



Office of
the Schools
Adjudicator

DETERMINATION

Case references: ADA2973 and ADA2974

Objectors: Two parents

Admission Authority: The governing body of Bemerton St John Church of England Voluntary Aided Primary School, Wiltshire.

Date of decision: 2 November 2015

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 September 2016 determined by the governing body of Bemerton St John Church of England Voluntary Aided Primary School, Wiltshire.

I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements 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 and the school has already done so.

The referrals

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), objections have been referred to the adjudicator by two parents (the objectors), about the admission arrangements (the arrangements) for Bemerton St John Church of England Primary School (the school) for September 2016. The school is a voluntary aided (VA) primary school for children aged 4 to 11, in the village of Bemerton in Wiltshire. It has a published admission number (PAN) of 30. The objections concern the school's catchment area.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. The objectors submitted their objections to these determined arrangements on 29 June 2015. The objectors also raised one matter

which is not within my jurisdiction. The description of the school's arrangements and the catchment area map which appeared in the LA's composite prospectus for 2015 - and, it would seem, for several previous years - was wrong. The composite prospectus is not within my jurisdiction. The LA, school and diocese all agree that the determined arrangements are those published on the school's website.

3. The objections were originally assigned to another adjudicator for determination. For personal reasons, that adjudicator was unable to complete her consideration of the case and it was reassigned to me. I am satisfied that – other than in relation to the question of the inaccuracies of material on the LA's website - the objections have been properly referred to the adjudicator in accordance with section 88H of the Act and they are within my jurisdiction.
4. When I reviewed the arrangements in the course of considering the objections, I noted that the arrangements appeared not to conform with the requirements relating to admissions in ways other than those raised in the objections. I have accordingly used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
 - a. the objectors' forms of objection dated 29 June 2015 and supporting documents and subsequent submissions, including maps showing local schools and giving information about housing and distances between schools and between Quidhampton and the school by walking routes and as the crow flies;
 - b. copies of the minutes of the governing body meeting at which the arrangements were determined;
 - c. the school's response to the objections and supporting documents and subsequent submissions;
 - d. the response of Wiltshire County Council which is the local authority (LA) for the area and supporting documents and subsequent submissions including maps showing catchment areas of local schools and pupil number forecasts for the area;
 - e. the response of the Diocese of Salisbury (the diocese) which is the school's religious body to the objection and supporting documents;

- f. the LA's composite prospectus for parents seeking admission schools in Wiltshire in September 2015 and September 2016;
 - g. confirmation of when the school last consulted on its admission arrangements; and
 - h. a copy of the determined arrangements.
7. I have also taken account of information provided at and subsequent to a meeting I convened at the school on 7 October 2015 which was attended by the objectors and representatives of the school, LA and diocese. Prior to the meeting I was driven around the school's catchment area so I could understand the geography of the area.

The Objections

8. The objectors argue that the catchment area is far too big for the size of the school and that because of its size some children living in the area cannot gain admission to their catchment area school. They consider that the arrangements are not clear, fair or objective and hence in breach of paragraphs 14 and 1.8. They argue also that the catchment area is not reasonably defined as required by paragraph 1.14 of the Code. I note that the school's arrangements refer to its "designated area". The Code uses the term "catchment area" and I am satisfied that "designated area" as used in the school's arrangements falls within the parameters of paragraph 1.14.

Other Matters

9. When I reviewed the arrangements in the course of considering the objections, I noted other ways in which the arrangements appeared not to conform with the requirements relating to admissions. These were that the arrangements:
- a. may not give the priority for looked after and previously looked after children as required by paragraph 1.7 of the Code;
 - b. did not make clear that children with an Education Health and Care (EHC) plan which names the school must be admitted and might accordingly not be clear as required by paragraph 14 of the Code;
 - c. were not clear as required by paragraph 14 of the Code as the PAN appeared not be accurately described;
 - d. contained a statement which might amount to conditionality in breach of paragraph 1.9a of the Code and suggested that the school might not admit all applicants who wanted a place if it were undersubscribed which would breach paragraphs 15d, 1.36 and 2.8 of the Code; and
 - e. appeared not to contain information about the admission of

children under compulsory school age or outside the normal age range as required by paragraphs 2.16 and 2.17 of the Code.

