Office of the Schools Adjudicator

# Determination

**Case reference:** **ADA4648**

**Objector:** **Cheshire West and Chester Council**

**Admission Authority:** **The governing body of The Whitby High School**

**Date of decision:** **17 November 2026**

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for 2027/28 determined by the governing body of The Whitby High School in the local authority area of Cheshire West and Chester Council.**

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.**

## The referral

1. Cheshire West and Chester Council is the local authority for The Whitby High School (the School). I shall refer to Cheshire West and Chester Council as the Local Authority in this determination. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), the Local Authority has referred to the adjudicator an objection to the admission arrangements for the School for 2027/28 (the 2027 Arrangements). The 2027 Arrangements were determined by the governing body of the School, which is the admission authority (the Admission Authority).

2. The School is a foundation school for children aged 11 to 18 years in the urban town of Ellesmere Port, about six miles north of Chester. It is a co-educational, non-selective school with no designated religious character.

3. The published admission number (PAN) set for the School for Year 7 was 300 for 2026/27 and the relevant preceding years. The objection is to the PAN being reduced to 270 for 2027/28, as so determined in the 2027 Arrangements.

## Jurisdiction

4. The 2027 Arrangements were determined under section 88C of the Act by the governing body of the School as its Admission Authority. The Local Authority submitted its objection to the 2027 Arrangements on 13 May 2026. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act, and that it is within my jurisdiction. Both the Local Authority and the Admission Authority are parties to this objection.

5. It took me longer than usual to determine this objection as I have wished to obtain from the Local Authority the latest planning area data, which will be referred to in my consideration below, regarding preferences of parents seeking Year 7 places for their children for September 2027.

## Procedure

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code). I have not considered the 2027 Arrangements as a whole under section 88I of the Act, but the Admission Authority should not take the fact that I have not raised any other matters about those arrangements as an endorsement of their compliance with the Code.

7. The information I have considered in reaching my decision includes:

- the objection dated 13 May 2026;
- a copy of the minutes of the meeting held by the Admission Authority on 12 February 2026 when the 2027 Arrangements were determined;
- the 2027 Arrangements;
- the responses from the Local Authority and the Admission Authority to my requests for further information;
- maps, including Google Maps, and those showing the location of the School;
- the websites of the School, the Local Authority, and Ofsted;
- the GOV.UK websites ‘Get information about schools’ (GIAS) and ’Financial

Benchmarking and Insights Tool' (FBIT); and

- information available on the websites of the Department for Education (DfE) including 'Local authority school places scorecards' (the DfE scorecard).

## The Objection

8. In essence, the Local Authority's main ground for its objection was that the reduction in the PAN for the School for Year 7 could risk the Local Authority failing to meet its statutory duty to provide sufficient school places. The Local Authority said that the School had sufficient capacity, and that the Local Authority's forecasts had shown that more than 270 school places could be needed in future years. In addition, the Local Authority referred to an agreement made with the School in December 2017 to secure a permanent PAN of 300 at the School, "underpinned by £2.7 million of Council capital investment to reconfigure the School's accommodation and replace mobile classrooms with permanent provision".

## Background

9. The Local Authority uses 'planning areas', which are geographical areas and the schools within those areas, to assess the number of places needed and to inform the plans to meet that need. In this planning area 'Ellesmere Port', there are three secondary schools, including the School, for which the usual year of entry is Year 7. There are two other secondary schools, both of which have a designated religious character, within about one mile from the School. All these three secondary schools are within the Local Authority's area.

10. GIAS recorded on 9 September 2026 that the capacity of the School was 1,625. The most recent Ofsted inspection for the School took place in June 2026, and the then total number of pupils at the School was recorded on the inspection report as 1,477. The School was judged to have met the 'expected standards' in some areas (including leadership and governance), but there were certain aspects which '[needed] attention'.

