



Office of
the Schools
Adjudicator

Determination

Case reference: REF4355-REF4379 Cranbrook School, Kent

Referrer: Members of the public

Admission authority: Cranbrook School Academy Trust

Date of decision: 18 December 2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2025 determined by the Cranbrook School Academy Trust for Cranbrook School, Kent.

I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 a different date is stipulated by the adjudicator. In this case I determine that the arrangements must be revised no later than 17 January 2025.

The referral and jurisdiction

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 a number of members of the public (the objectors, about the admission arrangements (the arrangements) for Cranbrook School, Kent (the school), for September 2025. The school is a mixed selective academy for children aged 11 to 18 which admits both day and boarding pupils. Its admission authority is the Cranbrook School Academy Trust (the trust). The school has normal admission years at Year 7 (for day pupils) and Year 9 (for both day and boarding pupils).

2. The date of all the objections was between 13 May 2024 and 15 May 2024, and so within the specified timeframe. At the time when the objections were submitted, the trust had not determined the arrangements. After due consideration I have decided to consider the objections under section 88H(4) of the Act. The objectors confirmed that they wished to continue to be parties to the case. The parties to the case are the objectors, the trust and the LA.

3. The objections relate to the published admission number (the PAN) for day admissions to Year 9 at the school for September 2025. All the objectors (most of whom stated that they have parental responsibility for a child who will be of the right age to join the school in Year 9 in 2025) submitted forms of objection, and when they did so all requested that their name and other details be withheld from other parties to the case. Each has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of his/her name and address to me. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

4. A number of objectors provided with their form of objection what they said were the school's determined admission arrangements and complained that the PAN of 8 which had been set for day admissions in 2025, which was lower than the equivalent PAN of 38 for admissions in 2024, was unreasonably low and unfair. Other complaints made by various of the objectors are described below.

5. The trust initially said that it had determined the arrangements on 6 December 2023 and provided me with a copy of a set of admission arrangements (which were identical to those sent with the forms of objection). Since the trust had consulted on the proposal to reduce the PAN, and since that consultation had not closed until 18 January 2024, the evidence that had been provided to me could not have been evidence of the determination of the arrangements. It seemed to me that it was, rather, evidence of the approval by the trust of proposed arrangements for the purposes of consultation. I therefore wrote to the trust on 15 July urgently seeking evidence of the determination of the arrangements, and it was necessary for me to do so again on 7 August, having received no reply to my earlier request.

6. On 16 August 2024 the trust agreed that the arrangements had not yet been determined by it, and subsequently sent me the minutes of the meeting of the Governors of the trust on 27 August 2024 at which the arrangements were determined.

7. The terms of the Academy agreement between the trust 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.

8. Admission authorities are required by section 88C of the Act to determine admission arrangements for September 2025 by 28 February 2024. The trust determined

the arrangements on 27 August 2024 which was after the required date. The arrangements were also determined after the date by which the School Admissions Code (the Code) requires objections to admission arrangements for 2025 to be made to the adjudicator, which was 15 May 2024.

9. Although these deadlines have been missed, I am nevertheless able to treat the original objections as such. Regulation 23 of the School Admission (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) says that the adjudicator is not required to determine under section 88H(2) an objection which was not received on or before 15 May in the determination year, but I am not prevented from doing so. In this case, the objections were made within the required time frame, and the objectors believed the arrangements to have been determined by the admission authority when the objections were made. It is no fault of the objectors that the arrangements were not determined within the required time frame, and they could not have made an on-time objection to them by the time this had taken place.

10. I am clear that paragraph 3.3 b) of the Code does not preclude an objection being made to a reduced PAN, which implies that such an objection can be made and therefore that I can consider this aspect of the arrangements under section 88H(4). Under this section, I have a broad discretion to determine whether the objections should be upheld. In so doing, I have taken account of, and given appropriate weight to, all relevant considerations, and disregarded any factors which are not relevant to my considerations.

Procedure

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

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

- a) the objectors' forms of objection which were dated 13 May 2024 to 15 May 2024 inclusive, and subsequent correspondence from some of the objectors;
- b) copies of the minutes of the meeting of the trust at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the trust on the matters raised and supporting documents and subsequent correspondence;
- e) the local authority's composite prospectus for parents seeking admission to schools in the area in September;
- f) a map of the area identifying relevant schools; and
- g) information about the most recent consultation on the 2025 arrangements.

