



## DETERMINATION

- Case references:** ADA3098 - ADA3101, ADA3112, ADA3113, ADA3119 - ADA3121, ADA3129, ADA3134 - ADA3139, ADA3142, ADA3150 - ADA3167, ADA3169 – ADA3175, ADA3222 - ADA3224, ADA3228 - ADA3229
- Objectors:** The Governing Bodies of Ewhurst Church of England Infant School, Scott-Broadwood CE Infant School, and Peaslake Free School and a number of parents and members of the public
- Admission Authority:** The Governing Body of Park Mead Primary School, Cranleigh, Surrey
- Date of decision:** 21 July 2016

### **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 2017 determined by the Governing Body of Park Mead Primary School, Cranleigh, Surrey.**

**I have also considered the arrangements in accordance with section 88I(5) and find 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.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act (the Act) objections have been referred to the adjudicator by the Governing Bodies of Ewhurst Church of England Infant School, Scott-Broadwood CE Infant School, and Peaslake Free School and by parents/local residents, about the admission arrangements (the arrangements) for Park Mead Primary School (the school), a foundation school, for September 2017. The objections all concern the removal of the planned admission number (PAN) for admissions to Year 3 (Y3) and the consultation carried out before this change was made.
2. The local authority (LA) for the area in which the school is situated is Surrey County Council, which is a party to this case, as is the Diocese of

Guildford (the Diocese), for reasons which will be explained in this determination.

### **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. Objections were received from the three schools listed above on 20 April 2016, from the Diocese on 13 May 2016 and from a number of parents and members of the public between 21 April 2016 and 20 May 2016. Some of these individuals asked to have their identity kept from the other parties and 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 their names and addresses 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.

### **Procedure**

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

The documents I have considered in reaching my decision include:

- a. the objectors' emails and forms of objection with dates as set out above;
- b. the school's and the LA's responses to the objections and subsequent correspondence and supporting documents;
- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- d. a map of the area identifying relevant schools;
- e. confirmation of when consultation on the arrangements last took place;
- f. a copy of the adjudicator's determination ADA/001616; ADA/1618; ADA/001622; ADA/001623; and ADA/001627 dated 26 August 2009;
- g. copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
- h. a copy of the determined arrangements.

5. I have also taken account of information received during a meeting I convened on 15 June 2016 at the school and of submissions made subsequently by parties to the case.

### **The Objections**

6. A total of 47 objections were made to the school's arrangements. The

Diocese was included as a party to the case together with other objectors, but at the meeting which I held it withdrew its objection. The objections, many of which followed a common format, covered the following matters although not all referred to each point:

(i) that the consultation carried out prior to the determination of the arrangements did not meet the requirements of the Code;

(ii) that the reduction of the Y3 PAN to zero:

a. renders the supply of school places locally insufficient;

b. results in reduced parental choice;

c. negatively impacts on the viability of other schools and

d. may result in some unfairness to siblings.

7. The objectors, between them, take the view that the consultation carried out before the arrangements were determined was not in accordance with paragraphs 1.42 to 1.45 of the Code and that the arrangements are unfair contrary to paragraph 14 of the Code. A further assertion that the arrangements were potentially damaging to social and community cohesion was, in my view, not within my jurisdiction to consider.

### **Other Matters**

8. When I looked at the arrangements I was concerned that the statement contained within them that “*parents may request that children start part-time until the child reaches statutory age*” may not comply with the requirement set out in paragraph 2.16c of the Code.

### **Background**

9. Primary education in Cranleigh and the surrounding area of Surrey is provided by a mixture of infant and all-through primary schools. In Cranleigh itself, there are three all-through primary schools: Park Mead Primary School, Cranleigh CE Primary School and St Cuthbert Mayne Roman Catholic Primary School. Children have joined both Park Mead Primary School and Cranleigh CE Primary School, which admits 30 children in Reception (YR) and a further 30 in Y3, for their Key Stage 2 (KS2) education having attended an infant school in one of the nearby villages, particularly from Ewhurst Infant School, Scott-Broadwood CE Infant School and Peaslake Free School.

