



Determination

Case reference: ADA3691

Objector: A parent

Admission authority: The academy trust for The Piggott School, Wokingham

Date of decision: 11 August 2020

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2021 determined by the academy trust for The Piggott School, Wokingham.

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 an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2021.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent (the objector), about the admission arrangements (the arrangements) for The Piggott School (the school), an academy school in Wargrave with a Church of England religious character for boys and girls aged 4 to 18, for September 2021. The objection is to the way in which priority for places is established when the school is oversubscribed from within its catchment area.

2. The local authority (LA) for the area in which the school is located is the Wokingham Borough Council. The LA is a party to this objection. Other parties to the objection are the academy trust for the school, the Diocese of Oxford (the diocese), which is the religious authority for the school, and the objector.

Jurisdiction

3. The terms of the Academy 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 (referred to on occasion as the 'full governing body'), which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 14 May 2020. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

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. a copy of the minutes of the meeting of the academy trust at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 14 May 2020 and supporting documents;
- d. the school's response to the objection;
- e. maps of the area showing local schools and their catchment areas;
- f. details of the allocation of places for admission over the past three years;
- g. the websites of local schools and local authorities;
- h. the local authority's response to the objection; and
- i. a determination of the adjudicator relating to Oxted School, Surrey (ADA3603), published in August 2019.

The Objection

6. The objector explains that in recent years applicants living in the northern part of the school's catchment area have been unable to obtain a place at the school due to oversubscription. The arrangements specify that priority for places amongst children living in the catchment area is given on the basis of distance from the school. The effect of this provision, he says, is that some children living to the north of the school have to travel long distances to alternative schools. Children living in the catchment area south of the school, although closer to the school, have alternative schools much closer to their homes.

7. He believes that the arrangements breach the Code in two ways:
- they disadvantage “*an identifiable group*”, that is, children living in the north of the Borough of Wokingham, which he says is contrary to paragraph 1.8 of the Code; and
 - they are not “*fair*”, as required by paragraph 14 of the Code.

Background

8. The school is an “all-through” school, based on two sites. Children aged 4 to 11 attend “Charvil Piggott Primary School.” This is not, as its name might suggest, a separate school, but has been part of The Piggott Church of England School since 2013. There is a Published Admission Number (PAN) for admission to the reception year in September 2021 of 30. The majority of children are admitted to the school in year 7 (Y7). The arrangements say that “*the admission number*” for Y7 is 203, but it is clear that this includes the children moving from the Charvil Piggott site to the secondary site in Wargrave. Properly, therefore, the PAN for admission to Y7 is 173.

9. The objection relates to admission to Y7. Historically the school has been oversubscribed for admission to the school at this point. For admission in September 2020, 125 children were refused a place at the school. The oversubscription criteria for admission to Y7 can be summarised as follows:

- A. Looked after children and previously looked after children.
- B. Children who live in the school’s designated area and have a sibling attending the school.
- C. Children of staff at the school.
- D. Children who live in the school’s designated area.
- E. Children who have a sibling attending the school.
- F. Children who attend a linked primary school (these schools are named).
- G. Other children.