The Objections and Other Matters

13. There has been a total of 25 objections, and as is common in cases where there have been multiple objections, many of these are either identical in nature, or nearly so. While each objection is of equal value, and is treated as such, it is also the case that the adjudicator does not take into account the number of objectors who make particular points. Rather, the adjudicator is required to consider only whether to uphold or not uphold the objections. Repeated expressions of the same concern have no bearing on that judgement. Nevertheless, having read all the objections carefully and having noted what they have said, I am happy to summarise the matters which have been raised. In some cases, lengthy arguments have been given to me which raise points contingent to the central complaints, and where this is the case, I have not recorded this as a separate matter for me to consider. The number of objectors raising each of the substantive complaints has been as follows:

The matters raised:	That the arrangements are unfair because the determined PAN is unreasonably low	That the consultation carried out by the trust was flawed	That the lack of notice given to parents has caused unfairness	That the arrangements discriminate against parents whose children are in private education
The number of referrers who raised this matter:	25	22	4	1

14. The objectors also alleged that the consultation which preceded the determination of the arrangements failed to comply with the relevant legal requirements. An adjudicator cannot impose a requirement upon an admission authority to re-consult after it has determined the arrangements even if the consultation has not been conducted in accordance with the requirements of the Regulations and the Code. Nor can the adjudicator require the admission authority to re-instate the previous year's arrangements. That is to say, any view which I might form on the matter of consultation will not in any case add or detract in its effect from my consideration of the arrangements on the other grounds put to me in the objections.

15. Objectors have explained in some detail for the adjudicator's benefit the complex background to their objections and have in some cases asked for rulings on matters which do not fall within the adjudicator's remit. I shall mention what has been said to me by objectors when describing the background below, but it may be helpful if I list here matters which have been included in their submissions, but which are either outside the adjudicator's jurisdiction or which do not apply to the circumstances of the case:

- (i) One objector likened the trust’s decision to reduce the Year 9 day PAN from 38 to 8 to a school closure, citing paragraph 2.33 of the Code which says that where a school closes “...the local authority must collaborate with all schools in their area to secure provision for children in other schools. The objector complains that “there are effectively state school places available for the children that were relying on Year 9 places at Cranbrook School”, giving further background as to why this may be the case including the closure of a school in Cranbrook in 2022. I shall discuss these matters in some detail below, but it is clear that there has in this case been no school closure and so this reference to the Code does not apply. However, the question of what happens to the children relying on Year 9 places at Cranbrook will form part of my consideration of the fairness of the arrangements.
- (ii) The same objector asked that if the adjudicator determines that the arrangements are unfair, then the date of the policy change should be amended to 2027. Whatever my conclusions in this case, I have no power to decide what admission arrangements the school shall have, either in 2025 or in any future year. I am limited to upholding or not upholding the objections.
- (iii) Another objector, all or most of whose points were also made by the remaining objectors, has said that when the trust began its consultation on its proposal to reduce the PAN at the school, this was after the point in time when children who might seek entry to Year 9 could have begun the process of seeking a place in Year 7 (by sitting the 11+ examination for the relevant year). The objector alluded to concerns expressed in the Annual Report of the Chief Adjudicator (March 2024) about the timing of requests for variations to admission arrangements by reducing a school’s PAN. The objector said that any PAN reduction for Year 9 in 2025 should have taken place in 2022, allowing parents plenty of time to make decisions about their child’s secondary education in good time. Unfortunately, it is a misreading of the provisions in the Code to believe that such an approach by an admission authority would be possible. The Code stipulates that a school’s admission arrangements can only be determined in the period it specifies during the preceding school year. The reference by the Chief Adjudicator in her Annual Report was to the limited circumstances under which an admission authority may alter (or vary) admission arrangements for a particular year once they have been determined, and so concerns a process distinct from the annual determination of admission arrangements.
- (iv) This same objector has complained about the “manner in which the decision was taken” and has given me details of communications between the school itself and parents concerning its intended expansion going back to 2021. The objector complained that because these communications had “served to strongly reassure and stress to parents that Year 9 day entry was to remain” as part of the planned expansion of the school that “Parents and the wider community were still therefore reasonably entitled to rely on such expression of intention for the

normal day entry at Year 9 of 38 places to remain.” The objector made the point that for the group of children who might enter the school as Year 9 day pupils in 2025, the opportunity to enter at Year 7 (in September 2023) had passed when their parents did not enter them for the relevant 11+ examinations in September 2022. The school had made no public expression of its intention to change the number of Year 9 day admissions until it notified relevant parties of its intention to consult on this proposal in December 2023. The objector said that in effect the school’s admission authority had “removed all options for entry into a local state secondary school for these children” and had acted unfairly towards them. (This claim of unfairness resulting from the lack of notice given to parents was repeated by other objectors as I have shown above.) The objector referred me to a previous case considered by the adjudicator (ADA3958-3959 etc published in August 2022) in which “the parents of the affected cohort have been misled by the admission authority to their and their child’s detriment”. As the adjudicator said in that case, whether or not parents can claim redress because of what might be called a “legitimate expectation” in lay terms is not a matter that falls within the adjudicator’s jurisdiction. That jurisdiction is restricted to the functions assigned to the adjudicator under the Act.

