



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3258

Objector: The governing body of Mossley Hollins High School, Tameside

Admission Authority: Tameside Metropolitan Borough Council

Date of decision: 23 August 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by Tameside Metropolitan Borough Council for Mossley Hollins High School, Tameside.

The school and the local authority have agreed a way forward for September 2018 and I agree that these plans will allow the increase in Published Admission Number from 156 to 180 for September 2018.

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 the chair of the governing body of Mossley Hollins High School, the objector, about the admission arrangements (the arrangements) for the school, a community secondary school for 11 to 16 year olds in Mossley, Tameside for September 2018. The objection is to the increase in Published Admission Number (PAN) from 156 to 180.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by Tameside Metropolitan Borough Council, the local authority, which is the admission authority for the school. The objector submitted its objection to these determined arrangements on 14 March 2017. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 14 March 2017 and associated documents;
 - b. the local authority's response to the objection and associated documents;
 - c. net capacity calculations of pupil places for the last five years;
 - d. floor plans of the school building;
 - e. the local authority's statement about the school to the appeals panel for 2017 admissions and, at a later date and after the meeting, an addendum to this statement;
 - f. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017;
 - g. a map of the area identifying relevant schools;
 - h. confirmation of when consultation on the arrangements last took place;
 - i. copies of the minutes of the meeting of the local authority at which the arrangements were determined;
 - j. a copy of the determined arrangements;
 - k. further correspondence between the school and the local authority after the meeting I convened at the school on 28 April 2017;
 - l. a report of a meeting held at the school between the local authority and the school on 17 May 2017; and
 - m. further correspondence from the school and the local authority to the adjudicator following the 17 May 2017 meeting.

I have also taken account of information received during, and after, a meeting I convened on 28 April 2017 at the school. Present at the meeting were the Executive Headteacher, Headteacher and Chair of Governors of the school and the Head of Access and Inclusion and the Assistant Executive Director of Education from the local authority.

The Objection

5. The objector maintains that the increase in PAN from 156 to 180 is unfair and that the decision to agree this increase was based on inaccurate information. The objector cites paragraph 1.8 and section 3

of the Code. Paragraph 1.8 of the Code relates specifically to oversubscription criteria within admission arrangements and is therefore not relevant to this case. Section 3.3 includes the following provision: *“Any person or body who considers that any maintained school or Academy’s arrangements are unlawful, or not in compliance with the Code or relevant law relating to admissions can make an objection to the Schools Adjudicator. The following types of objection cannot be brought; c) objection about a decision by the admission authority of a voluntary controlled or community school to increase or keep the same PAN, unless the objection is brought by the governing body of the school.”* As this is an objection by the governing body to the local authority’s decision to increase the PAN and the local authority is the admission authority for the school, I have considered the objection under this section of the Code. I have also considered the objection under paragraph 14 of the Code which states that *“In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.”*

6. The objector says that the increase in PAN is unfair, unreasonable and discriminates against the current and future pupils at the school. The headteacher on behalf of the objector maintains that the information provided for the Executive Cabinet of the local authority upon which they made their decision to increase the PAN from 156 to 180 was inaccurate and therefore the decision is “invalid”. He says that inaccurate information was provided including a statement concerning the accommodation for pupils at the school and that this was contrary to the statement used by the local authority at hearings of the independent appeals panel considering appeals for places at the school. That statement reports that the school cannot accommodate more than 750 pupils whereas the paper to the Executive Cabinet reports that it can accommodate 900 pupils. He goes on to say that the capacity assessment of potential pupil places which was provided in support of the proposal to the Executive Cabinet was different from that which had been calculated since the school opened even though the school building remained unchanged from when it was built. He says that in the papers to the Executive Cabinet there is a statement that the school was built for six forms of entry and that this is inaccurate.
7. The second part of the objection concerns the Executive Cabinet’s decision to agree an increase in PAN for three schools in the local authority and to provide the other schools with additional buildings to accommodate the increase; the objector maintains this is unfair and discriminatory for pupils at the school. The paper agreed at the Executive Cabinet suggested that the increase in PAN would be temporary for eight years and the objector considers this to be unworkable.