10. Like Cranleigh CE Primary School, Park Mead Primary School was established following the closure of previously separate infant and junior schools, and like it has since that time retained a normal year of entry at Y3 as well as YR.

11. The school has sought on more than one previous occasion either to reduce significantly the number of admissions at Y3, or to end them entirely. Most recently, in 2009, the adjudicator ruled, as she was able at that time to do, that a Y3 PAN of 10 should be retained in spite of the school’s wish to

reduce it from 30 to zero. A Y3 PAN of 10 has applied since that time.

12. For 2017, the school has determined admission arrangements in which the Y3 PAN is set at zero. The PAN for admissions to the YR is 60, and the arrangements provide oversubscription criteria in relation to those places which give first priority to looked after and previously looked after children, second priority to children with medical or other compelling reasons for needing a place at the school, third priority to siblings of children at the school and fourth priority to children living nearest to the school with a final tie-break of random allocation. The arrangements also contain the statement in the section describing arrangements for deferred entry that "*parents may also request for their child to start part-time until the child reaches statutory school age*".

### **Consideration of Case**

13. The Governing Bodies of the three schools which have made the objections have provided me with a substantial submission covering the background to and details of their concerns.

14. In it they complain about the consultation which the governing body of Park Mead carried out prior to determining the admission arrangements for September 2017 and suggest that if the consultation process were shown to be inadequate it would invalidate the subsequently determined arrangements. I have read carefully all the material concerning the school's consultation which has been provided to me, and although there is also some dispute between the parties concerning some of the facts, such as the date on which the proposed arrangements appeared on the school's website, the principal concern is that there was little attempt made actively to consult local parents. Paragraph 1.44a of the Code requires there to be consultation with parents between the ages of two and eighteen.

15. This is particularly disappointing, given the contentious and long-running nature of the issue of Y3 admissions to Park Mead Primary School locally and secondly that the adjudicator had pointed out in 2009 that consultation with parents at that time concerning exactly this matter had not been well handled by the school. In common with many admission authorities, the school has mistakenly believed that consultation with early years' settings, for example, constitutes also consultation with parents of children of that age, presumably through the good offices of the setting in question. In the absence of any evidence that the school asked early years settings to bring the consultation to the attention of parents, I have to conclude that even this rather limited approach to meeting the requirements of the Code in relation to consultation with parents had not been achieved. The school accepted at the meeting which I called that this had been the case. I uphold the parts of the objections which maintain that the consultation carried out by the school did not meet the requirements of the Code.

16. In considering whether as a result of this defect in the consultation process I should uphold the objections to the school's determined admission arrangements, I am mindful of a number of matters. In the first place, I have seen evidence that the consultation carried out by the school did result in

objections being received during the consultation period, and that these were considered by the governing body prior to determining the arrangements. Secondly, I am not in any doubt that the governing body was aware as a result of the consultation of the reasons which those opposing the removal of the Y3 PAN had for doing so, as these were clearly and fully articulated, for example by the governing bodies of the three schools who have joined together in these present objections. Thirdly, in the course of these objections not only opponents among local parents but also supporters of the school's desire to remove its Y3 PAN have, rather unusually, been motivated to express their views to the adjudicator. I have tried to treat all points of view which have been expressed to me on an equal footing and to give all an equal voice in my consideration through the opportunity to attend the meeting which I called. Although the original consultation was incomplete, which is to be regretted, it has now been possible for a wide range of opinions to be voiced and while not all the potential consultees may have become involved I am confident that I am aware of and so have been able to take into account all the relevant arguments, both for and against the school's removal of its Y3 PAN. Taking all of these factors into consideration, and while it would have been preferable had the school in its consultation taken steps to ensure that it was aware of the opinions of all those it was required to consult, I do not consider that there are sufficient grounds for me to uphold the objections to its determined arrangements because of this defect in its consultation process. I have, as noted, upheld the elements of the objections relating to the consultation process itself.