- (v) The objection also sets out a list of what are described as “circumstances” by the objector which include the following:
- a. Whether the trust had obtained permission from the Secretary of State to expand the school before it increased the Year 7 PAN whilst maintaining that for Year 9. I shall explain below the steps that have been taken by the trust to expand the school, their timing and how these play into the school’s present circumstances. The point made by the objector here is about the school’s physical capacity, which is relevant to my consideration, and I shall discuss this below. However, whether or not the trust has acted appropriately in its dealings with the Secretary of State in the past does not affect the legality of the arrangements and is not my concern.
 - b. That the trust has not been transparent in explaining to parents its financial position including what are described as “applications for funding” from the local authority, and so they could not have anticipated the trust’s reasons for changing its admission policy. Similarly, the objector says parents should have been informed about the impact of shortfalls in the school’s attempts at fundraising. These are features of my overall consideration of the history of communications between the trust and parents, and not separate matters.
 - c. That the admission authority failed to take account of “local circumstances” (which is stated as a requirement of the Code) and would have been aware that there was a shortage of alternative places for Year 9 entry in 2025 if they had either carried out an investigation of these local circumstances or if they had carried out an “effective consultation” with the LA. The objector also pointed me to what I think are now considerably amended duties of the LA under the Education Act 1996, but which still

set out its general duties to secure appropriate provision for all children in its area. It will have become apparent during the exchange of correspondence which followed after the objections had been made that the LA has not itself objected to the arrangements, and these points do not add or detract from my consideration of whether or not to uphold the objections.

- d. That at a meeting between trustees and parents, trustees had accepted that many of the children who would not be able to secure a Year 9 place at the school in 2025 because of the smaller PAN would currently be in private education and it had been stated by a trustee that their parents would be able to continue to afford a place within the private sector. The objector said that this was an unfair assumption and unreasonable, quoting paragraph 1.9b) of the Code which says that:

“... admission authorities **must not:** b) take into account any previous schools attended, unless it is a named feeder school.”

The objector said that the Code prevented “decisions regarding admissions based on previous schools attended by children”. While I can understand the frustration that must have been caused by the reported event, I have no evidence that the trustees did in fact base their decision on the apparent thinking referred to by the objector. In any case, I do not think that the wording of the Code supports the interpretation which the objector has placed on it. I read paragraph 1.9 of the Code to list matters which admission authorities should not use in admission arrangements themselves, and it does not refer to the process which led to their formulation.

16. When the arrangements were brought to my attention, I considered that the following additional matters did not, or might not, conform with the requirements for admission arrangements:

- (i) the arrangements state that children with a statement of special educational needs (Educational Health Care Plan[sic]) which names the school and have passed the Kent PESE test/ the Cranbrook School entrance exam will be admitted. This does not conform with the requirements set out in paragraph 1.6 of the Code concerning children whose Education, Health and Care Plan names the school, and
- (ii) the arrangements fail to contain the process which parents must follow to request a place outside their normal age group as required by paragraph 2.18 of the Code.

Background

17. This is an unusual case. It is unusual because of the year of entry to the school which is involved (Year 9), because of the geographical context of the school (which has no other secondary schools within at least five miles of it), because the school is selective,

and because it admits day students at more than one point of entry below the school's sixth form (Years 7 and 9) and boarders as well as day pupils at Year 9. It is unusual because of the circumstances of the group of children who could potentially be admitted to the school as day pupils in Year 9 in 2025 and whose parents in many cases appear to constitute the body of objectors. These circumstances result from the unusual pattern of day admissions to the school and the fact that the school's admission authority (the trust) has made an unanticipated decision which is out of line with the process of expansion on which the school is already embarked, and for reasons which also appear to be specific to its own situation.

18. So, while my consideration is, and must be, for the arrangements themselves and their effect, I will also need to set out for the reader much of the context which will underlie it. The town of Cranbrook is situated in the area known as the Weald of Kent. It lies roughly half-way between Maidstone and Hastings, about 38 miles southeast of central London. The school itself has a long history, having been founded in 1518. Formerly a voluntary aided school, it converted to academy status in 2011.

19. The school historically admitted children only to Year 9, but since 2017 has begun the process of admitting children also to Year 7. It has done so in progressive steps, while maintaining admissions to Year 9. Objectors had provided me with a copy of a document dated April 2022, written by the trust, entitled "Cranbrook School Our Vision", which gives a broad description of its intention to expand the school over a period of time, ultimately to provide for an additional 200 pupils by 2032, anticipating that it would continue to admit children to Year 9 throughout this process. The trust had also relied on this document when it replied to my Jurisdiction and Further Information paper in order to give me an understanding of its statement that "The admission changes at Cranbrook [sic] have been long in the making".

