

DETERMINATION

Case reference: ADA2493

Objector: Woldingham Parish Council

Admission Authority: The Governing Body of Woodlea Primary School, Woldingham

Date of decision: 28 August 2013

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Woodlea Primary School.

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 as quickly as possible.

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 representative of the Woldingham Parish Council, the objector, about the admission arrangements (the arrangements) for Woodlea Primary School (the school), a foundation school of age range 4-11 years for September 2014. The objection is to the oversubscription criteria which give preference to siblings over children for whom this is the nearest school.

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 objector submitted the objection to these determined arrangements on 28 June 2013. 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

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

4. The documents I have considered in reaching my decision include:
- a. the objector's form of objection dated 28 June 2013 and supporting documents;
 - b. the school's response to the objection and supporting documents;
 - c. Surrey County Council's, the local authority, (LA), comments on the objection and the 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 governing body at which the arrangements were determined; and
 - g. a copy of the determined arrangements.

I have also taken account of information received during a meeting I convened on 25 July 2013 at the school with representatives of the school, the parish council and the LA.

The Objection

5. The objection is to the oversubscription criteria and in particular their order of priority, which the objector argues unfairly limit the chances of Woldingham children being allocated reception places. Children for whom the school is the nearest school, but who will not have a sibling there at the time of admission, have lower priority for admission than children with a sibling at the school, however far away from the school they live. It further argues that the governing body may not have determined the arrangements annually as is required and did not consult appropriately. This objection is made with several references to the Code but particularly to paragraphs 14, and 1.8 and 1.42-1.47.

Background

6. The school is a one form of entry primary school in the village of Woldingham which is in the borough of Tandridge in Surrey. This is a relatively prosperous area and the school reports that many local children move into the independent sector. It is the only primary school in the village. The last report by Ofsted on standards achieved at the school was in June 2012 which found the school to be 'good'.

7. Residents of Woldingham approached the parish council following the allocation of reception places for September 2013 when, they say, 11 families were unsuccessful in their application for places at the school. There has been an exchange of correspondence between the parish council and the school

about this situation, culminating in the objection made to the Schools Adjudicator on 28 June 2013.

8. The school 's oversubscription criteria are, in summary;

First Priority: Looked after and previously looked after children

Second Priority: Exceptional social/medical need,

Third Priority: Siblings Children who have a brother or sister at the school at the time of admission (that is on the date of starting school).

Fourth Priority: Children for whom the school is nearest to their home

Fifth Priority: Any other applicant

If there is oversubscription in any of the above criteria priority will be given on the basis of nearness to school

9. As much of the parties' argument concerns admission statistics I include the information below:

	2009 intake	2010 intake	2011 intake	2012 intake	2013 intake
Total number of applicants	81	Not known	141	118	130
No. of Woldingham applicants	8	Not known	20	16	27
No. of non-Woldingham applicants	73	Not known	121	112	103
No. of LAC	0	0	0	0	2
No. of exceptional circumstances	0	1	0	1	0
No. of siblings	14	15	18	10	20
No. of Woldingham siblings	5	7	4	5	8
No. of non-Woldingham siblings	9	8	14	5	12
No. for whom the school is nearest				10	15
No. distance from school (not including previous categories)	67	Not known	123	97	94
Distance of the furthest sibling who was offered a place	4727m(2.9)	2830m (1.8)	3760 (2.3)	4490 (2.8)	4764 (3)
Distance of the furthest non-sibling who was offered a place	3025 (1.9)	3494m (2.2)	1240 (0.8)	2692 (1.7)	646 (0.4)
No. of places declined	4	2	3	5	
No. of Woldingham places declined	0	2	3	3	

10. The objector suggests that the oversubscription criteria should be tiered as in some other schools in the LA so that priority is given to siblings for whom the school is nearest to their home, then to other children for whom the

school is the nearest to their home, then other siblings, then other children.

Consideration of Factors

The factors I have considered to assess the validity of the objection and whether or not the arrangements comply with the Code as indicated by the objector, the school and the local authority include the following:

Levels of oversubscription at the school

11. The objector is concerned that children in the village have a reduced chance of reception places at the school because of the number of places allocated to siblings. They argue that the trend in admission to the school 2009-13 shows an increase in applications by residents of Woldingham from 8 to 27 while the increase by non-residents rose by from 73 to 103 and the number of applicants who were siblings rose by from 14 to 22. The objector draws the following conclusions:

- as the total number of places stayed at 30 throughout the period, the number of places available for allocation to locals without siblings reduced from 16 (53%) in 2009 to 8 (less than 27%) in 2013. Therefore, within four years, the share of places allocated to local children without siblings declined from one in two to one in four.