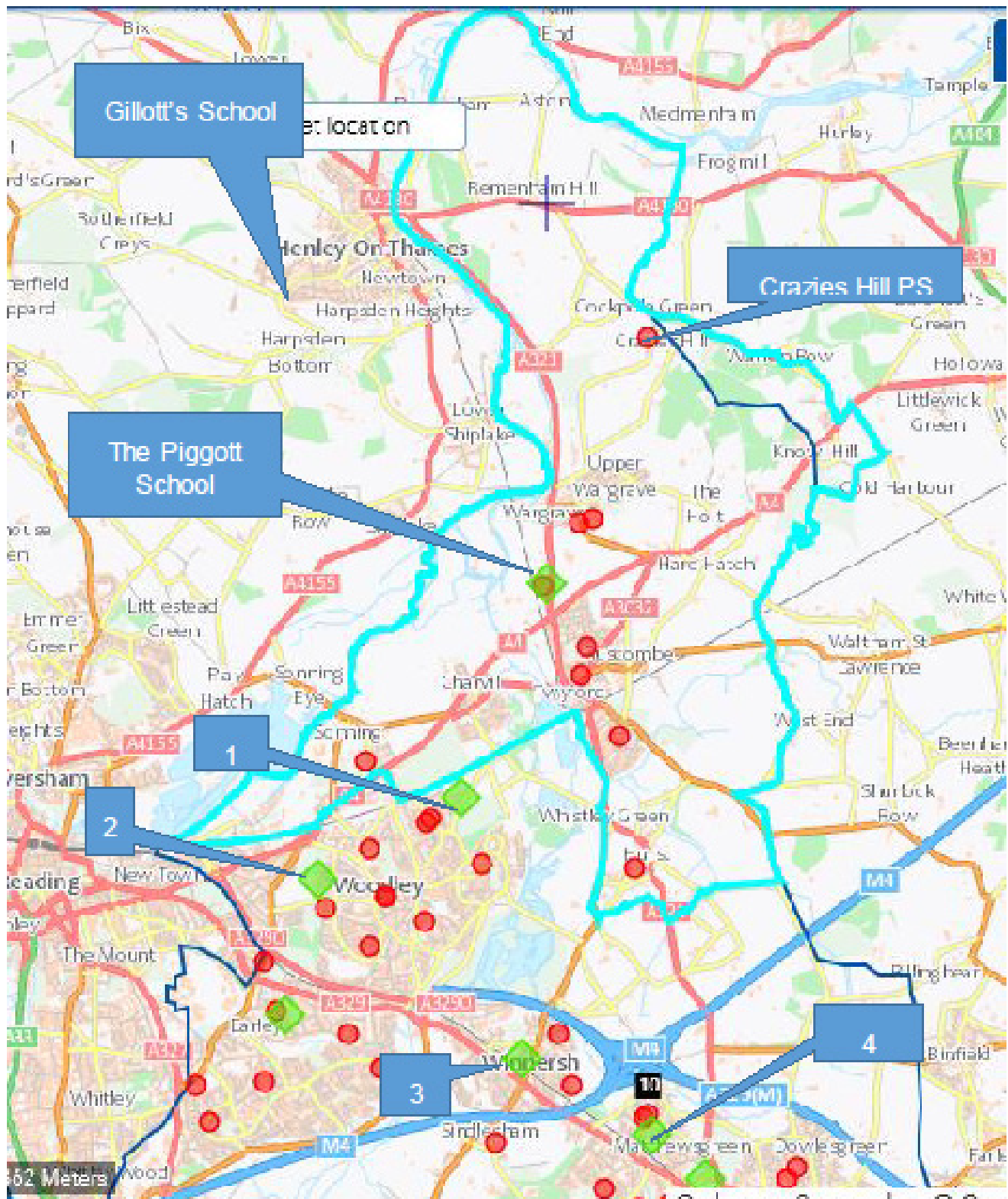
Within each criterion, priority is given according to the distance the child lives from the school site. The tie breaker, where distances are equal, is the drawing of lots.

Consideration of Case

10. Before considering the objector’s case, I must set out the context, including the locations of the schools concerned and the allocation of school places in recent years. The map below, provided by the LA, shows the school’s “*designated area*” (referred to in the Code as a catchment area). The northern part of the catchment area is much less heavily populated than the southern part. The boundary of the northern part of the catchment area generally matches the boundary of the LA area (referred to by the parties as “the borough”), but not exactly so. The south-eastern part of the catchment area is a “*shared designated*

area” with priority for The Piggott School and four other secondary schools. On the map, secondary schools are shown as green diamonds and primary schools as red circles.

Map One: Catchment area of The Piggott School (light blue boundary)



Key: 1. Waingels College 2. The Bulmershe School 3. The Forest School
4. The Emmbrook School

11. The objector states that, for children living in the northern part of the borough,

“The Piggott School is the nearest and only viable state-funded secondary school option.”

As the map shows, the next nearest secondary schools in the borough lie significantly further south. Crazies Hill Primary School serves the north of the borough. It is a feeder school for The Piggott School (named at “F” in the oversubscription criteria) and, according to the objector has “*historic ties*” with The Piggott School.

12. Data provided by the school and the LA confirm that for admission to Y7 in September 2019 and September 2020, children living in the north of the borough attending Crazies Hill Primary have not been allocated places at The Piggott School on the national offer day. This is because the PAN was reached within criterion D (children living in the catchment area) and they were amongst those living furthest from the school. In 2019 these children have subsequently obtained places as a result of a successful appeal or through the operation of the waiting list, but in 2020 two did not. This information is summarised in Table One.