20. These historical decisions are also directly related to the trust's reasoning for reducing the Year 9 PAN for day admissions in 2025. Since I did not have a complete understanding of the way in which the school's expansion had taken place, it was necessary for me to direct more specific questions to the trust. When it replied on 11 October 2024 it helpfully provided a table setting out the dates on which day admissions to Year 7 were first introduced and then progressively increased. The Year 9 day PAN has been reduced at the appropriate times in the past in order to keep a total of 98 Year 9 day places from 2019 onwards, as shown below. The Year 9 boarding PAN has remained at 52 throughout, giving a maximum of 150 Year 9 places, also from 2019 onwards.

Date (September)	Year 7 PAN (all day pupils)	Year 9 PAN (day)	Year 9 day total	Year 9 PAN (boarding)	Year 9 maximum total
2016	nil	110	110	52	162

Date (September)	Year 7 PAN (all day pupils)	Year 9 PAN (day)	Year 9 day total	Year 9 PAN (boarding)	Year 9 maximum total
2017, 2018	30	110	110	52	162
2019, 2020	60	68	98	52	150
2021, 2022	60	38	98	52	150
2023, 2024	90	38	98	52	150
2025	90	8	98	52	150

21. So, the admission of 30 Year 7 day pupils in 2017 was “matched” by a reduction of 42 in the Year 9 day PAN two years later in 2019 and the increase to 60 Year 7 day admissions in 2019 by a reduction of 30 in the Year 9 day PAN two years after that, in 2021 (the trust’s table wrongly showed a Year 9 day PAN in 2020 of 38, but I have not queried this since it would have given only 68 Year 9 day places in that year, and the table correctly showed this as 98 for that year). So, the pattern has been continued by a further reduction in the Year 9 day PAN for 2025, two years after the Year 7 PAN was increased to 90. It is this Year 9 day PAN of 8 which is the source of the objections, and their basis is that while the pattern was known, the trust had until December 2023 continued to say that it was its intention in 2025 not to continue with it, but to expand the school at that point by increasing the Year 9 maximum to more than 150. The referrers say that in 2022- 2023 when parents whose child would have been of the right age to enter Year 9 in September 2025 might have sought a place at the school in Year 7, they had no knowledge that fewer places would be available in Year 9 in 2025.

22. The further major background factor is the geographical isolation of the school, and the fact that it is the only secondary school in Cranbrook. This situation has arisen following the closure of High Weald Academy, which was in Cranbrook, in 2022. Initially established as Angley School in 1971 by the merger of Mary Sheafe School for Girls and Swattenden Secondary School for Boys, Angley School became The High Weald Academy on 1 September 2012. A new building was opened in 2019. The academy closed permanently in September 2022 and the buildings are now occupied by Snowfields Academy which is a special free school. Wikipedia records that when High Weald Academy closed, the pupils remaining on roll were offered places at Mascalls Academy, in Paddock Wood, about 8 miles away. The LA has told me that the nearest alternative school to Cranbrook is Homewood School and Sixth Form Centre in Tenterden, which is approximately 7 miles distant. I shall discuss this further below.

23. I am sorry to have to record that it has been necessary for me to pursue a lengthy and sometimes difficult correspondence with the parties in order to obtain an adequate

understanding of the background to the objections, and to be given information that I had already requested. Surprisingly, and unusually, it was necessary for me to remind one of the parties of their statutory duty in these matters before I was given information which I had sought, in the straightforward manner I am entitled to expect. The failure of the trust to determine the arrangements until August and these further problems have added unnecessarily to the length of time which it has taken to complete this case.

Consideration of Case

Whether the arrangements are unfair

24. My consideration as to whether or not I should exercise my discretion to uphold the objections made on the basis that the PAN (and therefore the arrangements as a whole) is unfair concerns the effect it is likely to have on a group of pupils, and whether this effect is unfair. I have first considered whether there is indeed such a group of children living locally who have need of a place at the school. It may have been, for example, that parents seeking selective schooling and living as far away as the outer London boroughs are those who regularly seek and secure a place at the school.

