



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA 2760, 2761, 2770 and 2783

Objectors: A number of parents

Admission Authority: The Academy Trust for Hinchley Wood School

Date of decision: 9 September 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements for admissions in September 2015 determined by the academy trust for Hinchley Wood School in Surrey.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), objections have been referred to the adjudicator by a number of parents (the objectors), about the admission arrangements (the arrangements) for Hinchley Wood School (the school), an academy school for pupils aged 11 – 18 in the Elmbridge district of Surrey for September 2015. The local authority (LA) for the area is Surrey County Council. The objections are about the criterion that gives siblings priority over catchment area children; a distance issue for some children in the Claygate area; about the fairness of the changes made; about some children being in the catchment area of two schools; and about the consultation process.

Jurisdiction

2. The terms of the funding agreement between the academy 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. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis on 18 March 2014.
3. The objectors submitted their objections to these determined arrangements on various dates before 30 June 2014. 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.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the objectors' forms of objection received on various dates before 30 June 2014, and subsequent email comments from the objectors;
 - b. the school's responses to the objection and supporting documents dated 22 and 24 July 2014 and subsequent comments;
 - c. the LA's comments on the objections dated 18 and 28 July 2014;
 - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
 - e. maps of the area identifying relevant schools and showing the catchment areas for the four Elmbridge secondary schools;
 - f. confirmation of when consultation on the arrangements took place, together with copies of the consultation documents and responses to the consultation;
 - g. copies of papers for and the minutes of the meetings of the school's governing body held on 8 March and then 18 March 2014 at which the academy trust determined the arrangements; and
 - h. copies of the determined arrangements for both 2014 and 2015 including the relevant maps of the catchment areas.

The Objection

6. There are four objections that been submitted and these cover five broad areas. The areas are :
 - it is unfair that children with siblings in the school have priority when they do not need to live within the catchment area;;
 - children in the east side of Claygate will not get a place at the school if they do not attend their local primary school;
 - the new arrangements favour children in the Claygate area at the expense of other children;
 - it is unfair that some children will live within two catchment areas; and
 - the consultation did not follow the requirements set out in paragraph 1.44 of the Code.

Background

7. Hinchley Wood became an academy in February 2012. It was judged by Ofsted to be an outstanding school before it converted to an

academy and has not yet been inspected as an academy. The school has a published admission number (PAN) of 210 for Year 7 in 2015.

8. Hinchley Wood is one of four secondary schools serving the Elmbridge district of Surrey. Part of the district boundary is also the boundary between Surrey and the neighbouring Royal Borough of Kingston upon Thames and forms in part the edge of the school's catchment area. However, the east side of the school's catchment area includes some streets in a small part of the neighbouring borough of Kingston upon Thames. There are Kingston secondary schools that serve the areas adjoining the east side of the school's catchment area. The north boundary of the catchment area is the River Thames. The west and the south sides of the catchment area adjoin the areas served by other Surrey schools. The four secondary schools in the Elmbridge district have each had a clearly defined catchment area since 2011 and between them they cover the district of Elmbridge.
9. The catchment area bears a similarity with a rectangular shape with the distance from north to south greater than the distance west to east. The school is located slightly nearer to the north of the catchment area than to the south and nearer the western side. Straight line distance is used within the oversubscription criteria to rank the applicants if there are more applicants than places available who meet an oversubscription criterion. A consequence of this is that those living within the catchment area do not have equal chances of gaining a place with those at the extremities of the rectangular area the most disadvantaged.
10. The oversubscription criteria for the school up to and including September 2014 were:
 1. Looked after and previously looked after children;
 2. Exceptional medical and social needs;
 3. Siblings of pupils at the school;
 4. Children resident in the catchment area;
 5. Any other children.Distance was used to prioritise places if there were more applicants than places available.
11. The views of the LA and the school are that initially these arrangements generally worked and served local parents well. However as the number of children resident in the catchment area has increased the school is concerned that it may no longer be able to accommodate all children from within the catchment area and has decided that it should review its admission arrangements. The LA's pupil number projections published on its website show pupil numbers increasing across this district and identify a projected need for more places through to 2020.
12. Claygate village is located in the south of the catchment area and falls partly within the school's catchment area and partly within the catchment area of Esher Church of England High School which is one of the other Elmbridge secondary schools. In the past, Claygate

children who lived in the part of the village within Esher High School's catchment area were offered places, but some of those living in the part of the village falling within Hinchley Wood's catchment area could not be offered places at Hinchley Wood because places were prioritised on their distance from the school even though it was their closest Surrey school. I note that there is a Kingston school within three miles of the village by road, but the figures show that this school does not receive many applications from Surrey children.

