information received during a meeting I convened on 20 April 2017 at the school with representatives of the school; the trust; and the local authority (the meeting).

The objection

9. The objection is to the reduction of the PAN for the school from 150 in previous years to 120 for admissions in 2018. The local authority

has made this objection as its forecasts show increasing numbers of Year 5 (Y5) children in Windsor and a need for all the school places available for Y5 in 2017 and more. The local authority is in the process of expanding another middle school in Windsor and plans to create further places in order to meet the anticipated increase in demand. The reduction in PAN at the school would reduce the number of places available by 30 annually and leave unused capacity at the school. The objection says the reduction would make it necessary to invest in building at other schools in order to provide the places needed. The local authority argues that this is not a good use of public funds and that it is not in the interests of the educational provision in the area.

Other matters

10. In reviewing the arrangements I noted that there were other matters which could be in breach of the requirements relating to admissions. These other matters are (with the appropriate paragraph of the Code in brackets):
- 1) criterion 2 of the oversubscription criteria is, "*Children with exceptional medical or social reasons for requiring the school.*" It is not clear how this will be defined or what supporting evidence will be required to meet this criterion (14 and 1.16);
 - 2) there appears to be a lack of clarity with regard to the catchment area (14, 1.8 and 1.14);
 - 3) criterion 5 includes feeder schools which are not named (14, 1.8, 1.9b and 1.15);
 - 4) the feeder schools may not have been selected on reasonable grounds (1.15);
 - 5) the priority for those attending a feeder school includes that a child must have been attending the feeder school for at least two years. This may not be clear (14 and 1.8) or fair (14); and
 - 6) criterion 7 of the oversubscription criteria is, "*children of staff who have been employed by Upton Court Academy Trust for two or more years.*" Paragraph 1.39a of the Code allows priority to children of staff who have been employed at the school so this criterion may not meet the requirements of the Code (1.9f and 1.39a).

Background

11. Trevelyan Middle School is in the town of Windsor which has a first, middle and high school system, sometimes called a three tier school system. There are 14 first schools in Windsor which cater for children until they reach the end of Year 4 (Y4). Trevelyan Middle School is one of the four middle schools in Windsor; the middle schools admit children at the beginning of Y5 and make provision until the end of Year 8 (Y8). There are two high schools, one for girls and one for boys, which admit children from the beginning of Year 9 (Y9). The schools in the surrounding areas are primary and secondary schools. I have been informed that some parents choose to change schools so that their children attend a secondary school in

a neighbouring area from the beginning of Year 7 (Y7) but that most stay on at a middle school and then attend the local high schools. In addition, I have been told that a significant proportion of the children in the local authority area, around 15 to 20 per cent, leave the state-funded system at some point to join one of the many local independent schools.

12. The local authority described itself as a small authority. Slough is a neighbouring local authority area and the town of Slough is about five miles from Windsor. This is relevant to the increasing demand for places in the area and is discussed below.
13. The school has had a PAN of 150 and four year groups. If it admitted up to PAN each year it would accordingly be providing for 600 pupils. It has some specialist rooms and teaches all years on a secondary school timetable with specialist staff. The teaching groups are mainly the same as the tutor groups with classes set for maths and split for practical subjects. Building work, funded through the local authority, is currently in hand to address space difficulties with some smaller classrooms. There is no disagreement between the parties that the school can physically accommodate 600 children.
14. The school converted to become an academy on 1 November 2016. It is part of the Upton Court Educational Trust, a multi academy trust, together with Upton Court Grammar School and Foxborough Primary School, both situated in nearby Slough. The arrangements for the school for admissions in 2017 were those determined by the local authority when it was a community school. In summary the oversubscription criteria were:
 - 1) Looked after children and previously looked after children.
 - 2) Children with exceptional medical or social needs for requiring the school.
 - 3) Children living in the designated area and who have a sibling at the school.
 - 4) Children living in the designated area.
 - 5) Children who have a sibling at the school.
 - 6) Children who attend a feeder first school.
 - 7) All other applicants.
15. There is a local governing body for the school which has the power to make recommendations to the trust for decisions. The local governing body recommended that there was a consultation on reducing the PAN to 120 for 2018. A consultation on this basis duly took place with the consultation letter explaining that the school had not reached its PAN for many years. The consultation letter said, *“Even with a significant influx of out of borough children we often don’t get near to a 4 form entry school (sic) rarely the published 5 form entry. As a result the school suffers greatly from a 20% mobility rate as often out of borough family’s (sic) move when a more local place comes available.”* The letter continued to say that one effect of