25. I had examined the addresses provided to me by the objectors, and I wrote to the LA in September 2024 saying that it appeared to me that the majority were Kent residents (22 of the 25) and that of these 19 probably lived within the school’s designated priority area for Year 9 admissions. This is shown clearly on the school’s website and consists both of named parishes or a distance of 8.5 kilometres (just over 5 miles) from the school. I was able to use postal addresses showing residence in a named location. The parties have seen this correspondence and have not commented on this analysis. In the light of this, I asked the LA to provide me with data concerning Year 9 day admissions to the school in 2023 and 2024. This showed the following:

Year 9 data	2023	2024
Number of applications	102	116
Number of day offers	38	38
Number of offers to Kent residents	35	36
Number of offers within a 5 mile radius	36	32

26. My view is that this makes clear that it is not an aberration that the school provides day places to at least a form of entry of Year 9 children who live locally on an annual basis, and that were there enough places there would be no reason to assume that this would not continue to be the case in 2025.

27. The LA has said that as a consequence of the school being selective in character, parents could not rely on a place there for their child, which is true. But that does not mean that there are no children living locally who will be seeking a place at the school and for whom the school would be appropriate, as I have shown above. It does not matter that some doing so would not be successful because the school selects by ability. Some would, and likely in the numbers shown above as far as I can ascertain.

28. Second, the LA has said that since any child for whom a place is sought in Year 9 must already be attending a secondary school, “parents are at no greater disadvantage than any other family deciding to change their child’s school during the academic year”. In my view, this mischaracterises the situation. And this approaches the nub of the matter. Parents who have chosen not to access state-maintained education previously have no fewer entitlements than others, and should they choose to do so at a particular point in time must be considered accordingly. This is not a case of parents changing school mid-year, but one of parents legitimately seeking a state-funded place at their local school which has a relevant normal year of entry, for their child. I have no doubt that this group of children exists in the locality, and that it exists in relation to admissions to Year 9 at the school in 2025. The admission arrangements determined by the trust mean that only 8 of this group will be admitted, and the remainder will not.

29. The LA has repeated its view in later correspondence that “no child has ever been guaranteed a place at Cranbrook school” and that parents are expected to have contingency plans because their child may not reach selective standard. While this is obviously reasonable at the individual level, taking a group of children, this would not be so unless the group were not representative of the population at large. The LA has also said that if children are already in a school, it is a general assumption that the child will be able to continue in the same school if “a preferred alternative is not available”. I do not see this as a reasonable assumption which can be applied to a group of children, most of whom are likely to have a place in the private, not the state-funded sector, and that is the case here.

30. In this same correspondence, the LA also told me that “In admissions, fairness is not usually determined by whether or not a family secures their preferred outcome, but rather, if all families are treated in a consistent manner.” I do not take the same view, since it is possible for admission arrangements to do what the LA says is fair, but for them nevertheless to be unfair because of their effect. If arrangements cause an unfairness, whether equitably or not, they are unfair. An example of an unfairness is if a child must travel excessive distances, or for long periods of time, in order to access schooling.

31. Objectors have said that there are either no places at other nearby schools likely to be available in Year 9 in September 2025, or very few. When I first asked the LA to provide me with information that would be relevant to my consideration of whether this was an accurate view on the part of objectors, I sought its view as to where places beyond the 8 available at the school might be found and its estimate of the number of parents living in the catchment area of the school likely to be seeking such places. It responded

that when the decision to close High Weald Academy had been taken, this was because there were too few pupils, and the school had become “unviable”. It added that “There have been no material changes in demand levels in the area since this decision”, a statement which supports the view I have taken that demand in 2025 is not likely to be less than in 2023 or 2024. It is true that the school expanded Year 7 in 2023 and consequently that the total number of Year 9 places in 2025 has not been reduced (as the above table shows), but it is also true that when it did so, the trust was still expecting to offer 38 Year 9 day places two years later, and so to expand the school.

32. I had asked the LA to consider the possibility of there being around 25 children possibly seeking a Year 9 place at the school unsuccessfully in September 2025, asking it to tell me where alternative schools would be available. It said that the size of this group could not be estimated, but that whatever the size of the group it would work with local schools and would fulfil its legal duties. It went on to tell me about its forecasting of need based on “planning groups”, giving me data about the local “Tenterden and Cranbrook” planning group for which it gave me its forecast of what it said were “surplus Year 7 to 11 places”, but did not respond to my original request directly. The information it had provided was not helpful and I therefore sought details of the schools to which its statements referred and the LA’s reason for considering that these had surplus places in the different year groups, and in particular in Year 9 for 2025.

33. The LA did not provide this information, but instead sent me its own analysis of where the 2023 Year 9 cohort at the school lived (which included those attending as boarders because 129 children, 109 of whom were Kent residents are considered). This was used by the LA to identify the three wards near the school where the majority of the 2023 Year 9 pupils at the school lived (71 percent of the Kent Year 9 residents at the school). The other schools attended by all Year 9 pupils living in these three wards were then identified. This showed, very approximately, that half of the group living in the three wards were attending Cranbrook (77 children) and more than half of those who weren’t at the school (44 out of 76) were in attendance at one of two other schools, Homewood School and Mascalls Academy. The LA said that this showed the schools to which “there are existing travel to school flows” from the three identified wards. I was not able to understand how to interpret data which the LA gave me about pupil forecasts for the two schools which it said showed that “both schools are anticipated to have sufficient Year 9 places available”, since no Year 9 data was included.