Background

8. The school is a maintained secondary school with 788 pupils on roll. The DfE recorded capacity is 773 although this is one of the elements under scrutiny in this determination. For admission in September 2016 there were 221 first preference applications. The school's PAN in 2016 was 150. For September 2017, the PAN was raised from 150 to 156. The latest Ofsted inspection in November 2014 judged the school to be outstanding. It is a very popular school and is heavily oversubscribed each year. The school was transferred from its old buildings in 2011 into new purpose built accommodation erected under the Private Finance Initiative (PFI) scheme.
9. The local authority has calculated that there is a requirement to increase its secondary school places over the next eight years due to an increase in number of pupils in the primary schools. A consultation took place between 5 October 2016 and 11 November 2016. The consultation proposed increasing the PAN at all the secondary community schools in the local authority and included building proposals for the other schools to accommodate these increases. Responses from the school were sent to the local authority expressing serious concern about the proposals. A paper containing the proposals was put to the Executive Cabinet of the local authority on 8 February 2017 and the Executive Cabinet approved the proposals and determined the admission arrangements for the local authority community schools as required by the Code. The arrangements were then published on the local authority website.

Consideration of Case

10. In its response to the objection the local authority states that it is the local authority's belief that the school can accommodate the additional pupils. It explains the need to increase the number of school places and that with only a limited number of community secondary schools in the area it is necessary to increase pupil numbers at each of the schools. The local authority explains that the numbers of pupils attending the school's partner primary schools has increased and that, with current primary school PANs, the total number of pupils in year 6 as at the end of the summer term 2018 who are expected to transfer to secondary school in September 2018 will be 245. It also says that the birth rate has dropped and that numbers in lower years at the primary schools has decreased and suggests that the need for an increase in the school's PAN might be temporary.
11. The local authority explains the change in its assessment of the school's capacity by comparing this with other increases in PAN it has made in primary schools to accommodate the increased numbers. This has included the reclassification of community rooms or libraries as teaching spaces. It suggests that a similar review at the school will allow for it to accommodate the increased PAN. It suggests that the building regulations at the time of the new build were '*much more generous*' in terms of space per pupil than they are currently. The local

authority suggests that the increase in numbers can be accommodated by a re-designation of ‘non-net areas’ or circulation space, including subject break out spaces, as teaching spaces.

12. Key to this determination is the consideration of whether or not the school can accommodate 24 more pupils in Year 7 in September 2018. My jurisdiction in this case is limited to consideration of that question and whether the determined arrangements – including a PAN of 180 – are fair. The Executive Cabinet’s decision includes an increased PAN for eight years, but that wider question does not fall to me to consider here. Nor – in fact – can the local authority make such a decision now. Admission arrangements require determination each year. It will be open to the local authority to determine the same PAN in subsequent years or a different PAN (subject to the necessary consultation) for any subsequent year or years. Similarly, subject to the relevant provisions of the Code, it will be open to the governing body of the school to object to the PAN set for the school in a future year.

13. In any case, it is clear that in order to accommodate the increased number of pupils from the primary schools, the local authority must find additional places for the next eight years. The recent history of the school buildings is an important consideration. Prior to the start of the building programme, the school recommended to the local authority that the new school building should be designed to accommodate six forms of entry. It suggested that six forms of 30 pupils would be accommodated by a PAN of 180 and as an 11 – 16 school accommodating five year groups the building would therefore accommodate 900 pupils. This was rejected by the local authority and the planning application for the new building, which I have had access to, states “*Erection of 750 place school with associated car parking and landscaping*”. The PFI build was completed and the school building opened as a 750 place school in 2011.

14. I have been provided with four net capacity assessments which are summarised in the table below.

Date of assessment	PAN	Maximum workplaces available	Minimum Workplaces available	Net Capacity
July 2011	150	831	747	750
May 2015	156	831	747	780
February 2017	180	936	842	900
April 2017	180	908	817	900

The assessment in July 2011 was when the new school opened. The May 2015 assessment was when the PAN was increased from 150 to 156. The assessment in February 2017 was provided as part of the proposal to the Executive Cabinet and the assessment in April 2017 was provided for the meeting on 28 April 2017.