this is that *“on average each year the school is under funded by - £166,286. This has significant impact on the resources the school can employ to meet the needs of the pupils within the school.”*

16. Representatives of the local authority visited the school on 16 January 2017 to express their concerns about this proposal to reduce the PAN. The local authority provided data and its analysis of the reasons for the need for 150 places each year at the school and made clear that if a PAN of 120 were set it would make an objection. I return to the details of the data and analysis under my consideration of the objection below.
17. The local governing body met on 26 January 2017, considered the responses to the consultation and agreed to propose the reduced PAN to the trust. The trust met on 8 February 2017 and determined the arrangements with a PAN of 120. The oversubscription criteria in the arrangements were determined as:

- “1. Looked After children or children who were previously looked after but immediately after being looked after became subject to an adoption, residence, or special guardianship order.*
- 2. Children with exceptional medical or social reasons for requiring the school.*
- 3. Children living in the RBWM (Royal Borough of Windsor and Maidenhead) catchment area with siblings at the School.*
- 4. Children living in the RBWM catchment area.*
- 5. Children attending First or Primary Schools in the RBWM for at least 2 years.*
- 6. Children with siblings in the School.*
- 7. Children of staff who have been employed by Upton Court Academy Trust for two or more years at the time at which the application for admission to the school is made.*
- 8. Any other children.”*

18. The local authority submitted its objection to the reduction in the PAN on 13 March 2017. Following the meeting the trust provided me with proposed amended arrangements which address some of the other matters raised in this determination.

Consideration of case

19. The school has determined a PAN of 120. The local authority has objected on the grounds that there is a need for 150 places in 2018 and the following years. The local authority's data and analysis of the data on the projected demand for places in the area were provided to the school during consultation; an updated version of this material was provided to me and shared with the school as part of the objection. The data and analysis included:
- a) the previous numbers on roll and surplus places at the school and the other middle schools in Windsor;
 - b) the numbers of children leaving and joining the middle schools in the 2015/2016 academic year;

- c) demographic and pupil projections for Y5 for the town of Windsor;
- d) the number and percentage of children in the first schools in Windsor expressing a first preference for the school over several years with projections for future years;
- e) trends over time in first and other preferences for the school;
- f) projections of the effect of the reduced PAN at the school for the provision of education in the area including capital cost implications;
- g) information on the capacity at the school; and
- h) national and borough level demographic data.

20. The local authority's analysis shows a need for a minimum of 150 Y5 places at the school in 2018 and in subsequent years until 2022. The analysis also illustrates the need for additional places in Windsor. The local authority stated that the removal of 30 places would increase the projected shortfall of places in Y5 in 2018 and so require further capital investment estimated at £2.2 million to address the increase in the shortfall.

21. The trust told me that it was not convinced by these figures because of previous experiences where the local authority's projections had shown increased demand for places but the school's intake had remained well below its PAN. The trust explained that the school had been staffed on the basis of previous projections; these numbers had not then materialised and this had created financial pressures for the school. The trust explained that it had offered to maintain the school's PAN at 150 if the local authority were to provide a guarantee that the school would be funded on the basis of having at least 143 Y5 children. The trust also made an alternative offer to set its PAN at 120 but to admit in excess of this and create an extra class if demand materialised sufficiently to justify this at a later stage.