34. From correspondence with the LA I have established:

- (i) That my understanding of its information concerning the number of pupils in the 2023 Year 9 cohort at Cranbrook School and concerning their peers not attending the school but living in the same localities, as set out above, was accurate.
- (ii) That there is only one other secondary school in the relevant planning group – Homewood School and Sixth Form Centre - and that what the LA refers to as “spaces” there for the current Year 8 number 113. The LA did not initially explain how it defines available spaces but said that this indicates “a surplus capacity

adequate in size to absorb a potential 30 additional pupils, should that situation occur". It later stated that "The capacity of each year group is defined as the higher of the PAN for that year group at its point of entry (Year 7) or the offered intake at the point of entry; [sic] where schools have offered over PAN in individual years". Homewood has a "recognised Year 9 capacity" of 390 and 277 currently on roll in year 8, giving the figure of 113 available places provided by the LA.

- (iii) The LA did not initially give me the distance of this school from Cranbrook as I had requested, but subsequently said that the straight-line distance from the centre of Cranbrook is just over 7 miles.
- (iv) That on the same basis, Mascalls Academy, which is over 8 miles away, would have 9 available places in Year 9 in 2025.
- (v) That there are 138 children living in the three wards it had identified concerning the 2023 Year 9 group at Cranbrook who are currently in Year 8 in maintained schools, 38 of whom are at Cranbrook School (and I assume not in boarding places there) and 36 already go to Homewood and 16 to Mascalls. The number currently attending schools in the independent sector was not known.
- (vi) That the LA's home-to-school transport policy includes transport to a school where that is more than three miles from the child's home (unless the parental preference was for a school further away. It has confirmed that children living locally do already travel to Homewood and Mascalls school, and has said that it was unlikely that there would be a significant additional cost to the LA should more children require transport to those schools from the area.

35. The LA's definition of available spaces does not accord with the admissions legislation, since in all year groups other than normal years of entry (which are regulated by a defined PAN), admissions are governed by whether they result in prejudice to the efficient provision of education or use of resources, as explained in paragraph 2.28 of the Code. That is, it is not possible to use an arbitrary number, however defined, as the LA does. Both Homewood and Mascalls are academy schools and so they are their own admission authorities and capable of resisting applications for places which the LA may believe it can rely on, on these grounds. So, in summary, while there are likely to be available places in Year 9 in 2025 in the schools nearest to Cranbrook, these are not guaranteed, and the schools are located at a considerable distance from where the children who are most likely to seek a place at Cranbrook live.

36. The LA has summarised its view of the school's decision, concerning which it has not expressed a view either in support or in opposition, saying the school's decision was "one of practicality" because of its "inability to offer the proposed intake in year 9." My jurisdiction concerns the admission arrangements themselves, and their effect. I have set out my view of their likely effect above. In order to determine whether to uphold the objections or not, I need to balance the effect which they will have on one group of

children against the benefit that they provide to others. The school has repeatedly said that it does not have either the funding or the physical space to admit 38 children as day pupils in 2025. The implication must be that other children, either those currently at the school or those who will be there in 2025 and subsequent years, will be negatively affected should more than 8 children be admitted to Year 9 as day pupils in 2025, and that this disadvantage will be financial in nature because of a lack of money or physical in nature because of a lack of space.

37. When I asked the school to comment on the objections and to explain the reasons for its decision to reduce the Year 9 day PAN in 2025, it told me that the school's expansion plans had not been supported financially by the LA. I understand this statement to refer to capital funding since schools are funded for pupil numbers, albeit with a lag in their receipt of these moneys because of the use of October census numbers to determine budgets for the following year. The school provided a document entitled "Commentary on Year 9 admissions" which described failed bids for capital funding to the ESFA for 2016 and subsequently. It said that the school was attempting to sell some land to provide itself with capital funding to replace its Horsley Block and "to accommodate the additional student expansion with no funding forthcoming from KCC [the LA] or the ESFA" and that funding this expansion itself "is simply not possible with the current financial constraints." I understand this to refer to a lack of capital funding and the existing availability of accommodation at the school being insufficient to accommodate a Year 9 day PAN for 30 in September 2025.

38. The school's document said that its reserves had been depleted because the COVID pandemic "had virtually wiped out our boarding income" but also that "we remain in a better position than very many schools". The covering letter said that "the school now finds itself in financial difficulty" and that "Under such circumstances, the expansion of the school would be impossible – and that is the reason we had to change our PAN for Year 9 for the academic year 2025-26".