- In 2009 there were enough places to accommodate all of the 8 Woldingham applicants: 16 places were available for allocation on distance criteria, 5 of the 8 had already been accepted under the sibling priority and all Woldingham residents would have lived within 1.9 miles of the school and been accepted. However in 2013, there were just 8 places available for allocation on distance criteria (nearest school) and only 8 of the 27 Woldingham applicants had been accepted under the sibling priority, leaving 11 Woldingham residents without places, i.e. all those living more than 0.4 of a mile from the school.

- This problem was not unique to 2013. It arose in 2011 as well, when there were fewer Woldingham applicants but only 4 Woldingham siblings and 14 non-Woldingham siblings. That left 8 Woldingham applicants without a place.”

12. The objector compares admissions for reception places with others in the borough of Tandridge for September 2013 arguing that, of the 23 state funded primary or infant schools, leaving aside those church schools which prioritise religious observance above sibling status, no other school in Tandridge had a smaller proportion of places left to allocate after allocations to siblings, than the school.

13. The school adopts the LA's oversubscription criteria for its admission arrangements. The LA is concerned that families should not have children in a number of different schools and promotes siblings above distance in the oversubscription criteria. The letter from the head teacher and chair of governors dated 10 July 2013 explained the setting of the admissions

policy by the governing body, including a reference to the LA's policy which it uses as it has found that it worked well over the years. It explains its concerns as follows "There is very real concern that a change in policy which does not guarantee sibling places for children outside the village will put parents off applying. The governing body needs to ensure that the school is filled and financially viable". In the same letter, with reference to the numbers of local applicants, the head teacher and chair say "Normally it is essential for the school to encourage children in from slightly further away to fill the class of 30 children."

14. The school argues further that the school is popular and oversubscribed with a majority of applicants living outside the village; the number of Woldingham applicants varies year on year and has never been enough to fill a class. Their view is this year, 2013, is exceptional both in terms of numbers of siblings and distance from the school of the furthest non sibling admitted and that conclusions should not be drawn from this data.
15. The school makes further points in relation to the data, firstly that most of the places offered that are subsequently declined are because local families decide to send their children to the independent sector. Secondly they argue that few of the local families who were unsuccessful in application appealed. Three appeals have been heard thus far and all were rejected.
16. The school did not have data to demonstrate the number of pupils declining places or leaving the school for schools in the independent sector. I do not rely on the number of appeals to demonstrate the satisfaction or not of parents with the outcome of their applications because many families know about the infant class sizes regulations and may judge that they would be highly unlikely to succeed at appeal.
17. The LA confirms that the school allocated 10 places to siblings in 2012 and in 2013 the number of siblings increased to 20. With two children allocated places under the children looked after criterion this left eight places for local children. As a result 10, (the objector and school say 11) children from the village could not be allocated a place at the school. The LA argues that there are sufficient places in the area as a whole; of the ten children, three were offered their second preference and seven offered a 'reasonable alternative school' of Downs Way (three), Marden Lodge (two) and St John's (two).
18. The school and the objector have put their own interpretation on the levels of oversubscription and thus whether local children are being disadvantaged in gaining a place at the school. I consider using percentages for such a small number as 30 can be misleading, nonetheless I see the trend is for the number of siblings to increase, the average over the last five years is that siblings have made up slightly more than half of the reception class. If this trend continues then the number of places available for village children will reduce. It is particularly noticeable in the last three years that the furthest distance from the school of a sibling

increases year on year and the distance of home from school of non siblings decreases.

19. I consider this with three references to the Code. The first is the introduction to the Code – “The purpose of the Code is to ensure that all school places for maintained schools (excluding maintained special schools) and Academies are allocated and offered in an open and fair way”; secondly paragraph 14. “In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” and paragraph 1.8 “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”
20. Paragraph 1.10 of the Code does not give a definitive list of acceptable oversubscription criteria, but goes on to set out some of the most common. Paragraph 1.11 deals with requirements that must be met if priority for admission is given to siblings. The school meets the requirement to say what the arrangements mean by “sibling”, but I am concerned that the criterion is adopted in order to ensure the financial viability of the school by encouraging people out of the village to apply.
21. I accept that schools do not wish to actively discourage applicants, I note however in the past four years there were sufficient applicants each year to fill four reception classes at this school. Oversubscription criteria are to manage applications when there are more applicants than places, not to encourage or discourage applicants. My view is that to use the oversubscription criteria to encourage parents from outside the village to apply is unfair to families who live in the village and for whom this is the nearest school. I consider that the school is using this criterion for reasons that are neither reasonable nor fair.