11. In December 2025, the Admission Authority consulted on the proposed reduction in the School's PAN from 300 in 2026/27 (as previously determined) to 270 in 2027/28. The Local Authority was the only party which responded and made a case that the PAN should not be reduced.

12. The Admission Authority determined in February 2026 that the PAN of the School be reduced to 270 in 2027/28. The minutes of the relevant meeting of the School's governing body detailed its decision-making process. Having reconsidered the Local Authority's reservation, the Admission Authority reviewed the potential impact of keeping or reducing the PAN on the School's organisation and finance, in the light of parental preferences expressed

in recent years. It also examined the broader planning parameters and potential housing developments of the local area before reaching its decision.

13. The oversubscription criteria for the School, after admission of children where the School is named on their education, health and care plan, are (in summary):

1) looked after and previously looked after children;

2) children who have a strong medical or social reason to attend the School;

3) siblings of the School's existing students;

4) children attending a designated feeder school; and

5) other children with priority to those living nearest to the School with distance measured in a straight line.

14. Local authorities have a statutory duty, under Section 14 of the Education Act 1996, to ensure that there are sufficient primary and secondary school places for all children living in their area. I shall refer to this as 'Section 14 duty' in this determination. The provision in Section 14 reads (insofar as is relevant here):

"(1) A local authority shall secure that sufficient schools for providing—

(a) primary education, and

(b) education that is secondary education by virtue of section 2(2)(a),

are available for their area."

15. The relevant paragraphs of the Code read (insofar as are relevant here):

"**Published Admission Number (PAN)**

1.2 As part of determining their admission arrangements, all admission authorities **must** set an admission number for each 'relevant age group'.

1.3 Own admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN ... All admission authorities **must** consult in accordance with paragraph 1.45 below where they propose a decrease to the PAN …

1.4 Admission authorities **must** notify their local authority of their intention to increase the school's PAN and reference to the change should be made on the school's website. If, at any time following determination of the PAN, an admission authority decides that it is able to admit above its PAN, it **must** notify the local

authority in good time to allow the local authority to deliver its co-ordination responsibilities effectively. Admission authorities may also admit above their PAN through in-year admissions. The PAN only applies to the relevant age group. This means that admission authorities may not refuse admission to other age groups on the grounds that they have already reached their PAN. They may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources."

## Consideration of Case

16. The objection is to the reduction of the School's PAN for 2027 by 30 places from September 2027. The Code does not permit objections about an admission authority's decision to increase or keep the same PAN although community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. The PAN is the lawful guarantee of the number of children who must be offered a place and admitted to a school if there is sufficient demand. Every local authority has a statutory duty to make sure that there are sufficient school places for children in its area.

17. It follows that, if a local authority has concerns when an admission authority reduces its PAN, the determination year is the only opportunity in which the local authority has to object. This is still the case when that concern actually relates to future years, rather than the immediate year for which the PAN has been set (2027/28 in this instance).

18. For these reasons, it is appropriate that I consider the demand for Year 7 places at the School and the planning area, not only for 2027/28 but also for future years.

19. I will consider, in turn, whether the 2027 Arrangements comply with the requirements of the Code relating to the PAN in the following aspects:

(a) whether the determined PAN reduction for the School will negatively impact on the Local Authority's ability to discharge its Section 14 duty to secure sufficient school places for providing secondary education in its area, for 2027/28 or any time in the foreseeable future; and

(b) the implications for the School for the PAN continuing at 300.

<u>Provision of sufficient school places</u>

20. As mentioned, in this planning area 'Ellesmere Port', there are three secondary schools, including the School, for which the usual year of entry is Year 7. The two other secondary schools are academies, namely:

(a) Ellesmere Port Catholic High School, which set its PAN at 180 for 2024/25 and for subsequent years including 2027/28; and

(b) Ellesmere Port Church of England College, which set its PAN at 210 for 2024/25 and reduced it to 150 from 2025/26 onwards (including 2027/28), however admitting over the PAN in both September 2025 and 2026.