Background

10. The school is designated by the Secretary of State in accordance with the Act as a school with a Church of England religious character. It is located in the village of Bemerton near Salisbury in Wiltshire. The school's admission arrangements are easy to find on its website, accessed via the admissions tab on the Parents Information page. One of the links on the admissions page leads to a map of the catchment area on the Bemerton parish website. The governing body last consulted on its admission arrangements in 2010 and minutes of the governing body meeting of 31 March 2010 record that the school received no feedback on its consultation. The school has not changed its arrangements – including the catchment area – since that time other than as necessary to reflect changes required by the Code. The school considered changing its arrangements for 2016 and produced a draft set of arrangements for this purpose. In the event the school decided not to consult on new arrangements for 2016. I mention this only as in the course of this case it seemed that the existence of these putative arrangements may also have added to confusion about what actually were the determined arrangements.

11. The school's oversubscription criteria can be summarised as follows:

1. Looked after children
2. Vulnerable children
3. Children who live within the catchment area and have a sibling at the school
4. Children who live within the catchment area
5. Children who live outside the catchment area and have a sibling at the school
6. Practicing Christians who live outside the catchment area
7. Other children who live outside the catchment area.

12. Where the school reaches and exceeds its PAN within any of the oversubscription categories, priority will be given to those who live closest to the school. There is a final tie-break as required by paragraph 1.8 of the Code to separate two or more applicants who qualify equally for the final place available and there is a supplementary information form (SIF) which is used for criterion 6. When I reviewed the school's website, I also found a document on the admissions section headed "*Common omissions from 2016/17 Admission Arrangements*". This had been provided by the diocese to help schools formulate Code compliant arrangements, for example, by giving them the correct definitions of looked after children. However, it cannot be considered part of the school's arrangements. The result, in the case of the school, was that while a document was included on its website which gave correct definitions, its own arrangements did not do so.

13. The school is oversubscribed and I was told that its popularity and numbers of applications have increased in recent years. For entry in 2015 the school received 99 applications for its 30 places of which 38 were first preference applications. Of the places available, 14 were allocated against criterion 3 to children who live in the catchment area and had a sibling at the school and 16 against criterion 4 to children who live in the catchment area. Not all the applicants falling within criterion 4 could be offered a place so the school applied its distance tie-breaker to distinguish between them.
14. The school's catchment area is the ecclesiastical parish of Bemerton St John. This overlaps with the catchment areas of a number of other primary schools. Many of those who live in the school's catchment area accordingly also live in the catchment areas of other schools and thus have priority for places at those schools as well as at Bemerton St John.

Consideration of Factors

15. The objectors state that as the village of Quidhampton falls only within the catchment area of the school, its children only have priority at one school. They also argue that this is also the only school within walking distance of Quidhampton. They contrast this with the position of children who live in other parts of the school's catchment area and at the same time in the catchment areas and within walking distance of other schools. Historically, all children from Quidhampton who sought a place at the school were able to be admitted; however, in 2015, children from Quidhampton failed to gain a place. In consequence, these children had to travel longer distances to schools further from their homes – the next nearest schools being some 1.6 or 1.7 miles from Quidhampton. The nearest applicant from Quidhampton lived 0.681 miles away from the school and so was not allocated a place as the final available place had been allocated to a child living 0.426 miles from the school (by straight line measure). Some children allocated places on the basis of living in the catchment area and having a sibling at the school lived more than 0.426 miles away and further away than applicants from Quidhampton.
16. The objectors consider that Quidhampton children are thus disadvantaged by the school's arrangements. They also make the point that the catchment area as shown in the LA's composite prospectus differs from that shown on the school's website. They argue that the school's catchment area is not reasonable and not well defined as required by paragraph 1.14 of the Code. Because of the size of the catchment area the objectors argue that the arrangements are not fair, reasonable, clear or objective as required by paragraphs 14 and 1.8.
17. I deal first with the questions of the objectivity of the catchment area and whether it was clearly defined. There is no doubt that the wrong map came to be published on the LA's website. However, the LA's website is not part of the school's determined arrangements and is not moreover within my jurisdiction. One of the objectors has asked why

she would need to “*visit the school website to seek out a catchment that I already believed I knew? (Having seen the incorrect council website). How would I know to double check a different source of information when the Council are supposed to be the 'authority'?*”

These points again illustrate the importance of the school and LA together ensuring that the correct information is displayed. It is, of course, the case that admission arrangements can and do change from year to year. The LA was not required to publish its composite prospectus for 2016 until September 2015 and it met this requirement. The purpose of the composite prospectus is to give the arrangements for all local schools after they have been determined and after the opportunity for objections. Admission authorities –whether schools or LAs – are required to publish their own arrangements on their websites earlier in the year once they have been determined so that parents and others can see them and object if they wish to do so. The school met this requirement. The fact that the wrong map was published on the LA’s website does not, however, mean that the catchment area was not clearly defined.