22. The local authority said at the meeting that it had explored the request by the trust to alter the funding formula to guarantee that the school would be funded as if it had at least 143 Y5 children irrespective of actual numbers. However, the local authority had concluded that this was not feasible because of the effect on other schools. The local authority also explained that setting the PAN at 120 with the possibility of going over the PAN if needed would create uncertainty for parents and the local authority. The local authority had a statutory duty to make sufficient places available but would have no certainty of being able to do so. In its objection the local authority said, *"this commitment [to exceed PAN] could be changed without notice by new leadership at the school and/or trust, which could leave the local authority with little time to make alternative arrangements."*

23. I note that the only PAN binding in law is that determined by the admission authority, and that this would include a PAN varied in response to a determination by the adjudicator. The local authority

said at the meeting that it had been assured by another admission authority that it would take children over its PAN if additional places were needed but in the event the admission authority had refused to do so. The local authority explained that it needed to have certainty in order to meet its statutory obligations to provide sufficient school places.

24. The trust gave its reasons for reducing its PAN as:

- 1) The school has had spare capacity in all four year groups for seven years. The number of empty places in that period has ranged from 94 to 178. This has affected the school's resources so that it is, in the trust's words "*underfunded*", on average, by £166,286 per year. This affects how the needs of the pupils can be met.
- 2) The school has experienced turbulence as children allocated places there, because they could not secure places at preferred schools, have left when places at those preferred schools became available. The trust considered that this was particularly the case in respect of children from out of the borough who had been allocated a place at the school. Reducing the PAN would therefore, the trust argues, reduce "*the turbulence within the school, which affects its pupils, their parents as well as the staff.*"
- 3) The data from the local authority shows that there will be a peak of admissions in Y5 in 2017 and then the numbers will reduce again. The trust viewed the local authority figures as "*over ambitious on numbers by an average of 8% which equates to 41 unused places.*"
- 4) There was currently an expansion of other middle schools in Windsor, a local secondary school had improved its results and there may be free schools opening in Windsor and Slough. This would create additional capacity so the school was not likely to admit 150 children.
- 5) Reducing the PAN at the school would make it run more efficiently, make sure it had a higher proportion of local children and help fill up other schools as the numbers reduced.

25. I have considered the matters raised by the trust in the order above.

Financial effect of surplus capacity

26. Historically, the school has had significant surplus capacity. The school admitted fewer than 150 children to Y5 in each year between 2009 and 2015. The shortfall in each year varied between 25 and 51 places. The effect of this has been capacity, or surplus places, in all year groups for several years. The lowest number on roll was the school year 2012/2013; the January 2013 census shows 363 children at the school; this meant that there were 237 surplus places. In September 2013, there was an increase in the numbers admitted into Y5 from 99 in 2012 to 121 in 2013. It is likely that more children would have joined the school in September 2013 but the local authority increased the number of places at another, more popular, middle school by 30 and all these places were taken up. It seems

reasonable to assume that if the other school had not been expanded then the school could have filled to PAN in 2013. This was acknowledged as an error by the local authority and is one of the factors that has made the trust sceptical of the figures provided by the local authority.