21. The Local Authority provided me with past and forecast data in relation to Year 7 admissions within the planning area when it lodged its objection in May 2026, and later in September and November 2026 in response to my requests for further information. To summarise the data given, Table 1 below shows the number of Year 7 places and the number of pupils admitted to or forecast to require places at those three schools within the planning area.

**Table 1: Year 7 places available at schools within the planning area, and the number of pupils admitted to, or forecast to require a place at, those schools (data given on 19 May, 28 September and 12 November 2026).**

| | **2024** | **2025** | **2026** | **2027** | **2028** | **2029** |
|---|---|---|---|---|---|---|
| **Combined PAN for Year 7 places in the planning area (with a PAN of 300 at the School in 2024, 2025, 2026; and a reduced PAN of 270 at the School starting from 2027)** | 690 | 630 | 630 | 600 | 600 | 600 |
| **Number of Year 7 pupils:**<br>• **on roll within the three schools in the planning area (2024, 2025 and 2026);**<br>• **forecast to require Year 7 places in the planning area (2027, 2028, 2029)** | 583 | 563 | 546 | 607 | 588 | 538 |
| **Vacant places (actuals for 2024, 2025, and 2026; forecast for 2027, 2028, and 2029)** | 107 | 67 | 84 | -7 | 12 | 62 |
| **Vacant places as a percentage** | 15.5 | 10.6 | 13.3 | NA | 2.0 | 10.3 |

22. It is clear from the table above that, in each of the years between 2024 and 2026, there were more than 10 per cent of vacancies for Year 7 places in the planning area. However, as stated in the information given in May 2026, the Local Authority's forecast has been that there might be a shortage of seven places for children seeking Year 7 places in September 2027. To verify the accuracy of this forecast, I asked the Local Authority to provide me with the latest number of Year 6 pupils currently in any primary school within the same planning area.

23. In response to my request, the Local Authority provided me with the following information about the number of Year 6 pupils on roll in all primary schools within the Ellesmere Port planning area in 2025/26 and 2026/27:

**Table 2: Number of Year 6 pupils on roll in all primary schools within the planning area (as on 28 September 2026).**

| All Ellesmere Port **primary** schools | **2025/26** | **2026/27** |
|---|---|---|
| **Number of Year 6 pupils on roll** | 763 | 821 |

24. The above two tables show that not all 763 pupils in Year 6 in 2025/26 have taken up a Year 7 place in September 2026 in the same planning area. According to the Local Authority, only 533 of the pupils are admitted to one of the three secondary schools in the area, and the rest (about 230 pupils) have been admitted to secondary schools in nearby planning areas. Also, the three Ellesmere Port secondary schools admit a small number of pupils from primary schools outside of the planning area.

25. The Local Authority, in its letter to me dated 28 September, explained:

> "This reflects a long-established pattern of cross-boundary pupil movement and demonstrates that demand for secondary school places has historically been met through a combination of provision within Ellesmere Port and places available at neighbouring schools. However, it cannot be assumed that this pattern will continue indefinitely. Significant housing growth is planned across Cheshire West and Chester and surrounding areas, which is likely to increase demand for school places both within and beyond the Ellesmere Port planning area. As demand increases, the availability of places at schools outside the planning area cannot be relied upon to the same extent as has historically been the case. The Council must therefore ensure that sufficient capacity exists within the local education system to enable it to fulfil its statutory duty to secure school places for children of compulsory school age and to offer places within a reasonable distance of pupils' home addresses. It would be imprudent to assume that neighbouring schools will continue to have the capacity to

accommodate the same level of inward demand from Ellesmere Port as housing growth across the wider area continues to come forward."