13. In 2013 the school decided to review its arrangements and consulted on proposed changes for 2015. A consultation paper and response form was produced and was widely circulated. Circulation included other secondary schools, primary schools and the local Catholic and Church of England dioceses. The proposed arrangements were displayed on the school's website for the period of the consultation. The consultation ran from 13 December 2013 to 21 February 2014.

14. The changes proposed were adjustments to the catchment area to remove a small section in the east; to incorporate the whole of Claygate village in the south and to divide the fourth oversubscription criterion into two by identifying four feeder primary schools. The resulting arrangements were:

1. Looked after and previously looked after children;
2. Exceptional medical and social needs;
3. Siblings of pupils at the school;
4. Children:
 - 4a resident in the catchment area who have attended one of the named feeder schools
 - 4b resident in the catchment area who have not attended one of the feeder schools;
5. Any other children.

Where the school is oversubscribed in any of the above categories, priority will be given to those who live closest to the school.

15. The school's decision to change its arrangements for 2015 was not made in isolation. Following discussions, Esher High School consulted on increasing its PAN from 210 to 240 and changing its catchment area to cover the whole of Claygate village on the understanding that Hinchley Wood would adopt arrangements including feeder primary schools. This was because Esher High School – even with its increased PAN – did not consider that it could accommodate all children from Claygate village and needed to know that some children from Claygate village would be able to secure places at Hinchley Wood.

16. The school's governing body met twice in March to consider the arrangements. I have read the briefing paper provided for these meetings together with the minutes of these meetings. The arrangements were subsequently published on the school's website along with a press notice explaining why the governing body had made

the decision it had and advice on how to object to the adjudicator.

Consideration of Factors

17. Objections were submitted to the adjudicator in April and May and these were duly considered and a determination (ADA 2587, 2588, 2620, 2641 and 2642) on these matters was published on 4 June 2014. More objections were received after this determination had been published and before the deadline for objections on 30 June.
18. The new objections received were considered carefully to see if they raised new points or were substantially the same as points already considered. The Code at paragraph 3.3 sets out a list of objections that cannot be brought and at 3.3(e) says "*objections to arrangements which raise the same or substantially the same matters as the adjudicator has decided on for that school in the last two years.*"
19. Those whose points were considered to be the same or substantially the same as those already considered were informed and the objections not considered. This determination considers those objections that included one or more points that had not been considered in the previous determination of 4 June 2014 and deals only with the new matters.
20. There are four new objections and these cover the following five points:
 - it is unfair that children with siblings in the school have priority when they do not need to live within the catchment area;
 - children in the east side of Claygate will not get a place at the school if they do not attend their local primary school;
 - the new arrangements favour children in the Claygate area at the expense of other children;
 - it is unfair that some children will live within two catchment areas; and
 - the consultation did not follow the requirements set out in paragraph 1.44 of the Code.

Children with siblings in the school who do not live in the catchment area

21. I will deal first with the objection about the priority given to siblings in the arrangements. Paragraph 1.11 of the Code enables admission authorities to give priority to siblings provided that the arrangements are clear about what is meant by a sibling. The objector says that if the school wants to give priority to siblings then it should restrict this to those that live in the catchment area.
22. The school has responded by pointing out that this criterion has not been changed for 2015 and that it has been part of the admission arrangements for some years and was not part of the consultation

about proposed changes. It goes on to provide figures about the number of sibling applicants and how many of them live within the catchment area.