27. In relation to this, I note that the local authority said that it needs a proportion of surplus places (between five and ten per cent) across the area in order to fulfil its duty to make sure that there are sufficient school places to meet demand. The local authority has also acknowledged that the majority of these surplus places have been at the school, not spread across the middle schools. I note that in urban areas surplus places tend to be concentrated in relatively less popular schools. The figures for the academic year 2012/2013 show ten per cent surplus capacity in Y5 across the middle schools and that virtually all of this capacity was at the school (51 out of 60 surplus places). Since then the surplus capacity across the Windsor schools for Y5 has reduced until the academic year 2016/2017 where there is minimal spare capacity. The other three middle schools have pupil numbers above their PAN and the only three vacant places in Windsor in the current Y5 are at the school. This provides very little flexibility for the local authority to meet any demand for additional places.
28. The uncertainty in numbers has led to several challenges for the school. I was told at the meeting that the school had previously contracted staff on the basis of the number of pupils allocated places in March only to find that in the following September fewer children actually joined the school. The result was the school was overstaffed for the number of pupils. This will have had a negative effect on its budget as schools are funded mainly on the number of pupils on roll. Children will have joined the school as there were no places available elsewhere and then may have left as places became available at more popular schools. In this situation the school found it hard to manage its class structures and teaching capacity as the numbers of pupils fluctuated. This will have had financial implications and will have created challenges for teaching and learning.
29. The local authority provided data on previous years. This shows the number of places allocated on allocation day in March compared with the number who joined the school in the September. For entries in 2015 there was a significant decrease: 138 offers were made on allocation day and 122 joined the school in September 2015. This is a difference of 16 places.
30. In the three years previous to 2015 the annual difference between the number of children allocated places and the number of pupils subsequently admitted to Y5 had been about six pupils, in one year this was an increase of six and the other two years a decrease of five and six. The uncertainty around numbers could have meant difficulty in knowing how many classes for which to plan. The difference in the

cost of running four or five classes is significant and the uncertainty would have been challenging for the school.

31. For admissions in September 2016, 155 children were allocated Y5 places at the school, which is five over PAN. In the event 147 children joined the school in Y5 and on the day of the school census in January 2017 there were 148 Y5 pupils on roll so in the current Y5 the school is operating at close to PAN. The trust agreed that this was a healthy number.
32. At the meeting the local authority pointed out that the school had had a carry-forward of around £100,000 in most recent years despite these challenges. The trust provided information to show that it currently had an in-year deficit of more than this figure. I note that every school makes different decisions with regard to its finances, that variable pupil numbers will cause financial challenges for any school and that any deficit is likely to stem from more than one factor. The trust said at the meeting that staffing for Y6, Y7 and Y8 had been easier for the school as there was greater certainty over numbers.
33. I note that in the past volatility in numbers has contributed to financial challenges for the school. This is not evidence that reducing the PAN to 120 for September 2018 is justified.

The contributions of relative unpopularity and surplus capacity to a high turnover of pupils

34. The trust said, as described above, that its relative unpopularity meant that some children who joined the school would have preferred a place at another school. Children joining the school as there was not a place at their preferred school could do so in all years as there were spaces throughout the school. The trust said that these children would be likely to move when a place became available at a school they preferred. The trust thought that this was particularly the case for out of borough children for whom a place nearer home might become available. The trust said that this made planning difficult and increased the turnover of children in all years as children left and other children, possibly new to the area, joined. The trust said that one indication of this pattern of behaviour was a relatively low and slow level of acceptances of offers of places following allocation day. This is part of the case the trust made for reducing its PAN as it believed the school's lack of popularity contributed to a situation where children might join the school and then leave thus making planning and managing difficult.
35. In order to test these concerns, I asked the local authority for information on: the number of children allocated places compared to those who had accepted places at this and other schools; the percentage of children living out of borough at this school compared to other schools; and maps which showed the home location of children at the school in all year groups.

