

DETERMINATION

Case reference: ADA/002546

Objector: A Parent

Admission Authority: London Borough of Hounslow

Date of decision: 28 August 2013

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the London Borough of Hounslow for Heathland School, Hounslow.

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 Heathland School (the school), a community secondary school for the 11-18 year age range for September 2014. The objection is to: the maintenance of the same published admission number (PAN) over a number of years; the lack of consultation on the arrangements; and to the methodology used by the London Borough of Hounslow, the local authority (the LA) within the oversubscription criteria for measuring distances from home to school which the objector considers is flawed and in breach of the School Admission Code (the Code).

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the LA which is the admission authority for the school. The objector submitted his objection to these determined arrangements on 29 June 2013.
3. Paragraph 3.3 of the Code states that "Any person or body who considers that any maintained school's or Academy's arrangements are unlawful, or not in compliance with the Code or relevant law relating to admissions can make an objection to the Schools Adjudicator. The following types of objections cannot be brought: c) objections about a decision by the admission authority of a voluntary controlled or community school to increase or keep the same PAN, unless the objection is brought by the governing body of the school". As the LA has determined to maintain the PAN for 2014 at the same number as in

previous years, the first part of the objection concerning the school's PAN does not fall within my jurisdiction.

4. I am satisfied the other parts of the objection have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the Code.
6. The documents I have considered in reaching my decision include:
 - a. the objector's email and form of objection dated 29 June 2013 and 15 July 2013. I have also taken into consideration the initial 22 documents submitted by the objector and the further documents submitted on 25 August 2013;
 - b. the LA's response to the objection and supporting documents received on 12 August 2013;
 - c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2013;
 - d. maps of the area identifying relevant schools;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meeting of the LA at which the arrangements were determined; and
 - g. a copy of the determined arrangements.

The Objection

7. The objector refers to paragraph 1.42 of the Code which requires consultation on admission arrangements within 7 years even if the arrangements remain the same. He suggests that there has never been a full consultation regarding this school.
8. The objector contends that the LA's oversubscription criterion for distance is unclear and unreasonable, breaching the Code at paragraph 1.8. He says that the method used to measure the distance from home to school is flawed and not used by any other authority in London. He suggests that consequently this disadvantages unfairly and indirectly residents at some addresses.

Background

9. Heathland School is the only secondary community school in the LA; all the others are either voluntary aided or academy schools. The school is very popular and heavily oversubscribed. The most recent Ofsted inspection judged the school to be outstanding overall. The school's capacity as shown on the Department for Education Edubase is 1679 pupils and there are currently 1836 on roll. The PAN has remained the same for many years at 270.
10. The objector has expressed his concerns to the LA, the appeals panel, the local government ombudsman and the local Member of Parliament. The objector's son was not offered a place at the school in 2009 under the distance from school criterion. I have no jurisdiction to consider the circumstances of individual children and I am limiting myself to considering the oversubscription criteria for 2014.
11. The objector suggests that the methodology used to calculate the distance is flawed as it uses a computerised system which measures from the middle of roads regardless of how wide the road is or whether or not it is one way, pedestrianised or contains roundabouts. In his submission he demonstrates that using other methodology i.e. walking distance or straight line/'Crow Flies' methods the distance from properties to the school would be different and this would affect the success of applications. He reports that the LA is the only London Borough using this methodology. He cites three previous successful appeals which have challenged the methodology as evidence of its unfairness and therefore in breach of the Code under paragraph 1.8 which states that "Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation."

Consideration of Factors

12. The LA consults annually on its own admission arrangements and on behalf of all the schools in its area including voluntary aided and academy schools. This consultation includes the arrangements for Heathland School. The consultation for the 2014 arrangements took place between 3 January and 28 February 2013. Local schools and LAs were informed of the consultation and public views were sought through an advertisement in the Hounslow Chronicle. In the advertisement the following paragraph is highlighted; "This consultation allows members of the public and interested stakeholders to have their say on the proposed admission arrangements for Community Schools, Academy Schools and Voluntary Aided Faith Schools in Hounslow Borough". Appropriate references are made in the advertisement to the proposed admission arrangements and the electronic link to view them, how responses should be submitted and to the closing date of the consultation.