17. I turn now to the issue of the change to the PAN and whether this is fair and so conforms with the Code or whether it is not fair and so does not conform. When the adjudicator determined in 2009 that the school would retain a PAN of 10 for Y3 admissions, she was concerned that were the PAN to be set at zero there may be insufficient Y3 places as a whole in Cranleigh, based on the information about projected pupil numbers at that time. In responding to the present objections, the LA has told me that it has no significant concerns regarding the removal of 10 Y3 places at Park Mead from a pupil planning perspective. It has already planned to meet a likely future increased need for places in all age groups in Cranleigh resulting from housing growth by relocation of Cranleigh CE Primary School to a new site. At the meeting, I asked the LA to provide to me its most recent projections of the need for places in the Cranleigh area. Assuming a Y3 PAN of zero at Park Mead, from 2017 onwards there will be 150 Y3 places, 60 at each of Cranleigh CE Primary School and Park Mead Primary School and 30 at St Cuthbert Mayne RC Primary School. The LA benchmark projections show a need for fewer than these 150 places from that date onwards.

18. Doubts have been expressed by one of the objectors about the extent to which the LA has taken into account all the factors affecting pupil projections in rural areas. These are said to be more complex than those for urban areas. However, I have seen nothing more substantial than this assertion, which of itself does not cause me to question the capacity of the LA, as the body responsible for securing access to appropriate education, accurately to predict pupil numbers for Cranleigh or anywhere else in the county. The LA has told me that it supports the removal of the school's Y3 PAN from September 2017. On the basis of the evidence which has been

presented to me there is no demonstrable need for the places to exist beyond that date. The removal of them at that time is very unlikely to result in an inadequate supply of pupil places, and I do not uphold the objections that they are unfair on these grounds.

19. Many objectors have referred to the effect which the removal of the Y3 PAN at the school will have in terms of the number of options which parents will in future have available to them. They complain that those choosing to send their child initially to an infant school will have a reduced degree of choice for the next stage of their education, since the school will no longer have an admission group at Y3. I agree that this is true.

20. In support of the view that the school's admission arrangements fail to be fair as required by the Code as a result of this effect, I have had it put to me that in the Code *"there is an explicit requirement for parents to have a choice"*, and that the removal of KS2 admissions at Park Mead would have the effect of *"dictating to parents where their children will go"*. I have also been referred to section 86 of the Act where I am told *"parental preference....an important element in admissions"* is set out.

21. It is in my view a misreading of section 86 of the Act, and indeed of the Code, to imply that either has any effect concerning the range or types of school that must be available to any parent or group of parents in any given location at any given time. Rather, these provisions deal with how the places that are available are to be allocated. This process allows parents to express a preference for a place at a stated number of schools and to have that preference met where this is possible. Where a school is oversubscribed, rules (*"oversubscription criteria"*) must exist to decide which children are admitted, and which not. The right to express a preference and to have it met if possible is not the same thing as a right to have a local range of schools from which to choose. In urban areas, for example, the range of schools that are physically accessible by parents is invariably greater than that in rural areas, where very often there is little or no *"choice"* within any reasonable travelling distance, and yet the same legislation applies to both circumstances. While parents will naturally prefer to have a range of available schools when making their preferences, the extent to which that is a real *"choice"* is heavily dictated by local circumstances. The right to express preferences is the same for all and is not dictated by circumstances. Indeed, all schools which are state funded and which provide education suitable for the age of the child in question can be the subject of such an expression of preference by any parent.