39. I note at this point that while the school refers to finance as if it were a single entity, capital finance and revenue finance are separate matters and should not be confused. Capital relates solely (in these circumstances) to school buildings and whether it is a relevant factor in school admissions is to do with the adequacy of a school's accommodation, and in particular its pupil place capacity. I shall consider this first and return below to issues to do with revenue funding. The school at this point (September 2024) told me that there were currently 884 pupils on the school roll, and it had said at the 6 March meeting that the Horsley Block "will allow a roll of 1,080 -1,140". In reply to my request to be told in the light of this information whether the Governors are of the view that the physical capacity of the school would have been sufficient to allow a PAN for Year 9 day of 38, had that number been retained, the school said only that "The Governors are clear that the School did not have the financial means or the physical space to provide additional places in 2025", and referred again to the intention to sell land to fund the expansion. I therefore asked the school to provide a more detailed account of this position, giving the exact current number on roll and the school's existing pupil place capacity.

40. The figures provided by the school give a current (November 2024) number on roll of 914, comprising 608 in Years 7 – 11 and 306 in the sixth form. I have been given no explanation for this figure being different from that given to me in September. The school said that it offers 954 places in total, 260 being boarding places and 694 day places. These figures can be seen to be made up as follows:

Year group	Day places	Boarding places
Year 7 and Year 8	90	nil
Years 9,10,11	60 + 38	52
Years 12 and 13	110	52
Totals	694	260

41. The school explained some of the difference between the offered places and the current number on roll by saying that there had been a large reduction in the usual take up of Year 9 boarding places in 2024. I wrote to the school saying that the figures implied that there were 25 vacant boarding places in Year 9 in 2024 and that I understood that the school would therefore have been able to accommodate this additional number in terms of teaching and other space requirements had they been admitted, and that this year group would obviously go forward as Year 10 in 2025. The school subsequently (22 November 2024) agreed that there were only 27 Year 9 boarders, but that it was very hopeful these places will be taken up by in-year admissions and it says that “it has boarding beds to fill, an important income stream to assist with the maintenance and upkeep of our boarding stock”. It also asked me to consider that boarding and day PANs “are very separate and if we have boarding spaces available these cannot be temporarily ‘transferred’ to the day PAN”.

42. The presentation at the Governors’ evening in March had included a statement that in spite of additional accommodation provided through parental donations since 2016, the school was “still short against government guidelines”. I reminded the school that I had asked to be given the background information which led to this statement, and for a copy of the school’s net capacity calculation. I also asked for the detailed reasons for the school’s statement that if 30 more students were admitted to Year 9 as day pupils in 2025 that it “would not have the physical space to accommodate them”, given what it had already told me about the number of students at the school in 2024. The school replied that “we simply don’t have the classroom space to accommodate them” and that they “would put pressure on our toilets and changing rooms, as well as our assembly hall and dining room.”

43. The nationally determined means for determining a school’s ability to accommodate pupils is its net capacity calculation. I am grateful to the school for sending me its very recently completed net capacity calculation as soon as this was available to it,

which was on 25 November 2024. This shows a theoretical maximum of 1,553 workplaces and a calculated net capacity of 1,152 students compared to a net capacity based on planned admission numbers of 944 (which is not quite the same as the figures given above). The net capacity is set at the lower of the maximum and minimum workspaces calculation if the capacity based on PANs falls outside this range. This gives indicated admission numbers of 114 for Year 7 and 76 for Year 9, the school having provided the figures of 90 and 60 respectively for the purpose of the net capacity calculation.

44. The objective evidence of the net capacity calculation is that the school's buildings are capable of accommodating a considerably greater number of students than those currently on roll in spite of what the school has said to me. Even if otherwise operating at capacity, the calculation indicates a Year 9 PAN of 76, allowing for 24 day admissions if all 52 boarding places are taken up. The matter before me however is the Year 9 day PAN for 2025 only and the question of whether a higher PAN than has been determined would cause a detriment to other children because the school does not have the space to admit these additional children. I can see no grounds for accepting that there would be such a detriment even if the school were otherwise full, given the net capacity calculation. The school currently has 914 on roll, and the present Year 9 is not full, because boarding places have not been taken up. There is of course no question of boarding PANs being "transferred" to allow more day admissions as the trust has characterised the situation, since they are distinct and determined separately. The question is the size of the day PAN in the light of all the information I have in front of me, given that the boarding PAN remains at 52. The present-day situation at the school only adds to my view that in practice, no detriment would result to other children because of accommodation issues, were a higher day PAN for Year 9 to be in place in 2025.