Availability of other schools

22. The map of schools in the locality clearly shows that the school is the only school in the village and the nearby area. The objector’s view is that the other two schools within a three mile radius are difficult to access and are not an acceptable alternative because of the quality of provision offered there. They identify two schools, Marden Lodge two miles away which was found by Ofsted to be satisfactory in 2010 and to be making satisfactory progress by monitoring visit in January 2012 and Warlingham Village school which was judged inadequate in March 2012. (I note the Ofsted report for July 213 has found it now to be ‘good’). In addition, there are implications for families as the school is a feeder school to a nearby secondary school, Oxted school. Marden Lodge and Warlingham Village primaries are not.
23. The objector complains that the nearest schools are of less good quality

than the school. No other school is within reasonable walking distance for a parent with a reception child.

24. A further consideration is that the other nearer schools are not feeder schools to Oxted School as Woodlea is. The objector argues that village children are doubly disadvantaged in that they cannot gain entry to their local school and then lose priority for entry to their preferred secondary school.
25. I do not consider it reasonable to set admission arrangements that not only limit the chances of attending the local primary school but also the secondary school for which the primary school is a feeder.

Access to the school in question

26. Woldingham has relatively narrow roads with limited parking space. The objector quotes from the Woldingham Village Design Statement, "The majority are narrow, privately maintained residential roads; many are steep, all are unlit, each has its own character. Many of the roads cannot be widened and the fragility of their structure makes them unsuitable for heavy vehicles and incapable of accommodating significant volumes of traffic. Very few roads within the village have been adopted by the local authority". When I visited the school I took the opportunity to walk through part of the village and found the walkways narrow and the roads steep and in some cases not made up.
27. A parent's letter was enclosed with the objection, she writes as follows "The school she attends is over a 3.5 mile drive and due to the snow we have had this winter, she has missed at least 3 days of school as we have been physically unable to get her to school despite it remaining open for the local children who walk to school. Our neighbour's son was the furthest allocated place that year at Woodlea and she is able to get her child to school as we live walking distance from Woodlea School..... To add to our frustration, on the journey to take (her child) to school in Warlingham, as we drive out of our village, we pass at least 5 cars driving out of their village (Warlingham), into our Village (Woldingham) to take their children to Woodlea."
28. I consider it unreasonable to have admission arrangements which encourage parents from further away to travel into the village while those living in the village have to travel out, particularly when the distances are beyond those reasonably walked with a reception age child.

Impact on families

29. The LA suggests that a factor to be considered is the impact on local residents versus the impact on families if tiered sibling criteria are introduced. It is not my role to propose arrangements and I am not doing so here, but I am considering the impact on families. The LA suggests that

may it lead to parents having children at more than one school which is true. However, parents who choose schools which are not the nearest to their home are likely to be aware there is a risk that their younger children may not necessarily be admitted.

30. I am also mindful that local parents who are unsuccessful in gaining a place for their first child and are allocated a place at a school at some distance from their home may be successful for a further child at their local school which they have always preferred and they too would have children at different schools, but not as a consequence of their initial choice. For local families who did not initially gain a place at the school, they may also be further disadvantaged if the school at which the older child has been allocated a place is not able to offer the younger child a place.
31. The school however suggests, on present information, there are only eight sibling applicants for September 2014. This may be the case, but I must consider the effect of the arrangements overall and their fairness or otherwise. I consider that the impact on families from outside the village of having children at different schools, although undesirable, is a consequence of preferring a school that is not their nearest school, whereas for local families in the village who wish their children to attend the local school but were not allocated a place the effect is a consequence not of their making.

Oversubscription in nearby schools

32. The objector has compared the impact of the oversubscription criteria with other schools in the borough of Tandridge using data supplied by the LA. He argues that only one other primary school was unable to admit to Reception all applicants for whom the school was the nearest to their home if voluntary aided schools' faith criteria were disregarded. The one school that could not admit all nearest pupils was able to admit 23 non siblings to distance of 0.8559 kilometres. The school allocated 8 places to children up to 0.646 kilometres.
33. The school argues that the LA's policy is robust and "tried and tested with regard to accuracy and fairness and there is some advantage to having such a policy where it works for the community as it has over the last few years."
34. I agree with the objector that children in Woldingham had a much smaller chance of admission to their nearest school than any others in Tandridge. I cannot accept the school's assertion that this "works for the community". Admission authorities should consider their local communities as set out in paragraph 1.10 of the Code and should "decide which criteria would be most suitable to the school according to the local circumstances". I do not accept that the criteria as currently constructed take sufficient account of the effect on the local community.

Consultation and determination of admission arrangements

35. The objector asserts that the governing body has not met the requirements in paragraphs 1.42 to 1.47 of the Code with regard to consultation and determination of its admission arrangements. The school argues that they consulted on the arrangements for 2014 and there was no response to the consultation. I have looked at the consultation documentation which I show below:

Woodlea Primary School Consultation on Admissions Arrangements 2014-15

Please see below changes proposed to Woodlea Primary School's Admission Arrangements for 2014-15

The following is a change to the arrangements for multiple addresses with one address point:

“For blocks of flats, apartments or buildings where there are multiple addresses with only one address point, where two or more children share a priority for a place, e.g. where two children live equidistant from a school and only one place remains, lots will be drawn to determine which child should be given priority.”