36. The local authority provided me with data as at 20 April 2017 showing the numbers of children who had been offered and accepted places at the school for 2017 and comparable figures for the middle, upper and secondary schools in the borough. This data showed that 87 per cent of offers for the school had been accepted. For the other schools this percentage ranges from 97 to 63 per cent, so the school falls well within the range. This provided no evidence that for admissions in 2017 the school is likely to have a greater disparity between offers made and places accepted than other schools. By extension, it provides no evidence that for 2017 parents were slower (and by implication more reluctant) to confirm their acceptance of a place at the school compared with other schools. This may not have been the case in previous years. Based on the evidence available to me, I do not think it likely that for admissions in 2018, the school is likely to experience a greater fall between the number of places offered and allocated on the one hand and the number of pupils admitted than will other schools.
37. I also received data from the local authority on the proportion of children living outside the borough and attending the school. This allowed me to assess the trust's view that the proportion of out of borough pupils meant that the school was likely to have higher turbulence resulting from such children being more likely to leave if a place became available nearer home. The data showed that the whole school, as at the January 2017 census, had a lower proportion of children (17.5 per cent) coming from out of borough than about a third of the schools in the local authority area (or higher than two thirds of schools). I do note that the school had the highest proportion of out of borough children of the four middle schools.
38. The maps provided showing the home location of children at the school in each of Years 5, 6, 7 and 8 illustrate the proportion of children who live out of the borough. The map of the current Y5's home addresses shows that possibly a higher proportion of children come from out of the borough than for the older years. This could reflect pupils' having left the school in later years for the reasons posited by the trust or for other reasons. However, the trust said that the number for the children who joined the school in Y5 in 2016 has remained stable and nearly at PAN. This suggests to me that admitting a relatively high proportion of children who live outside the borough does not necessarily indicate that the school will subsequently see a reduction in overall pupil numbers in that year group.
39. The data shows that in previous years some of the children admitted to the school had not put the school down as one of their preferences; they were allocated a place there because no place had been available at any of the schools for which they expressed preferences. The trust said that these children were likely to leave the school when a place at a preferred school became available.

This would increase the turbulence and make managing the school harder. It is likely that this has occurred in previous years; there is no evidence that this has occurred for those pupils in the current Y5 at the school.

40. This evidence suggests to me that the school can retain children who live outside the borough but that in previous years more such children may have joined the school in all years and then left the school. The trend data on the number of first preferences shows that for some years the school was the least popular middle school in Windsor (out of four). However, based on applications for admission in 2017, it is the second most popular.
41. The local authority suggested that the school had become less popular following a judgement by Ofsted that the school required improvement in a report published in February 2015. Applications were made by 15 January 2015 so this information was published after parents had made their applications. This may explain the sharper drop between allocations and admissions in 2015.
42. The trust pointed out that the school still had a 'requires improvement' judgement and its admissions had been healthy in 2016; the trust appeared to imply that the Ofsted judgement was not significant in terms of popularity. I note that a school can lose popularity following a negative judgement by Ofsted but that it can improve its reputation among the local population, and thus its popularity, without Ofsted re-inspecting the school and judging it good or better.
43. All the children who have been allocated a place at the school in 2017 have put it as their first or second preference. There were 119 first preferences and 30 second preferences expressed leading to 149 children being allocated places. At the meeting it was confirmed that 149 children were still allocated places for 2017. In its response to the objection the trust said that the 30 parents who had put the school as a second preference would find a school elsewhere and so the school would be under PAN again with only 119 children admitted in 2017. The local authority expressed the view that those who had made a second preference for the school had put a school as their first preference for which there was no chance of securing a place. The local authority was therefore confident that there would be close to 149 places taken up at the school in September 2017. This would be a similar pattern to 2016. Based on the available evidence it appears that the PAN of 150 was appropriate in 2016 and 2017.
44. Those present at the meeting agreed that the evidence of admissions in 2016 and what is known now for 2017 shows the school becoming more popular. The numbers of children in the area have increased and the school has attracted a higher proportion of that larger number of children in 2016 and 2017.