45. The other reason given by the school is revenue funding. As I have explained above, the revenue stream for the school is no different from that for any academy school. Which does mean that increased pupil numbers are not funded immediately, but effectively a year in arrears. I have stated above what the school has told me about its financial position. I have also informed the school that it is open to me to view information on the GOV.UK website "School's financial benchmarking", which currently relates to the 2022/23 financial year, asking if the school wished to provide me with any update on the information which I would find there. It said that the school "is no longer considered to be a going concern and will be in deficit at the end of the current school year", and when I asked the same question most recently (in November) it said that the situation was unchanged.

46. The school has not commented on the publicly available information regarding its finances to which I have referred it. This compares the financial position of the school with that of 14 other comparable secondary schools in England. The school stands out for having the highest total expenditure and the highest staffing (auxiliary staff, not teaching staff) numbers and costs of all comparator schools as well as very high premises costs. I have nothing to say on these matters, which may be perfectly explicable. What I do note is that the revenue reserves stood at £244,000 at the time the information was compiled.

Although these may have been further depleted subsequently, I have given the school every opportunity to challenge these figures or to supply me with updates, but it has not done so. I can only draw the conclusion that the school's recent statement that it remains "in a better position [financially] than very many schools" is true. I understand that the school would have to bear the financial consequences of admitting additional children in September 2025 until the following funding year (which I understand to be the following academic year in the case of the school, as an academy school), but I have no reason to believe from the information which I have that this will result in any detriment to children attending the school.

47. In summary, I have come to the view that there are a group of children living near the school who could be admitted to Year 9 as day pupils in September 2025 but who will not secure a place there because the trust has reduced the school's PAN. The effect is that some of these at least would have to travel significant distances to an alternative publicly funded school. The detriment which they will suffer in my view outweighs any detriment to other students (those at the school) who could potentially suffer a detriment because of accommodation or funding effects, since I have seen no evidence that any such effects would be significant in nature. I have concluded that the arrangements are, as a result, unfair in their effect and I uphold this aspect of the objections.

48. The effect of my finding is that the arrangements must be revised. Specifically, a revised PAN which does not cause them to be unfair must be determined. For the avoidance of doubt, it is my view that a PAN below 38 would not have this remedial effect. I am aware that the last date of registration for the school's selection test was 31 October 2024 and that the test was scheduled to have taken place on 16 November 2024. Objectors have at various times reminded me of this timetable and sought an understanding of when it might be possible for me to make a decision concerning their objections. I understand as a result that most if not all will have engaged in the selection process pending the outcome of their objections in the hope that more than the 8 places originally determined will ultimately be available. The arrangements say that that children taking the school's selection test are ranked by their score and admitted in rank order. I therefore see no reason why the process cannot be completed, but with a revised PAN and admissions made up to that number.

49. The school is the only secondary school in Kent which admits children to Year 9 and so there are no other groups of children affected through the coordinated admissions process as would be the case for Year 7 admissions. I am therefore of the view that the arrangements should be amended in time for admissions to the school in September 2025.

50. It is in the interests of all concerned that this process should take place as soon as possible. The Code requires the admission authority to revise its admission arrangements within two months of the date of the determination, or another date if required by the adjudicator. In this case, I determine that the school must do so no later than Friday 17 January 2025.

Other matters raised by objectors

51. I have explained above why I have not given further consideration to the concerns raised by objectors in respect of the consultation which was carried out by the trust. I have upheld the objections because I have found that the arrangements are unfair and that they must be revised, and any consideration of the consultation would not add to this finding. For the same reason, whether or not the timing of the trust's decision in the context in which it took place has caused an additional unfairness to parents, I do not need to consider this further.

52. The remaining aspect of the objections is the assertion that the arrangements discriminate against children currently attending private education, in contravention of paragraph 1.9b) of the Code. Whatever parents may feel about the effect of the determined arrangements on them in relation to their circumstances, the arrangements themselves make no mention of the schools attended by those applying for places, as I have said above. I do not uphold this aspect of the objections.

Other matters

53. I have set out above the matters contained within the arrangements that have brought to the attention of the trust as possible violations of the requirements of the Code. Although it has been given every opportunity to comment on these matters, the trust has not responded to these concerns.

54. For the reasons which I have given, the arrangements fail to comply with the requirements of paragraph 1.6 and 2.18 of the Code and must be amended accordingly.

Determination

55. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2025 determined by the Cranbrook School Academy Trust for Cranbrook School, Kent.

56. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

57. 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 a

58. different date is stipulated by the adjudicator. In this case I determine that the arrangements must be revised no later than 17 January 2025.

Dated: 18 December 2024

Signed:

Schools Adjudicator: Bryan Slater