Year	Total number of sibling applicants	% living within catchment	Number living in the catchment area	Number living outside the catchment area
2011	73	67%	49	44
2012	77	82%	63	14
2013	80	84%	67	13
2014	82	95%	78	4

23. The number of out of catchment area applicants with a sibling at the school is reducing. This is a result of the introduction of catchment areas in 2011. For admissions in 2015, the Year 7 cohort admitted in 2011 will have reached Year 11 so all pupils are likely to live within the catchment area unless they have moved since that time. The school has been clear how it defines siblings and is compliant with the Code in this respect. It has chosen to give some priority to siblings as permitted by the Code and this assists families with more than one child in terms of travel to school and building a relationship with one school. In this case, the school is also giving priority to applicants from within its catchment area. This has not previously created a problem. Demand for places from within the catchment area is increasing and the school has said that it is keeping this under review. The arrangements as written protect parents who choose to move out of the area having gained a place in the school for an older sibling. However the figures provided by the school show that the number of out of catchment siblings has reduced in recent years. The school has not chosen to change this oversubscription criterion for 2015 and predicts that this trend will continue in 2015. It has also stated that it will keep this criterion under review for admissions in 2016. I accept the school's argument and consider that this is a reasonable and fair way to proceed. I am satisfied that the criterion giving priority to siblings does not contravene the Code and therefore do not uphold this objection.

Children in the east side of Claygate will not get a place at the school if they do not attend their local primary school

24. The objection has been made that there are some children who live in the eastern side of Claygate village who may not gain a place at the school if they do not attend the feeder school in the area. The school responds that this is not a new situation because at the point that the

school is oversubscribed and the distance oversubscription criterion is used, it is those children who live furthest from the school who will not gain a place. One of the points of changing the arrangements was to try and improve the situation for those children at the edges of the catchment area. There are two improvements that have been made. The first is that new arrangements place these children in two catchment areas and by doing so help to ensure that there is a secondary school place for them at one of two high schools. The second improvement is that children who attend the local primary school receive priority within the arrangements.

25. I accept the school's argument that it has sought to manage this situation and has done so in this case by introducing the feeder schools and introducing an area that is within the catchment area of two schools. I am persuaded that the combination of the measures described is projected by the school to improve the situation for children in this area and I do not uphold this objection.

The new arrangements favour Claygate children

26. Points have been made concerning the apparent priority given to children who live in the Claygate area over other children in the catchment area, and express the view that in addressing the needs of children in this area, children in other parts of the area may be disadvantaged with the result that the arrangements are unfair. In some respects, this is the opposite view to the objection discussed above.
27. I have carefully reviewed all the information provided by the school and the LA on this matter and taken account of the views of the objectors. The school has worked with the LA to respond to the request that it has received from families in the Claygate part of its catchment area to find a way that the arrangements could be improved for these families. However, as pressure on places at the school has increased it is clearly unfair if the pressure is not spread across the area as fairly as possible.
28. The Code requires arrangements to be fair, so I considered the points made in the objections about other families being disadvantaged. The school has set out its intentions to try and ensure that it has a means of serving its local community by giving places to those who live in the catchment area and who attend the schools that it has designated as its feeder schools. It has said that it also intends to retain some opportunity for children to be admitted on the grounds of distance if they have not attended one of the feeder primary schools. It estimates that children living within 0.8 of a mile of the school will be able to gain a place even if they have not attended a feeder school. The objector argues that this figure is incorrect and that in reality there will be little opportunity for those seeking places on the grounds of distance.
29. I noted that the school has created three different sets of criteria that it

uses to allocate available places; there is a catchment area, there are four feeder primary schools and there is distance. The nub of the problem that the school is trying to solve is that there are insufficient places in the school to provide for the number of the children in the catchment area. The shape of the catchment area makes the use of distance to prioritise applications a problem because there will be some homes at the edges of the area that will always be disadvantaged when distance is used to prioritise applications. The school has therefore tried to mitigate the shape of the catchment area by also introducing a priority for children who have attended one of four feeder primary schools.

30. I can see that some of the objectors feel that they are being disadvantaged because their children are not attending one of the newly designated feeder schools or they live towards the edge of the catchment area and consider they are less likely to gain a place on the grounds of distance. I can find no evidence that the school has acted with any intention to be unfair or has not considered the effects of the changes on families across the area. The evidence that I have seen increases the priority for children in this area to gain a place at either Esher High School or Hinchley Wood School. The introduction of the feeder schools adds a further priority for children in this area which they did not previously have. I do not consider that the school has acted unfairly and I do not uphold the objection.