45. In the academic year 2015/2016, 80 children were admitted in-year to the school. In-year admissions for the school are those other than at the beginning of Y5 which is the school's normal point of admission. It is the case that all the middle schools in Windsor experience some mobility with children leaving and joining. The other three middle schools had more children leaving than joining them. A similar number of children proportionately left the school. The difference for the school is that more children have been able to join the school because of its surplus places than has been the case for the other schools; the local authority estimates that the number of children joining the school in-year has been nearly double that of any other middle school. This again makes it difficult for the school to plan effectively as the pupils may come and go and the numbers of pupils fluctuate.
46. The school has three surplus places in the current Y5. There is therefore not the same opportunity for children to move into the school in Y5. The evidence for the incoming Y5 for September 2017 is that there will be near to 150 children again. Again, this will reduce the scope for other children to move into the school in Y5 at least as there will be few surplus places available.
47. At the January 2017 census there were 506 pupils at the school so there was capacity for another 94 pupils. This means the school had 15.7 per cent spare capacity. The local authority's document said that it has needed capacity and if the PAN had been reduced to 120 previously then there would have been several occasions when the local authority could not have fulfilled its duty to provide places. The local authority recognised that managing surplus places and the movement of children in and out of the school has been very difficult for the school to manage.
48. The school's numbers have increased overall as higher numbers admitted to Y5 are progressing through the school. In October 2016 there were 131 pupils in Y6. This gave a surplus of 19 places which is 13 per cent. The 147 pupils currently in Y5 gives a surplus of three places which is 2 per cent. For both years this is less than for the school as a whole and shows a reducing trend in terms of surplus capacity.
49. As noted in the background section, some children in Windsor middle schools leave at the end of Y6 to join secondary schools outside the town which admit pupils at the beginning of Y7. Some may have moved to a grammar school in nearby Slough as well as the local secondary school. The local authority said that, "*some, but by no means all, of this movement is out of Trevelyan Middle School.*" This movement will have increased the number and proportion of surplus places in the school. My concern, however, is with the likely numbers needed for entries into Y5 in 2018. Surplus places in other years, partly because of movement out of the school for a variety of reasons, is not directly relevant to admissions to Y5 in 2018.

Peak in numbers in 2017 and growth in school places available elsewhere

50. The trust said that the data showed that the numbers would peak for admissions in 2017 and then drop. Part of the basis for this assumption was that the local authority was expanding other middle schools, a local secondary school was improving its results and it was planned that there would be new free schools in Windsor and Slough.
51. I am concerned with the number of places in Y5. The trust provided no other information to support its case with regards to the effect of the secondary school, which would admit children in Y7, not Y5, so I have not considered this aspect further. At the meeting the local authority gave its firm understanding that no new free school was expected to open in Windsor in time to affect admissions in 2018. The local authority acknowledged that a free school was likely to open in Slough in time to affect admissions in 2018. It also pointed out that, while several free schools had opened in Slough in recent years, Slough local authority was still seeking additional capacity to meet the demand for places from the increasing numbers of children living in its area and that the opening of these schools had had negligible effect on the demand for pupil places in Windsor. Overall, the local authority explained that the effect of the number of children and schools in Slough on pupil places was to increase demand for places in Windsor as opposed to reducing it. The trust did not counteract this view with any other evidence and so I have discounted the potential effect of the opening of new schools on the demand for places at the school.
52. The local authority has increased the number of places by 30 for Y5 in Windsor for 2017. Out of the 480 places now available, 475 have been allocated for 2017 even with this expansion. The local authority plans further expansion of places with an additional 30 places at another middle school for admissions in 2018. The local authority has made this investment due to its projections of pupil numbers which are informed by the birth rate, health authority data, the number of pupils attending the first schools, and the trends in the proportion of pupils attending first schools being admitted to middle schools. The evidence shows that the local authority could have been at risk of failing to meet its statutory duty to make sure that it had secured sufficient places for providing education in Y5 unless it had taken steps to increase capacity. I have found the figures provided by the local authority, which show the need for places in 2018, convincing and saw no evidence that the numbers seeking Y5 places would peak in 2017.
53. The local authority has also provided information on its draft local plan which includes plans to build an additional 14,000 dwellings in the local authority area by 2033 with around 2,500 in the plan period likely to be built in and around Windsor. The local authority has estimated that this will further increase the demand for Y5 places but

acknowledged that the increase will not affect the likely numbers for admission in 2018.