15. All parties agree that the school building has not changed since it was built in 2011. The paper which went to the Executive Cabinet with the proposals to increase the PANs of the community secondary schools shows that the calculations for the school had removed all circulation space (or 'non-net' areas) from within teaching areas. The floor area 'saved' from this amounts to 427 square metres. In addition four areas in the school known as 'home-base' areas in humanities, English, science and mathematics have been rescheduled as teaching spaces. (Also in this paper these areas were incorrectly assessed twice; an error which was corrected in the version tabled at the meeting on 28 April 2017). The remainder of the increase in basic workplaces assessed in this document is the change of use of three areas: the 'drum', (the three storey open entrance area of the school) the hall and the 'show and tell' room. All had been reclassified from non-teaching areas to teaching areas.
16. At the meeting on 28 April 2017 we spent some time looking at these specific areas and discussing whether or not it was feasible or desirable to convert these areas into teaching spaces. It became clear as we viewed these areas that some of them, most notably the drum and the hall were not suitable for this conversion. Humanities, English, science and mathematics departments are built around a home base area and small group and extension work is carried out in this area with pupils coming from the classrooms around it. In order for these areas to become teaching areas significant remodelling would need to be undertaken and circulation space maintained so that pupils can access classrooms and laboratories easily. In addition, consideration would need to be given to ensuring that following such remodelling, users of the building could move safely around the building including in the event of the need to evacuate the building.
17. During the meeting the local authority agreed that some remodelling work would be needed and the school and the local authority resolved to work together to try to find a solution to the need to provide for the increasing numbers of children in the area. The school was keen to be able to agree a solution and to take the increased numbers but felt that it was unable to do so without considerable remodelling and some building work.
18. I agreed to postpone completing this determination until the parties had met. I received a record of a meeting held at the school on 17 May 2017. Representatives from the school met with the development and investment personnel from the local authority. In this report the local authority agreed that Basic Need grant funding was available to support the necessary alterations although the amount was limited. The report lists six possible alterations; in order of the school's

preferences these were;

- i. The use of the roof at fourth floor level to create additional classrooms.
- ii. Enclosure of the area beneath the 'bridge' which is the main pupil access to create additional classrooms.
- iii. The conversion of a multi-materials area to create additional classrooms.
- iv. The change in use of the lecture theatre (show and tell) to additional classrooms.
- v. Conversion of the homebase areas into teaching areas.
- vi. Addition of mobile classrooms to the site.

19. Discussions and negotiations between the parties continued until the beginning of July and, according to both parties agreement was nearly achieved. I was sent a copy of the letter which the parties had hoped to agree showing notes explaining that there remain areas of disagreement between the school and the local authority. The remodelling work was planned in two phases; phase one would see either, both iii and iv (multi-materials area and lecture theatre conversion to classrooms) or vi (mobile classrooms) completed by August 2018. This phase was accepted by both parties and would create additional space for three classrooms which would accommodate an increase in PAN to 180 for the next three years. i and ii above (accommodation on the fourth floor and on the 'bridge') were deemed not viable by the local authority because of excessive cost. Phase two was not agreed. The local authority's preferred option for phase two was v. above (conversion of the homebase areas into teaching areas); the school was adamant that this would cause major circulation disruption to the school and wished this to be removed from the possible alterations. In addition, the school asked the local authority for indicative costs of the other alternatives but these were not forthcoming and without details the school did not feel in a position to agree phase two.

20. I received separate letters from the school and the local authority on 12 and 13 July 2017. The school explained its position as outlined in paragraph 18. The local authority's letter shows that it has moved a great distance since the proposals to the Executive Cabinet in February. It now acknowledges that some remodelling must be undertaken by the local authority in order for the school to accommodate the increase in numbers. The letter, from the assistant executive director, Education says that, *"the Council will remodel the lecture space and technology rooms to create three new classrooms which should enable the school to take 180 pupils for September 2018, September 2019 and September 2020. This then gives the council and the school a further three years to agree a way forward for subsequent*

years”.