Children in two catchment areas

31. Paragraph 1.14 of the Code permits the use of catchment areas provided that they are designed so that they are “*reasonable and clearly defined*”. It is clear that the school’s intention is to ensure that there are places available for children from the village of Claygate in one of two secondary schools when previously some children in one of the catchment areas could be confident of gaining a place while others were unlikely to gain a place at their catchment school on the grounds of distance. In this particular instance the catchment areas are clearly defined and I consider that the reasons for establishing the joint catchment area system in the south of the school’s area are reasonable and the areas are clearly defined. I do not therefore uphold this particular objection.

The consultation process

32. Objections were made about the consultation and whether or not it was conducted in compliance with the Code. One objector stated that the consultation had not included **all** parents of children aged two to eighteen and that this was required by paragraph 1.44 of the Code which says “*Admission authorities **must** consult with: a) parents of children between the ages of two and eighteen;.....*”
33. I then referred to the School Admissions (Admission Arrangements and Coordination of Admission Arrangements)(England) Regulations 2012

which says at section 12 (1) *“This regulation prescribes the persons who must be consulted about proposed admission arrangements for a school”*...which includes... *“12 (2)(d) parents of children between the ages of two and eighteen who are resident in the relevant area;”* and this is further clarified at section 16 (1) where it says *“during a period of consultation an admission authority must:- (a) publish their proposed admission arrangements on their website (if they have one).....(b) send upon request to each person who must be consulteda copy of the proposed arrangements.....”*

34. The LA comments that it does have a database of names for parents of children aged two to eighteen but that it is constrained by data protection legislation from using the data in this way. Elsewhere it argues that this may not be a complete data set and that the time spent extracting and using the information may not be the best use of resources. The objector argues that as the LA has a database of names and addresses this should have been used to send copies of the consultation to every address.
35. I am unconvinced by the argument that the LA could not use the data that it has to create a mailing list and that it was constrained by data protection rules. I am more convinced by the argument about the use of resources. The school says that it published the consultation on the school’s website; placed advertisements about the consultation in local papers; and asked early years establishments to draw the attention of their parents to the consultation. This is compliant with the regulations quoted above. The Code is not specific about the detail of the consultation and the regulations quoted say that the consultation documents must be available on request. At a time when resources are limited, it would seem to be a disproportionate use of resources to mail **all** parents of children aged two to eighteen in an area even if the LA was able to produce a comprehensive address list. It must be expected that a school will undertake reasonable efforts to communicate with the consultation groups specified in paragraph 1.44 of the Code. It has done this and from the evidence that I have seen of the number and breadth of responses, the school carried out a consultation that enabled many people to respond and these opinions were summarised in the report to governors to inform their decisions. There may be people whose opinions were not heard but this does not invalidate the governing body’s efforts to communicate widely and then to take account of the views received. I do not uphold this element of the objections.

Conclusion

36. I have looked carefully at the various elements of the objections made. The school has recognised that it needs to consider the admission arrangements because the number of pupils in the catchment area is increasing and is projected to exceed the capacity of the school. It has limited choices about how it manages this situation. It could dispense with the catchment area altogether; it can reduce the size of the area; it can increase the capacity of the school or it can do as it has done so

far which is to find a means to prioritise places within the catchment area. The catchment area was implemented in 2011 in collaboration with the neighbouring Surrey schools and the LA. Before this was introduced, the LA took a paper to its Cabinet committee in 2010 that said that pupil numbers in the Elmbridge area would be increasing over the next decade and that five additional classes would be required across each cohort in the area to meet the increasing demand. As the numbers rise the LA will need to consider how it fulfils its statutory responsibility to ensure sufficient school places in collaboration with the schools in the area.

37. I have considered the objections and the actions the school has taken before determining its arrangements for 2015. I am satisfied the arrangements do not contravene the Code and I do not uphold the objections to the school's arrangements for the reasons given above.

Determination

38. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements for admissions in September 2015 determined by the academy trust for Hinchley Wood School in Surrey.

Dated: 9 September 2014

Signed:

Schools Adjudicator: David Lennard Jones