A lower PAN would make the school more efficient

54. The trust said that reducing the PAN at the school would make it run more efficiently, make sure it had a higher proportion of local children and help fill up other schools as the numbers reduced. I have explored the information on future school numbers and judged that there are likely to be around 150 children seeking a place at the school in 2018. This will help it to run efficiently as the trust has argued that it is being below PAN that has caused it problems in efficiency. Reducing the PAN would mean places at the school would go in the main to those who live close to it (assuming that the admission criteria remained the same). There is no evidence that the other local schools need help to 'fill up' as the demand is high for all the middle schools. As there is a need for 150 places at the school there is insufficient justification in reducing the PAN in order to make the school more efficient and admit children only from the immediate area of the school.

Summary with regard to reducing the PAN to 120

55. I have considered all the matters brought to my attention by the trust and the local authority. I have found that the case made by the trust for reducing the PAN to 120 in 2018 at the school is insufficient given the evidence provided by the local authority that 150 places are needed. Historical difficulties have existed for the school but the evidence shows that the situation will be different for 2018. The number of children admitted to Y5 in 2016 and the number of children putting the school as a first or second preference for admission in 2017 support the local authority's case that a PAN of 150 is necessary for 2018. There is no evidence of a reduction in demand following a peak in 2017. I therefore uphold the objection to the reduction in the PAN to 120.

Consideration of other matters

Exceptional medical or social reasons for requiring the school

56. Criterion 2 of the oversubscription criteria is, "*Children with exceptional medical or social reasons for requiring the school.*" Paragraph 1.16 of the Code says, "*If admission authorities decide to use social and medical need as an oversubscription criterion, they **must** set out in their arrangements how they will define this need and give clear details about what supporting evidence will be required (e.g. a letter from a doctor or social worker) and then make consistent decisions based on the evidence provided.*" No such information was available in the arrangements. At the meeting the local authority offered to provide its wording on this matter to the trust and I see that the proposed amended arrangements include information on this matter. This is welcomed.

The catchment area may not be clear

57. Criteria 3 and 4 of the oversubscription refer to “*children living in the RBWM catchment area.*” There is an explanatory footnote which says, “*The School’s catchment area comprises the Royal Borough of Windsor and Maidenhead. A map showing these areas is included in the Royal Borough of Windsor and Maidenhead Borough admissions booklet and is published on the school’s website, and it is separately available from the school.*” There was no map available on the school’s website when I looked. The wording in the criteria gave me the impression that the catchment area was the same area as that of the area of the local authority which is different from the catchment area used when the school was a community school. The trust has told me that the catchment area had not changed from when the school was a community school. This is not clear from the arrangements.

58. Paragraph 1.14 of the Code says, “*Catchment areas **must** be designed so that they are reasonable and clearly defined.*” Paragraph 14 of the Code, as quoted above, requires that arrangements must be clear. The arrangements with regard to the catchment area are not clear or clearly defined and so the arrangements do not comply with the Code in this regard.

The feeder schools are not named

59. Criterion 5 in the oversubscription criteria for the school is, “*Children attending First or Primary Schools in the RBWM for at least 2 years.*” Paragraph 1.9b of the Code says that admission authorities **must not**, “*take into account any previous schools attended, unless it is a named feeder school.*” The arrangements do not name any feeder school so the trust does not comply with the Code in this regard.

The feeder schools may not have been selected on reasonable grounds

60. Paragraph 1.15 of the Code says, “*Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.*” The relevant criterion refers to “*First or Primary Schools in the RBWM.*” I asked the trust to explain why it had all the first and primary schools in the Royal Borough of Windsor and Maidenhead as feeder schools to the school. The trust did not give me a reason.

61. The school is a middle school; it admits children to Y5 and offers provision through to the end of Year 8. Children attending those local primary schools which are first schools join in Reception (YR) and would expect to remain there until the end of Year 6. It is not logical or reasonable to name a primary school which itself caters for two of the four year groups covered by Trevelyan as a feeder school to

Trevelyan. Very few, if any, children are likely to transfer to the school from a primary school which is not a first school. The trust has not provided me with a reason for why primary schools, other than the first schools, have been selected as feeder schools to the school. The arrangements therefore do not comply with paragraphs 1.15 of the Code.