13. The objector suggests that there has never been a full consultation regarding the school. From the information available to me it would seem that the objector is unaware that the LA's consultation covers all community schools including Heathland and he has therefore not responded to the consultation.
14. I am satisfied that the LA has fulfilled its requirement to consult on the arrangements in line with the Code; indeed it has exceeded the requirement, and is fully compliant in this respect. I do not uphold the objection in relation to consultation.
15. Following the consultation on the 2014 arrangements the Cabinet met on 12 April 2013 and formally determined the arrangements. The over-subscription criteria for the school are as follows;
- a) *Looked After Children and Children who have been adopted (or made subject to a residence order or special guardianship) immediately following having been looked after.*
 - b) *Medical/Social: Applicants whose child's medical or social circumstances require attendance at a particular school rather than any other school. In such cases parents are reminded that they must complete the appropriate section on the application form and attach a supporting statement from a suitable professional such as a consultant or a social worker.*
 - c) *Sibling: Applicants who will have a son or daughter, including all blood, half-, step-, adoptive and foster brothers and sisters of the child (not cousins) who live at the same home as the child, at the preferred school in September 2014. If the older child is in Year 11 or Year 12 at the time of application, the LA will ask the school whether it is expected that s/he will still be attending the school in September 2014.*
 - d) *Distance: ** Distance will be measured by computer software based on Ordnance Survey and postal address data. The software measures using public roads and footpaths adopted and recorded by Hounslow Council's Highways Team. When using roads for measurement purposes the software measures along the middle of the road. It starts from a point in the footprint of the property provided as the child's address and continues by the shortest available route to the nearest of the school gates which is used by pupils to enter the school grounds. Blocks of flats are treated as one address. In blocks of flats, priority will normally be given to the lowest flat number. Addresses in private roads will measure from the footprint of the property, along the middle of the private road leading to the public road/footpath as adopted and recorded by Hounslow Highways Team. Not used are routes using common land, open spaces, public parks, subways or footpaths not adopted by the Highways team.*

1. *Except the Chiswick Common footpath between the junction at Chiswick Common Road and Turnham Green Terrace.*
2. *Except the pedestrian footpath at the eastern end of The Ride.*

Appropriate arrangements for children with statements of special educational need, in year admissions, waiting lists and tie breakers are recorded in the arrangements.

16. The school has been oversubscribed continually for many years and the distance at which the last child was admitted has varied. The objector contends that this is a decreasing distance as the number of children living in new houses increases, but this is not confirmed by the LA's figures. These figures show the distance at which the last child was admitted at entry in September;

2013 – 1.216 miles

2012 – 1.261 miles

2011 – 1.090 miles

2010 – 0.969 miles

2009 – 1.220 miles

2008 – 1.208 miles

17. In 2007, following consultation, the LA brought the secondary arrangements in line with the primary arrangements by allowing the use of footpaths in the distance criteria. Only those footpaths which are adopted and maintained by the council are included in the arrangements.
18. In 2010 a parent argued that their application had been unfairly disadvantaged because the private road on their estate was not included in their distance measurement. As a result the distance criterion was amended to clarify how private roads would be treated in future admission rounds. The change was subject to a consultation and was subsequently included in the arrangements and determined by the council. These arrangements were published as the 2012 admission arrangements.
19. I believe that these changes demonstrate that the LA is prepared to amend the arrangements when challenged on apparent unfairness issues if it is appropriate to do so.
20. The Code at paragraph 1.13 includes "Distance from school" as an acceptable oversubscription criterion. If used it sets out the terms to be met, "Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the 'home' address will be determined and the point in the school from which all

distances are measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.”

21. I have studied the arrangements on the LA’s website and considered the distance criterion against the requirements of paragraph 1.8 cited by the objector and the requirements concerning distance set out in the Code. The LA has consulted in line with the Code and has determined the arrangements for oversubscription criteria appropriately to include the use of distance as an oversubscription criterion. The arrangements set out clearly how distance will be measured and specifies what routes will and will not be included. The distance criterion is clear and well-presented. The objector asserts that the method used by the LA is different from other London Boroughs and that this disadvantages some families. There is no requirement for local authorities to use the same methodology for measuring distance as long as it is clear and within the requirements of the Code.
22. The method for measuring distance in the oversubscription criterion states that measurements will be made along the middle of a road and explains how the distance from the child’s residence to the road is calculated. The purpose of oversubscription criteria is to provide a system of priority for those applying for admission at a particular school. It is therefore inevitable that, where a school is oversubscribed, there will be some children who are not offered a place living very close to those who are. While this is inevitably very upsetting for those who are not successful I do not agree that the distance criterion is unfair or unreasonable. The criterion is clear and detailed about how distance is measured and it sets out an acceptable methodology for measuring distances from home to school. The criterion meets the requirements of the Code concerning clarity about how distance will be measured. I am of the view that the arrangements comply with the Code and therefore I do not uphold the objection.

Conclusion

23. The part of the objection to the LA’s determination of the same PAN as the previous year does not fall within my jurisdiction and I have therefore not considered this matter.
24. I have considered the LA’s consultation process prior to the determination of the admission arrangements for 2014 and I have found that it complies with the requirements of the Code.
25. I have considered the concerns about how distance from home to school is measured. I have taken the requirements of the Code into consideration about how admission authorities should set out the way they use distance as an oversubscription criterion. I am of the view that it is fair and reasonable to use the computer software based on the Ordnance Survey and post code data and that, when measuring

distance along a road, the middle of the road is used. The methodology is clear and fully explained in the over-subscription criteria on the LA's website.

26. I do not therefore uphold the objection.

Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by The London Borough of Hounslow for Heathland School in Hounslow.

Dated: 28 August 2013

Signed:

Schools Adjudicator: Mrs Ann Talboys