22. Individual schools have, of course, no responsibility when setting their admission arrangements to consider the extent to which they are providing alternatives for local parents, and cannot be found at fault for failing to do so. Nor can a school's admission arrangements be considered to be unfair because they do not ensure that there is a choice of different schools for those in the local area. The objections that the school's arrangements are unfair on these grounds fail to have any substance in my view, and so I do not uphold them.

23. Objectors have voiced their fears that parents of children attending

local infant schools will choose to seek places for their children in YR or in Years 1 or 2 (Y1,Y2) at Park Mead Primary School if they are concerned that Y3 places may not be available to them when they are needed. Such “early transfers” would then deprive the infant schools of some children and the income they bring, in this view. Objectors say that the viability of local infant schools is therefore put at risk by what the school has done.

24. It is an important part of the local context that the pattern of transfers at Y3 is affected by significant numbers of parents choosing private education at this point. Some children who have been at local infant schools or primary schools leave the maintained system between Y2 and Y3 and the effect is both to reduce the number of children transferring from infant schools and to increase the availability of Y3 places in the primary schools. The objectors say that some of those remaining with state-funded schooling for KS2 are likely to perceive a shortfall in Y3 provision as a result of the school removing its Y3 PAN. I have sought and obtained information from the school and from the LA against which the likelihood of there being such an effect might be judged.

25. The school’s current (2015- 2016 academic year) numbers on roll (provided 29 June 2016) are:

<b>Year group</b>	<b>Number on roll July 2016</b>	<b>Number of places in year group</b>
Year R	58	60
Year 1	54	60
Year 2	44	60
Year 3	67	70
Year 4	59	70
Year 5	64	70
Year 6	65	70

In the current year, and in the previous three years, the school’s Y3 places were not filled. The current KS1 year group sizes at the school are below the school’s new year group size for Y3 of 60 for September 2017.

26. The other school with a normal point of admission at Y3, Cranleigh CE Primary School, has told me that it has not filled its available Y3 places in any year since the school opened in 2008.

27. The combined take up of Y3 places at the two schools in Cranleigh, Park Mead Primary School and Cranleigh CE Primary School from the three infant schools which have objected to its admission arrangements has been a total of 21 children in 2013, 12 in 2014 and 14 in 2015.

28. These children came very predominantly from Ewhurst CE Infant School, as follows:

<b>Transfers from Ewhurst CE Infant School</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Park Mead Primary School	6	5	7
Cranleigh CE Primary School	14	6	5
<b>Total</b>	<b>20</b>	<b>11</b>	<b>12</b>

Park Mead Primary School has told me that it is expecting to admit a total of 12 children from the three schools to its Y3 places in September 2016, seven of these transferring from Ewhurst CE Infant School.

29. As the LA has pointed out to me, the level of demand from the three infant schools in recent years has been less than the number of additional Y3 places which will exist from 2017, which will be the 30 places at Cranleigh CE Primary School if the school's Y3 PAN is zero. Projected pupil numbers were discussed above as part of the consideration of the total supply of places. These do not demonstrate increasing demand.

30. Taking all these matters together, it seems to me to be clear that there is no reason to believe that there will need to be a rush for Y3 places in Cranleigh CE Primary School, since it is likely that there will be more than sufficient for the expected actual need. Any effect such as that feared would provide no risk to infant provision as a whole locally since children transfer very predominantly only from Ewhurst CE Infant School. It seems very probable that at least sufficient places will be available at Cranleigh CE Primary School which it can also be said is not an unpopular preference for parents whose children have attended Ewhurst CE Infant School. Parents have sent their children there in recent years when places were still available at Park Mead. As has been pointed out to me, both Ewhurst CE Infant School and Cranleigh CE Primary School are denominational schools and it is unlikely, although of course not impossible, that parents who are happy with denominational education at KS1 will find it unacceptable at KS2. In addition, Park Mead Primary School is likely to have some Y3 places available, even with a PAN of zero, as we have seen. The LA has told me that its own view is that it does not anticipate there being any risk to the viability of local infant schools as a result of this change, and I agree with this judgement, because I do not see any need for the effect which could give rise to this to occur. I do not uphold the objections to the school's arrangements in relation to the setting of a PAN of zero for Y3 on these grounds.