62. The trust provided me with a list of the schools that it intended to name as feeder schools in its proposed amended arrangements. The schools named were most of the first schools in Windsor. The trust told me that it intended to name these schools as historically the school had admitted children from these schools. The trust has also told me that the local authority is reviewing its naming of feeder schools in its arrangements and that the trust intends to replicate the local authority's approach. My jurisdiction is limited to the arrangements as currently determined and does not extend to possible varied arrangements that I have not seen. I cannot comment on such putative arrangements. I can say that the trust will in varying its arrangements to conform with this determination need to make sure that any feeder schools in its arrangements are named and are selected on reasonable and transparent grounds. The choice of feeder schools will also need to comply with paragraphs 14 and 1.8 which are concerned respectively with the fairness, clarity and objectivity of the arrangements and with the reasonableness, clarity, objectivity and procedural fairness of the oversubscription criteria.

A child must have been attending the feeder school for at least two years

63. The criterion for those attending a feeder school includes that the child must have been attending the feeder school for at least two years to have a priority. This is unclear because it is not explained from when the two years is measured. For example, this could be from joining the feeder school to the time of the application or the allocation day or to when the child is due to start at the school. This is not clear as required by paragraph 14 of the Code.
64. In addition, I find this aspect of the arrangements to be unfair as I can see no justification, nor has the trust provided any, for giving higher priority to a child who has attended the first school for two years than to a child who has more recently joined the first school. This does not comply with paragraph 14 of the Code. In response to my questions on these matters the trust has told me that it intends to end this requirement in the criterion. This is welcomed.

Children of staff

65. Criterion 7 of the oversubscription criteria is, "*children of staff who have been employed by Upton Court Academy Trust for two or more years.*" Paragraph 1.39a of the Code allows priority to children of staff, "*where the member of staff has been employed at the school for two or more years at the time at which the application for*

admission to the school is made,” The arrangements, however, refer to those employed by the Upton Court Academy Trust and does not limit the priority to those employed at the school. The Upton Court Academy Trust includes other schools and widening the priority in this way does not comply with the Code. The proposed amended arrangements have changed this criterion so it limits the priority to those working at the school. This is welcomed.

66. I have noted and given credit to the trust for the changes introduced in its proposed amended arrangements where they conform with the Code. The Code requires that the arrangements be varied as set out in this determination in order to comply with the requirements relating to admissions. Paragraph 3.1 permits an adjudicator to specify the date by which an admission authority **must** revise its arrangements to give effect to an adjudicator’s decision. In considering this matter I have taken several factors into account. These factors are:
- a) the proximity of the school summer holidays which can affect the decision making capacity of trusts;
 - b) the expressed wish of the trust to work with the local authority on the naming of feeder schools; and
 - c) the desirability of the new determined arrangements being published before 31 October 2017 which is the date by which applications for middle schools have to be made for 2018.

In this case, to allow the time for the trust to consider its arrangements and to make sure that parents know in good time for applications, I have decided that it is necessary that the arrangements be revised by the trust by 30 September 2017.

Summary of findings

67. There has been a historical surplus of places at the school which may have justified a reduction in PAN from 150 to 120. However, the local authority’s evidence on recent and forecast demand shows that there is a requirement for 150 places at the school for admission in 2018. I have accordingly upheld the objection and the PAN for 2018 must not be reduced from the 150 which applied in 2017.
68. There are other matters, as detailed above, which do not comply with the Code and the Code requires that the arrangements are varied so that they do comply

Determination

69. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the Upton Court Educational Trust for Trevelyan Middle School in Windsor.
70. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters which do not conform with the requirements relating to admission arrangements.

71. 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 unless an alternative timescale is specified by the adjudicator. In this case I specify a deadline of 30 September 2017.

Dated: 19 June 2017

Signed:

Schools Adjudicator: Deborah Pritchard