21. My jurisdiction is for the admission arrangements for September 2018 and, having visited the areas and understood the agreed remodelling, I am of the view that a PAN of 180 can be accommodated for September 2018. I therefore do not uphold this, the key element of the objection.
22. Other elements of the objection pertain to the basis on which the decision to alter the admission arrangements was made and the paper which went to the Executive Cabinet on 8 February 2017. The objector maintains that this is unfair to the pupils at the school. The local authority, in its original response of 30 March 2017, maintains that the information presented to the Executive Cabinet was neither inaccurate nor false.
 - a) The paper states that *“the school was built to accommodate six forms of entry with 25 students per class”*. From the original papers this is clearly not the case; the school was built as a five form entry school with thirty pupils in each class. The school agrees that the timetable arranges year groups in up to six groups in order to facilitate teaching and learning. The local authority used this in its submission saying *“the school timetables its curriculum in six form groups in each year and that the increase in PAN in 2017 allowed for one more child per form group to be admitted.”* The submission extrapolates this to suggest that each of the six classes could accommodate thirty pupils. The school considers this inaccurate.
 - b) The objector considers that the net capacity assessment presented to the Executive Cabinet was inaccurate and misleading and contributed to the unfair decision to increase the PAN without modifying the school buildings. This was agreed by the local authority and it provided a revised document at the meeting of 28 April 2017.
 - c) The objector considers it unfair for pupils at the school that the proposals do not include any remodelling of the buildings. The submission states that no additional funding or internal remodelling was required to accommodate the increase in PAN at the school over the eight year period. The local authority has now agreed that this is not the case and stated in its letter to the appeal panels of 8 May 2017 *“... following a meeting at the school on 28 April 2017 at which all parties were present, it has been agreed that some remodelling is necessary to accommodate an increase”*.
 - d) The objector says that the submission to the Executive Cabinet is unfair because it suggests that the PAN increase is temporary and that it could be reduced to the current levels after eight years. The school is oversubscribed and popular and it would be very difficult to persuade parents at appeal that a school which had accommodated 180 pupils in one year group would

suddenly revert to a PAN of 156. At the meeting on the 28 April the local authority representative agreed that this was unfair and unworkable and should not have formed part of the submission.

- e) The objector considers two elements of the appeals process unfair to pupils at the school. The letter to the appeals panels from the local authority, referring to a PAN of 156, states that *“if additional pupils were to be admitted to year 7, the consequent increase in group sizes would have an adverse effect on the learning of all the pupils”*. This was circulated at the same time as the submission to the Executive Cabinet which advocated increasing the PAN to 180 without any modification to the school. In addition a further paper to parents/carers and appeals panel members outlines the proposed change in PAN to 180 for September 2018. The objector believes that this raises the expectations of parents and panel members to the possibility of increased admission to the school. The local authority agreed that this might be the case and circulated an addendum to the appeal statements saying that the school had raised an objection. After the meeting of the 28 April a further letter was sent to appeal panel members which explained that some remodelling would be necessary and that the school could not take additional pupils into year 7 in September 2017 without this work being completed. It went on *“The Council confirmed with the Adjudicator that we would be happy to do this”*.

23. Each of these elements was discussed with the local authority representatives at the meeting on 28 April 2017. The local authority has made significant changes to its views and actions since that meeting and it is to be commended for this. If the local authority had not made firm commitments to the school to make significant alterations to the buildings to accommodate the increase in PAN for September 2018 I would have upheld this objection. This would have been on the basis that it would have been unreasonable and unfair to pupils at the school to require it to accommodate an additional 24 pupils without any remodelling of teaching and circulation space. I do not uphold the objection.

Summary of Findings

24. The main objection is to the increase in PAN of the school from 156 to 180 in September 2018 without any remodelling of the school buildings. The local authority have worked hard to remedy this situation and have agreed a plan with the school, albeit only the first phase, to remodel the building for September 2018 to accommodate the increase in number. I am satisfied that this resolves the issue for September 2018 and I therefore do not uphold the objection.

Determination

25. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission

arrangements for September 2018 determined by Tameside Metropolitan Borough Council for Mossley Hollins High School, Tameside.

26. The school and the local authority have agreed a way forward for September 2018 and I agree that these plans will allow the increase in Published Admission Number from 156 to 180 for September 2018.

Dated: 23 August 2017

Signed:

Schools Adjudicator: Ann Talboys