31. Finally, I have considered the objections that the arrangements are unfair to younger siblings of children who are already at Park Mead Primary

School and who might not be able to join them in KS2 at the school. Both the school and the LA have acknowledged that this is a potential concern, but also point out that it is one that would arise at any point when the school decided to remove its PAN for Y3. It is also plain that the school has signalled its desire and intention to make this change for a very long time, and that this is well known in the locality. It is also the case that the expectation, as described above, is that there will still be some capacity at the school in Y3 and the LA and the school stated at the meeting which I held that there was “a good hope” that any sibling problems could be managed.

32. I have read carefully all the objections which have been made and the points made in them. 43 of the objections were from individuals who said they were either parents or local residents. While all referred to the issue of siblings, only four have stated that they had an older child currently at Park Mead Primary School whom their younger sibling was hoping to join. While I cannot take this as conclusive evidence of the extent to which this matter has a practical impact, it is I believe indicative at least. That being the case, it does not seem to me that the arrangements as determined can be said systematically to cause unfairness to siblings. The Code’s reference to fairness is in any case a reference to the overall effect of a set of admission arrangements, and does not preclude the possibility that what might be felt as unfairness in individual cases can arise as a result of arrangements which are nevertheless compliant. In considering whether the arrangements have the overall effect of being fair, I have also borne in mind the school’s reasons for making this change. Both the school and the LA are clear in their view, with which I concur, that it will benefit the education of children at Park Mead Primary School if it is able to organise throughout as a 60 place primary school, and these benefits need to be set alongside any potential disbenefits brought about by the change. Overall I do not consider that the arrangements can be said to be unfair because of what may be a small and short-term effect, which although possible may not in practice arise at all. I do not uphold the objections based on concerns about the effect of the arrangements on siblings of children already at the school.

33. The school has replied to my concern that the statement contained within its arrangements that “*parents may request that children start part-time until the child reaches statutory age*” may not comply with the requirement set out in paragraph 2.16c of the Code. This states that:

*“ The authority **must** make it clear in their arrangements that, where they have offered a place at a school:*

*c) where parents wish, children may attend part-time until later in the school year.....”*

The school has said that it will revise its arrangements so that they repeat the wording set out in the Code. However, as they were determined, the arrangements give the impression that part-time attendance remains subject to agreement by the school and they do not comply with what the Code requires.

## **Summary of Findings**

34. A previous determination considered that it was unwise at that time to agree to the school removing its Y3 PAN entirely, largely because of concerns about the supply of places locally at KS2. Seven years later, I am of the view that this concern is no longer present to anything like the same degree, and that in view of the likely benefits which it sees, it is not surprising that the school has again sought to make this change.

35. In spite of the objections which have been made, which are very similar to those made seven years ago, I have explained in the preceding paragraphs, why, although I have upheld the objection that the school's consultation process prior to the determination of its arrangements did not fully comply with what the Code requires, that I do not uphold the objections which have been made to the arrangements themselves on these grounds. I conclude that there are insufficient grounds for upholding the objections to the determined arrangements on the grounds of a deficient consultation.

36. I have also explained why I do not uphold the objections which have been made to the school's arrangements on the grounds that they are unfair because they

- a. result in there being a shortfall of KS2 places;
- b. impact on the range of preferences available to parents of children who have been educated at local infant schools;
- c. will threaten the viability of these infant schools, or
- d. that they cause unfairness to siblings of children already at Park Mead Primary School.

## **Determination**

37. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2017 determined by the Governing Body of Park Mead Primary School, Cranleigh, Surrey.

38. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

39. 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: 21 July 2016

Signed:

Schools Adjudicator: Dr Bryan Slater