18. The question before me can only be whether the catchment area was clearly defined in the school’s arrangements. The objector quoted above also said that “*the correct catchment is NOT actually displayed on the school website. The school website actually contains a link to the parish website (so a separate website) that contains the correct catchment. It is neither clear nor accessible and the parish website is far from official looking! It’s a very home-made looking website with a photocopied map which contains a drawn on catchment boundary..... Even if I had seen this version of the map I would have still reverted to the 'official' map on the council website, as this was where we were told to apply.*” The admissions page of the school’s website when I first reviewed the website included a number of headings one of which was “Catchment Map” which was, indeed, a link to a map hosted on the parish website. The map was, therefore, hosted on another website. However, it could be reached with a single click from the school’s website, rather than the parents being required to visit the parish website separately. The map was easy to read with the boundaries of the catchment area clearly shown. I find that the catchment area was clearly defined. So far as the use of a catchment area as an oversubscription criterion is concerned, it is objective – a child either lives in the catchment area or he or she does not. I do not uphold the aspects of the objection relating to the clarity or objectivity of the catchment area.
19. I consider below the question of the reasonableness of the catchment area along with the question of its fairness.
20. The LA has explained that the number of pupils in the part of Salisbury in which the school is located has risen in recent years. Additional school places have been created at one school and most local schools are full. In the case of Bemerton St John, the LA has calculated that there are around 125 children a year who are likely to seek a place in

YR at primary school who live in the catchment area of the school. Of these children, the LA figures suggest that fewer than 20 each year live in the part of the designated area not shared with one of the other local schools. The LA has provided me with information about the numbers of children who were admitted to the school in 2015 and who lived in the catchment area of the school alone and the parts of the catchment area shared with that of other schools as follows:

Area	Number of children
Catchment area of Bemerton St John only	9
Catchment area shared with Manor Fields	5
Catchment area shared with Woodlands	3
Catchment area shared with Pembroke Park	13

21. Clearly, the school could not accommodate all of the children who live in its designated area. In the case of this school, however, I do not consider that this leads inexorably to a conclusion that the catchment area is unreasonably defined or too big as the objectors argue. As paragraph 1.10 of the Code explains, it is for admission authorities to decide which oversubscription criteria would be most suitable to the school according to local circumstances.
22. The diocese provided guidance to its schools in constructing faith-based admissions criteria in accordance with paragraph 1.38 of the Code and the school was required by virtue of the same paragraph to have regard to that guidance. The diocese's model admission policy suggested that schools adopt the following statement, *"The school aims to provide a place for all children whose address is within the designated (catchment) area, defined as being the area within the ecclesiastical boundaries of the parish of... However, this is dependent on the resources available to the school. Designated area means the area of benefit as defined in the school's Trust Deed."* The school's arrangements included this statement. The diocesan guidance did not address the situation the school finds itself in where it does not have the space to admit all the children who live in the designated area and would like a place there. The school has informed me since the meeting that the diocese has now removed the guidance from its website. However, the guidance was in force at the time the school determined its arrangements so the school was required to have regard to it. The diocese has now issued new guidance but this relates only to 2017 and not to 2016 which is the year with which I am concerned.
23. At the meeting, the diocese acknowledged that school's designated was too big to enable the school to accommodate all the children living within it. The diocese also explained that the school's trust deed stated that it existed to provide for an even larger area than the current designated area. The current designated area had been in place since

1972 and the trust deed had not been amended at that time. All parties recognised that the population of the area had grown in the intervening period. The diocese now had a plan in place to review the trust deeds for all its schools as part of a wider review and that this would also cover designated areas. However, it will remain as now the responsibility of the governing body as the school's admission authority to decide what the school's admission arrangements should be.