Table One: Allocation of school places at The Piggott School

Year of admission (September)	Applicants considered under criterion D	Applicants allocated a place under criterion D	Distance* from school of last place allocated	Crazies Hill Primary School^ applicants allocated a place on offer day	Crazies Hill Primary School^ applicants who later obtained place	Crazies Hill Primary School^ applicants who did not obtain place
2018	All applicants	All applicants	N/A	All allocated a place on offer day	N/A	N/A
2019	125	109	1.691	0	4	0
2020	125	90	1.583	0	1	2

* Distance in miles

^Living in Crazies Hill’s catchment area (part of The Piggott School’s designated area)

13. The objector says that the nearest alternative secondary schools are located over seven miles from Crazies Hill; The Piggott School is 2.8 miles away. He suggests that if the pattern of admissions were to continue, the consequence would be that children living in the north of the borough who do not obtain a place at The Piggott School,

“would be compelled to attend schools which are at a significant distance from their homes, enduring a lengthy and stressful daily commute which in many cases would take them directly past The Piggott School. This will have serious and unacceptable implications

for the wellbeing and educational outcomes of the child and will hugely impact the domestic and working arrangements of their family.”

The objector believes that “*the above scenario is becoming increasingly likely in future years*”. He suggests “*potential reasons for this worsening situation*” include the “*growing popularity*” of The Piggott School, the impact of pupils moving from Charvil Piggott Primary School into Y7 and an increase in the number of secondary age children in the borough.

14. In his response to the objection, the headteacher of the school, on behalf of the academy trust, takes issue with several of the assertions made by the objector. He identifies a number of alternative secondary schools that are closer to families living in the northern part of the borough than those to the south of The Piggott School. Four of these schools are in other local authority areas, the nearest being Gillott’s School in Oxfordshire, which is shown on the map and which he says is 4.7 miles from Crazies Hill Primary School. He also lists three schools in Windsor and Maidenhead, to the east of Wokingham Borough, all of which are around 5.5 miles from Crazies Hill, and Waingels College, which is within the borough (5.7 miles from Crazies Hill). The headteacher says,

“Many of these schools would not involve a commute past The Piggott School, including the first four nearest schools. They are reasonable and practical to attend.”

15. I should clarify that the distances between schools quoted by the objector and the headteacher, in paragraphs 13 and 14 above respectively, appear to represent driving routes; indeed, the headteacher used Google Maps to obtain the distances. The Department for Education website, “*Get Information about Schools*” (GIAS) gives shorter distances, calculated on a straight line basis. The Piggott School is recorded as being 1.8 miles from Crazies Hill, Gillott’s School 3.1 miles, Waingels College 3.7 miles and the three schools in Maidenhead between 4 and 4.5 miles.

16. The headteacher also argues that the opening of the Charvil Piggott site, at which point the school became all-through, has not materially affected the availability of places for children living in the catchment area as the vast majority of children attending the primary phase of the school live in the catchment area and would obtain a place at The Piggott School in Y7 had they not attended Charvil Piggott. Twenty-one of the 26 children moving into Y7 in September 2020 from Charvil Piggott live in the catchment area. I would comment, though, that it is possible that some of these children would not have been allocated a place under the catchment area criterion “D”, as the PAN was reached within this criterion.

17. I turn now to the two ways in which the objector says the arrangements do not comply with the Code, listed at paragraph 7 above. In respect of the first, the relevant part of the paragraph 1.8 reads,

*“Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.”*

The objector says,

“Children and families in the north of the Borough have no reasonable or practical alternative to The Piggott School as a secondary school option and are therefore disadvantaged and marginalised. This affects not only individual children and families, but also the viability of these rural communities as places for families to settle if there is no security regarding secondary school provision.”

18. The objector uses the term “*an identifiable group*” to describe children and families living in the north of the borough. This term is not necessarily inaccurate, but it does not match the wording in the Code, which refers to “*a particular social or racial group.*” There is no suggestion that families living in this area constitute a racial group, still less a racial group which is different from other racial groups living in the area served by the school. The Code gives no specific explanation as to what is meant by a “*social group*” but I take it to involve a greater common identity than simply comprising people who live in a particular geographical area. The objector expresses concern that rural communities in the north of the borough will be adversely affected if places are not available at the school for the children who live there. Those communities no doubt comprise people from a variety of circumstances and walks of life. I do not see how this matches the homogeneity implied by the term “*social group.*” I therefore do not consider that the arrangements breach this part of paragraph 1.8 of the Code.

19. The objector’s second argument is that the arrangements are not fair, as required by paragraph 14 of the Code, part of which stipulates,

*“admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.”*

He says that the arrangements,

“give preference to children who live closer to alternative schools relative to children in the north of the Borough, but who choose The Piggott School above these alternatives. This is clearly unfair on children and families for whom The Piggott School is the only viable secondary school option (in effect, children and families living in the north of Wokingham Borough).”