26. The Admission Authority took a different view when it determined the 2027 Arrangements. In its letter of 15 July 2026 in response to my enquiries, it stated:

> "Even with a PAN of 270, the School would continue to offer considerably more places than have been required in recent admission rounds. The wider planning area has consistently retained surplus capacity, with parental preferences continuing to be met.
>
> The admission authority notes concerns regarding the reliability of forecasting data. Whilst forecasts are an important planning tool, recent years demonstrate a significant divergence between forecast demand and actual admissions. The School therefore believes caution should be exercised for 'known growth'. The School does not consider that the proposed housing developments cited provide sufficient certainty to justify maintaining a PAN that significantly exceeds current demand. The timing, scale and rate of occupancy of developments can change considerably. Furthermore, housing growth does not necessarily translate directly into demand for Year 7 places within a specific planning area, nor does it guarantee the number of secondary-aged pupils who will reside within those developments."

27. The DfE scorecard compares local authority forecasts of student numbers with those of other local authorities, with reference to the data provided in the annual school capacity survey. According to the latest scorecard released on 25 June 2026, Cheshire West and Chester Council is assessed to be overestimating pupil numbers for one year and three years ahead, with a larger overestimate than at least 75 per cent of local authorities across England.

28. The actual (rather than forecast) data in Table 3 below show falling Year 7 admissions to the School in recent years.

**Table 3: The number of pupils on roll in Year 7 at the School in 2024, 2025 and 2026 (data given by the Local Authority on 19 May, 28 September, and 12 November 2026).**

| | 2024 | 2025 | 2026 |
|---|---|---|---|
| **The PAN for the School** | 300 | 300 | 300 |
| **Number of first preferences** | 222 | 208 | 190 |
| **Number of pupils on roll in Year 7 (2024, 2025 and 2026)** | 233 | 228 | 209 |
| **Vacant places** | 67 | 72 | 91 |

29. As the national closing date for secondary school applications passed on 31 October 2026, I asked the Local Authority to provide me with the data in relation to applications and preferences for the three secondary schools in the planning area under the current normal admissions round. This is stated in Table 4 below, with the data taken from the Local Authority's letter to me on 5 November 2026. This does not include any late application which may have been or will be received by the Local Authority before offers are issued on National Offer Day (1 March 2027). A small number of the preferences expressed could have come from Year 6 pupils currently in a primary school outside of the planning area.

**Table 4: Local Authority's data about the preferences expressed for the three secondary schools in Ellesmere Port planning area for the normal admission round for September 2027 entry (as on 5 November 2026).**

| For Year 7 Admissions in September 2027 | PAN | On-time first preferences | On-time Second preferences | On-time third preferences | Total on-time preferences |
|---|---|---|---|---|---|
| **The Whitby High School** | 270 | 202 | 135 | 71 | 408 |
| **Ellesmere Port Catholic High School** | 180 | 144 | 99 | 76 | 319 |
| **Ellesmere Port Church of England College** | 150 | 135 | 76 | 39 | 250 |
| **Total** | 600 | 481 | 310 | 186 | 977 |

30. The Admission Authority commented on this in its letter of 11 November 2026 as follows:

> "The local authority's projected admissions data indicates that, across the three Ellesmere Port secondary schools, there is capacity for 600 Year 7 places against a total of 481 first preference applications. This demonstrates that there is sufficient capacity within the town to meet local demand. Historical admissions patterns show that numbers do not increase significantly above first-preference figures. This further strengthens the position that adequate provision exists locally. We also know that a proportion of parents and carers will choose schools outside the town and are successful in securing places there. While late applications are received, these are largely balanced by families moving out of the area or changes in student

circumstances. Taken together, the available evidence supports our view that a PAN of 270 remains appropriate and sufficient to meet foreseeable local demand."

31. Without prejudice to the outcome of the allocations in relation to the offers being issued on 1 March 2027, it looks like that the numbers of on-time first preferences expressed by parents for a Year 7 place in each of these schools are smaller than their individual PANs. It is therefore reasonable to assume, with the available data given, that there are likely to be sufficient Year 7 places for the planning area for September 2027. As can be seen in Table 3, in each of the last three years, the number of first preferences has been aligned to the number of children finally admitted to the School. It is therefore unlikely that there will be any frustration of parental preferences when those offers are issued in March 2027, as the School has only received 202 first-preference applications, far below the determined PAN of 270.