24. It is quite usual for a school – especially a VA school such as Bemerton St John - with a religious character to have a catchment area which is larger than might be expected for a similar sized school without a religious character or for it to have a catchment area which is likely to include more children than the school could accommodate. Schools such as this one provide education in accordance with the tenets of their faith and not all parents may want such an education for their children. The school has also pointed out that it is the only Church of England school serving its ecclesiastical parish.
25. Those who live in most of the school's catchment area enjoy the benefit of also living in the catchment area of another school whereas those who live in Quidhampton and in some other parts of the school's catchment area immediately surrounding the school do not. Those who live very close to the school can gain places there as can some who live slightly further away and in the catchment areas of both the school and of another local school. Those who live in Quidhampton were able to gain places up to and including 2014 but were not able to do so in 2015. This situation has come about as a result of increasing numbers of children in the area and the school's increasing popularity. It also seems likely that the fact that the LA was unaware until recently of the extent of the school's catchment area may have contributed to the fact that it did not raise with the school any concern about the scope for people living in Quidhampton to gain access to their nearest school and the consequences for Quidhampton families of having to travel further to reach a different school.
26. The Act makes clear that the duty to secure the provision of school places rests with the local authority and not with individual schools. There are places in the area. It is not unreasonable or unfair for a Church of England VA school to seek to provide Church of England education across the whole of its parish even if it cannot cater for every child in that parish. Because of the school's religious character and the circumstances of the case, I do not consider that the catchment area is too big or unreasonably defined or that the arrangements are unfair and I do not uphold the objection. Following the meeting the school has informed me that it is *"considering changing the priority of the oversubscription criteria for 2017-18, and including a category specifically for the children of Lower Bemerton and Quidhampton, but this is subject to further discussion at the Governing Body"*. This is a matter for the school subject to the requirements relating to consultation on changes to admission arrangements and subsequent determination. I include it here only as part of the record of the case.

Other matters

27. I turn now to the other matters which I raised with the school.
28. The arrangements when I saw them referred to "*Children in Local Authority Care*" and said such children would be considered first for a place at the school if a request was made. The requirement in paragraph 1.7 of the Code is that highest priority must be given to looked after and previously looked after children which is a broader group than children in local authority care. I was also concerned that the phrase "*considered first if a request is made*" could be taken to imply that such a request could be turned down. It cannot. The school assured me at the meeting that it would always give the highest priority to all looked after and previously looked after children. It has now varied its arrangements to meet the Code's requirements.
29. The school's arrangements when I saw them referred to children with statements of special educational need (SEN) and said that the school would admit a child with such a statement where the school was named on the statement. However, the arrangements did not refer to children with EHC plans which are replacing statements of SEN and this meant that the arrangements were not clear as required by paragraph 14 of the Code. The school has now varied its arrangements to include appropriate references to children with EHC plans.
30. The school's arrangements referred to the "Pupil Admission Number" and said that this was 30 in key stage 1 and 30 in key stage 2. The correct term is "*published admission number*" and relates only to those admitted to the school for the first time not those transferring from one year group to another. I was concerned that the arrangements could be read as meaning that the school admitted a further 30 new pupils to Year 3 (the beginning of key stage 2) and that this made the arrangements unclear in breach of paragraph 14 of the Code. The school has varied its arrangements to refer to published admission number and to remove any ambiguity as to the application of the PAN.
31. The arrangements contained the following statement: "*Admissions are subject to any constraints upon the school by the relevant authority (Salisbury Diocese, DfES, and Local Education Authority) or where admission would be incompatible with arrangements intended to preserve the school's religious character*". Paragraphs 15d, 1.36 and 2.8 of the Code require that where a school, including a school with a religious character, has places available all those who would like to attend must be admitted. Paragraph 1.9a of the Code prohibits placing any condition on the consideration of any application other than those in the oversubscription criteria. I was concerned that the statement breached these provisions. At the meeting the school emphasised that it would not put any such condition on the admission of pupils and that decisions about who should be offered a place when the school was

oversubscribed were made solely on the basis of the oversubscription criteria in the admission arrangements. The school agreed to remove the statement and it has been removed from the varied arrangements;

32. Paragraph 2.16 of the Code sets out a range of information which **must** be included in admission arrangements about the admission of and provision for children who have not reached compulsory school age; namely, that such children are entitled to a full- time place from the September following their fourth birthday; that parents can defer the admission of a child under compulsory school age until the child reaches school age and that such children can attend school part time if the parent so wishes. The school admits pupils who are under compulsory school age and when I reviewed the school's arrangements I could not find all the information required by paragraph 2.16. This information has been included in the varied arrangements. Paragraph 2.17 of the Code states that admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group. The school's arrangements when I reviewed them did not include this information. The school has now varied its arrangements to include the necessary information.

Conclusion

33. I do not uphold the objection for the reasons given above. I have identified a number of ways in which the arrangements did not conform with the requirements relating to admissions. The school has varied its arrangements and need take no further action in response to this determination.

Determination

34. 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 September 2016 determined by the governing body of Bemerton St John Church of England Voluntary Aided Primary School, Wiltshire.

35. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

36. 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 and the school has already done so.

Dated: 2 November 2015

Signed:

Schools Adjudicator: Shan Scott