I understand the objector to mean that children in the south of the catchment area, who live closer to the school than those in the north, also have easier access to other secondary schools; accordingly, he thinks that it is unfair that they should have a higher priority for places at The Piggott School, based on their distance from it. The objector also mentions the cost and environmental impacts of longer journeys to alternative schools that would potentially need to be made by children living in the north of the borough. In a nutshell, the objector believes it is unfair for children from the north of the borough to be expected to travel a significant distance past their catchment area school in order to attend an

alternative school. He is concerned that this will be the effect of the arrangements for admission in September 2021. The headteacher of The Piggott School does not accept that this will be the case.

20. The data in Table One lend some support to the objector's view. Over the past three years, the number of children living in the catchment area not allocated a place at the school on national offer day has increased while the distance from the school within which a child has to live in order to be allocated a place has reduced. For admission in September 2019 and 2020, no child living in the Crazies Hill Primary School catchment area (and therefore within the school's catchment area) was allocated a place at the school on national offer day unless they met one of the higher criteria such as having a sibling at the school. In the event, only two of these children had to attend an alternative school, as places became available through the operation of the waiting list.

21. I have been provided with no evidence to suggest that the trend in admissions to the school will be reversed in September 2021. In fact, the LA has confirmed that there is what it describes as a "bulge" in the numbers of children transferring to secondary school in September 2021 and 2022. Unused capacity at up to three secondary schools in the borough may need to be brought into use. The LA emphasises that several local factors, including migration into the borough and the uptake of places at independent schools and state schools outside the borough, complicate the challenge of determining the overall capacity that is required. The number of children taking up places in maintained secondary schools is often significantly lower than the number initially allocated places. Nevertheless, I consider it is reasonably safe to assume that there is a strong chance that children living in the most northerly areas of the borough will not be allocated places at the school on national offer day and a definite possibility that some will not be able to attend the school at all.

22. The two children identified who did not obtain places at the school for admission in September 2020 live in Aston which, as Map One shows, is in the northernmost part of the borough. Their parents obtained places for them at Gillott's School in Oxfordshire. According to GIAS, Gillott's is very slightly under 3 miles from Aston; The Piggott School is 3.6 miles away. In its response to me, the LA explained that Gillott's,

"is closer than the Piggott School for some north Wokingham families (and for some families will also be accessible by walking, which the Piggott School is not)."

Clearly, the effect of not obtaining a place at The Piggott School was not that these children could not attend a school within a reasonable travelling distance of their home, as Gillott's School is closer to them. However, Aston is not in Gillott's School's catchment area. For admission in September 2020, only 13 children out of 127 who did not live in its catchment area (and did not meet any other criteria, such as siblings or attending a feeder school) were allocated places at Gillott's. The last place was allocated to a child living 3.341 miles away. These figures suggest to me that while it is possible that some children from the north of Wokingham Borough who are not able to be admitted to The Piggott School in

September 2021 may well obtain a place at Gillott's, this is far from guaranteed for all who might seek one.

23. As I mentioned in paragraph 14 above, the headteacher of The Piggott School identified four other alternative schools, which according to GIAS are less than five miles from Crazies Hill. The closest of these, Waingels College, is 3.7 miles from Crazies Hill and 5.6 miles from Aston. However, the LA informed me that the last child admitted to Waingels for admission in September 2020 lived 3.495 miles from the school, although I note that Waingels is one of the schools mentioned by the LA that has surplus capacity. Of the three schools in Maidenhead, Cox Green School had 588 preferences expressed for its 210 places and Newlands Girls was also oversubscribed, with the last place allocated to a child living 2.396 miles away. Altwood Church of England Secondary School was not fully subscribed. This school is 4.2 miles from Crazies Hill and 5 miles from Aston. It would appear quite likely that places will be available at this school in September 2021.

24. The LA confirmed to me that home to school transport is provided "*where the school attended is the nearest suitable school with places...and is beyond statutory walking distance*", that is, three miles for children of secondary school age. With respect to schools located in neighbouring local authority areas, I was told,

"It is unlikely that a child would be offered an out of borough school, if their parents had not expressed a preference for it. This would normally only occur following agreement with a neighbouring council's school admissions team that places at a particular school could be offered as "diverts" (i.e. because a preferred school could not be offered). This could be determined to be the nearest suitable school with places".