32. Nevertheless, as stated above, the objection is not just about the school year 2027/28. Once the reduced PAN is determined, it will become the 'baseline' for future years. In its letter of 21 July 2026 to me, the Local Authority said:

> "Whilst current forecasts suggest that there may be sufficient places available within the planning area should the PAN be reduced, the Council remains concerned that reducing capacity at this stage would unnecessarily limit flexibility within the system. This is particularly relevant given the uncertainty associated with future demographic trends, changing parental preferences and significant housing growth planned across the Ellesmere Port area."

33. I asked the Local Authority to re-confirm the basis of the housing development assumptions underpinning its school place demand forecast. In its letter of 28 September 2026, the Local Authority stated:

> "These forecasts do include an allowance for housing growth, based on the information available to the Council at the time they were prepared. However, pupil forecasts are not definitive predictions of future demand and should be regarded as the Council's best estimate based on current evidence and reasonable planning assumptions. Whilst known housing developments are taken into account where appropriate, there remains uncertainty regarding the scale, timing and delivery of a number of proposed developments within and around the planning area.
>
> In particular, some housing developments remain speculative, are at different stages of the planning process, or do not yet have a confirmed delivery trajectory. As a result, it is not possible to determine with certainty which developments will be delivered, when they will be occupied, or the extent to which they will generate demand for school places during the forecast period. The Council therefore reviews and updates its forecasts regularly to reflect the most up-to-date information available. As housing

proposals progress and delivery assumptions become more certain, the forecasts are revised accordingly."

34. Weighing the evidence put before me by the parties has led me to come to the following findings:

(a) It is clear that the School is experiencing a considerable surplus of Year 7 places as we see the data for the current and the last two admission years. This surplus for September 2026 is as large as the size of three Year 7 classes of 30 pupils each. All parties seem to agree that the determined PAN of the School (270 for September 2027) will not present an immediate capacity problem for the planning area, or the wider Local Authority's area, at least for the school year 2027/28;

(b) There is a total of 821 pupils currently on roll in Year 6 classes of any of the primary schools in the planning area. With the reduction of 30 places at the School, the combined Year 7 PAN of the three secondary schools in the same area for September 2027 will only be 600 places. Even though some of these eligible Year 6 pupils are seeking a Year 7 place in nearby areas, it is understandable that the Local Authority would be duty bound to take a cautious and conservative view about any proposal of a permanent PAN reduction. Local authorities must ensure that they would not breach their Section 14 duty to provide sufficient school places for their local area in future; and

(c) It is clear that there is sufficient capacity at the School for a PAN of 300. It is the only secondary school within the planning area which does not have a designated religious character. If the house building continues, it is possible that the other two secondary schools may not have capacity to accommodate all the children living in the planning area for the School in the next five years or so. As the School has capacity for 1,625 students, the Local Authority would not have a case for capital investment to expand educational provision elsewhere, especially as it invested £2.7 million at the School in 2017 to secure an estate capable of sustaining a PAN of 300.

35. I find that there is unlikely to be any immediate negative impact on the Local Authority's ability to discharge its Section 14 duty to secure sufficient school places for providing secondary education in its area for 2027/28. However, the prospect of planned housing developments may present a challenge for the Local Authority if such surplus places at the School are permanently removed at this stage. Therefore, I will go on to consider what the impact of allowing the surplus places to remain might be in the short term.

<u>How a continuing surplus of places might impact on the School</u>

36. I asked the Admission Authority to outline what disadvantages the School would suffer if the objection were to be upheld, or otherwise what the advantages are. In response, and in summary, the Admission Authority stated in its letter of 15 July 2026 as follows:

> "If the objection is not upheld and the PAN reduction is permitted, the admission authority believes the School will be better placed to:
>
> - continue its improvement journey at pace;
> - further improve attendance, behaviour and inclusion;
> - strengthen outcomes for disadvantaged and vulnerable pupils;
> - enhance specialist support for pupils with SEND and other additional needs;
> - develop its proposed inclusion base and intervention provision; and
> - make more effective use of staffing and accommodation resources."

37. The Admission Authority went on to describe the challenges the School had experienced in recent years in relation to the relatively high number of in-year admissions, as well as those resulting from the implementation of the current Cheshire West and Chester Fair Access Protocol for unplaced and vulnerable children (including those who are having difficulty in securing a school place in-year). The Admission Authority has tried to link the reduced PAN to implications for educational quality, staffing efficiency, and the pace of school improvement.

38. In its reply of 21 July 2026, the Local Authority responded to these issues as follows:

> "The Council acknowledges the school's comments regarding in-year admissions and the operation of the Fair Access Protocol. However, the [Local] Authority considers that the ability of schools within the planning area to accommodate in-year admissions, including vulnerable pupils and those requiring additional support, forms an important part of maintaining a resilient and effective local secondary system. The fact that The Whitby High School has capacity to admit such pupils demonstrates the value of retaining flexibility within the system and does not, in the Council's view, support a reduction in planned admission capacity. Rather, it reinforces the need to maintain sufficient capacity across the planning area to respond to changing circumstances and unanticipated demand."

39. The improvement journey outlined by the School is clearly desirable and welcomed, However, I am not convinced that surplus Year 7 places in recent years nor the previous PAN of 300 was, or would be, an impediment to any such success.

40. A distinction has to be made between the PAN and in-year admissions under the Code. The PAN is for each 'relevant age group' as described in paragraph 1.2 of the Code (above); and in this case the 'relevant age group' is Year 7 which is the age group at which

pupils are or will normally be admitted to the School. Paragraph 1.4 of the Code (above) makes it clear that '[The PAN] only applies to the relevant age group', and that '[admission] authorities may also admit above their PAN through in-year admissions'.

41. Paragraph 2.28 of the Code reads:

> "With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria, unless admitting the child would prejudice the efficient provision of education or use of resources."

42. Paragraph 3.16 of the Code reads:

> "No school - including those with places available - should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the Protocol."

43. There is no suggestion that the School is being asked to admit 70 to 100 pupils through in-year admissions in Year 7. As there are 202 first preferences for September 2027 and the trends are similar to previous years, there are likely to be approximately 210 to 230 Year 7 pupils on roll in Year 7 in 2027/28. Whether the PAN is 270 or 300 is unlikely to make a material difference to the number of children the School is asked to admit through in-year applications.

44. The School has a revenue reserve of over £1.2 million (as of March 2026) as recorded on the FBIT website. I do not see any evidence being put forward by any party to show that keeping the PAN at 300 places would or might jeopardise the School's financial management.

45. Reading these together means that there is little merit in the School's arguments set out above. Simply put, there are clear provisions in the Code to guide admission authorities and local authorities to manage in-year admissions, and to ensure that unplaced or vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible. The PAN of the School, or its reduction, does not regulate in-year admissions and those through the Fair Access Protocol.

46. Before I conclude, I am pleased to put on record that both the Local Authority and the School have demonstrated throughout their correspondence, a strong commitment to working proactively together for future planning of secondary school places in the local area, with a view to ensuring that the Local Authority is able to discharge its Section 14 duty. When in time the Local Authority will update its forecast, or if the expected housing developments do not materialise, it would then be perfectly acceptable for the Admissions Authority to seek

to reduce its PAN again in a way that does not impact on the Local Authority's ability to discharge its duty.

47. Taking everything into consideration, and on balance, I have decided to uphold the objection to the Admission Authority setting the PAN at 270 for Year 7 admissions in 2027/28.

## Determination

48. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for 2027/28 determined by the governing body of The Whitby High School in the local authority area of Cheshire West and Chester Council.

49. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 17 November 2026

Signed:

Schools Adjudicator: Jackie Liu