25. It appears, therefore, that, if places at the school are not allocated to children living in the north of the borough, alternative schools may include Gillott's, Altwood and schools to the south of The Piggott School, perhaps including Waingels College. These schools are located within a range of approximately three to five miles from addresses within the northern part of the designated area, including Crazies Hill and Aston. The fact that two of these schools are in neighbouring local authority areas should not be seen of itself to be problematic, if they are the most appropriate local schools and home to school transport is provided.

26. The purpose of a system of catchment areas, it appears to me, is to ensure, as far as possible, that no child has an unreasonably long journey to school. Changing patterns of demography and parental preference sometimes mean that a school cannot offer places to all the children living its catchment area. Not least because such a situation can come about quickly and is outside the control of the admission authority, it cannot be and is not the case that being unable to gain a place at a catchment school is inherently unfair. However, if the effect of the way in which priority for places is established is that some children are significantly disadvantaged, potential unfairness is created. The assessment of the fairness of the effect of these admission arrangements therefore requires a balancing

judgment between the benefits for those living in the catchment area who obtain a place on the basis of their proximity to the school, and the extent of the disadvantage it may cause those who live further from the school.

27. For most children living in the northern part of the school's catchment area, being unable to obtain a place will require a longer journey to an alternative school, although this will not be the case for children in Aston who are admitted to Gillott's. For children living in Crazies Hill, alternative schools are likely to be between 3.7 and 4.5 miles away, which is more than twice the distance to The Piggott School. The objector regards this as *"unnecessary and unreasonable."*

28. The LA points out that there were also children in the southern parts of the catchment area who were not allocated places at the school for admission in 2020. These children, however, live much closer to alternative schools, such as Waingels College and The Bulmershe School, both of which were able to admit some children from outside their own catchment areas.

29. For children living in a relatively rural location, where schools are inevitably further apart, I do not regard a journey to school of up to five miles as entirely unreasonable. However, I do not see that it is necessary for children in the northern part of the borough to face this outcome. Prioritising children within the catchment area solely by their distance from the school has the effect of disadvantaging the children who should most benefit from living within it, that is, those who would face a longer journey to an alternative school. Prioritising on the basis of distance within a catchment has the virtue of simplicity and is easy for parents and others to understand. For the most part, it also ensures that children can attend a particular local school. However, in this case, it potentially works against those children who most need the 'protection' of a catchment area. Therefore, on balance, I agree with the objector that the arrangements are unfair in their effect and I uphold the objection on this ground.

30. The objector suggests an amendment to the arrangements, which he believes would remove the unfairness he has identified. He proposes that when oversubscription occurs within criterion D, priority for places should be given not on the basis of distance from the school site, but *"to those who live furthest from the nearest alternative school."* He cites the determination of the adjudicator in the case of Oxted School (ADA3603), in which an objection was upheld,

"where the absence of a "nearest alternative school" provision unfairly disadvantaged those for whom Oxted School is the nearest secondary school and for whom the nearest alternative school is significantly further away".

31. It is not within my jurisdiction to recommend a specific amendment to the arrangements that will address the unfairness they potentially create. The LA identified a number of difficulties with the objector's suggestion, taking into account the locations of schools across the borough and outside its boundaries. The definition and identification of a *"nearest alternative school"* would be particularly problematic. I recognise this to be the

case. Other possibilities that might be worthy of consideration could include the identification of priority areas within the catchment area or the use of nodal points for the calculation of distances. Alternatively, when a catchment area is oversubscribed from within its boundaries there is a finite number of options available to bring the catchment back into line with in-catchment demand. These amount to expanding the school, shrinking the catchment or some combination thereof.

32. Each of these potential courses of action will have other consequences and expanding schools also very often has significant costs. The admission authority, probably in conjunction with the LA, will require sufficient time to decide how best to amend the admission arrangements, ensuring that there are not unintended consequences that unfairly disadvantage a different group of children. There will need to be a period of consultation with stakeholders on the revised arrangements, in line with the process set out in the Code. I therefore determine that the required revisions must be made by 28 February 2021, which is the deadline for determining arrangements for admission in September 2022.

Summary of Findings

33. Children living in the northern part of the Borough of Wokingham have not been allocated places at The Piggott School on national offer day, despite living in its catchment area. This is because the arrangements provide for priority within the catchment area to be on the basis of distance from the school. The effect of the arrangements is that children in the north of the borough face a longer journey to an alternative school, whereas children who are allocated places at the school live much closer to other schools. This is unfair and breaches paragraph 14 of the Code. I uphold the objection.

Determination

34. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2021 determined by the academy trust for The Piggott School, Wokingham.

35. 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 an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2021.

Dated: 11 August 2020

Signed:

Schools Adjudicator: Peter Goringe