The following is a change to the admission arrangements for multiple births:

“In the case of multiple births, where children are ranked consecutively in their order of priority for a place and there are not sufficient vacancies remaining for each of them, wherever it is logistically possible, each child will be offered a place. Where it is not logistically possible to offer each child a place the child(ren) to be offered the last remaining place(s) will be determined by the drawing of lots.”

These changes are in line with Surrey Local Authority admissions arrangements.

Copies of the full policy can be obtained by contacting the School Office on 01883 652358

Any comments should be made by **Monday 4th February 2013** and directed to:

Mrs Christine Starkey (Bursar)
Woodlea Primary School
Long Hill
Woldingham
Surrey
CR3 7EP

36. The objector explains that they believed this consultation to be on the minor points of the arrangements identified in the notice not on the arrangements as a whole. The school's view is that the consultation as required was undertaken and there were no responses.

37. The Code at paragraph 1.42 requires “When changes are proposed to admission arrangements, all admission authorities must consult by 1 March on their admission arrangements (including any supplementary information form) that will apply for admission applications the following academic year.” I take this to mean the consultation should be clear that it is consulting on all matters relating to its arrangements and in paragraph 1.45 the Code says “Failure to consult effectively may be grounds for subsequent complaints and appeals.”

38. The Code is clear, the requirement is to consult on the admission arrangements not just part of the arrangements. I share the objector’s view of the consultation. A parent or indeed any member of the public reading this notice is likely to think that comment is invited on the minor changes identified and was unlikely to respond.

39. I asked the school for evidence of when a consultation was held on the present arrangements prior to this consultation which draws attention to how decisions are made within two criteria. The school suggested that the last consultation would have been for the 2012 policy but had retained no evidence of this as the LA’s advice is to keep evidence of the last consultation only.

40. My view is that this consultation was inadequate for the purpose intended by the requirement to consult. While failure to consult effectively does not necessarily make arrangements not compliant with the Code, consultation is a test of the fairness of the proposals, allowing families to register objections or support for intended arrangements which should be considered by the governing body. I consider this failure to do so unfair and lacking transparency and openness as required by the Code.

41. The Code says of determination at paragraph 1.46 “All admission authorities **must** determine admission arrangements by 15 April every year, even if they have not changed from previous years and a consultation has not been required.” The objector doubted that the school had determined its arrangements within the timescale it should. The school, in its response argues that it had but the minute of the governing body provided did not show this. The minute provided was 28 November 2012, as follows:

“.d) Admissions – JC advised that there were two changes to the policy for 2014-15 and these were in line with Surrey Local Authority admissions arrangements. The first was a change to arrangements for multiple addresses and the second was a change to the admission arrangements for multiple births. Governors approved this policy for consultation.”

42. Following my meeting at the school 25 July 2013, the governing body met and recorded the following minute: “Admissions Policy 2014-15; The policy approved and signed off at the Governing Body meeting held on 20.03.13

was circulated. All governors present were in agreement that this policy was determined by the full governing body on 20.03.13. Governors confirmed that the signing off of the policy as approved represented their determination of the policy. Eight governors present at this meeting were also present on 20.03.13.”

43. As can be seen, the governing body assert that they determined the arrangements on 20 March 2013, there is no other evidence of this. My view of the matter, based on the evidence provided is that the arrangements were not determined within the timescale required by the Code but are now determined by the meeting 25 July 2013.
44. In addition the school submitted the following minute dated 29 November 2011 as evidence of determination of the arrangements for 2013 “Policy is due for review - there are no proposed changes to be made and current policy remains in line with SCC’s model policy. CB and IS agreed to carry out a review of the current policy.” Following my meeting at the school 25 July 2013, the governing body met and recorded the following minute: “The policy approved and signed off at the Governing Body meeting held on 20.03.12 was circulated. All governors present were in agreement that this policy was determined by the full governing body on 20.03.12. Governors confirmed that the signing off of the policy as approved represented their determination of the policy. Seven governors present at this meeting were also present on 20.03.12.”
45. I hold the same view about the admission arrangements for September 2013, that they were not determined as required by the Code but were determined at the meeting 25 July 2013.

Conclusion

46. I accept that the school is concerned to ensure its places are full as funding depends on this. It is a good school popular with parents, for the last three years applications have been more than three times the PAN of 30. I do not think it fair that the school uses the oversubscription criteria to ensure the school remains full.
47. The consequence of these present oversubscription criteria is that children who live in the village have a diminishing chance of admission to the school. There is only one other community school in Tanbridge where applicants for whom the school was the nearest to their home were not all admitted. I consider the results of this comparison of the school with others in the area is an indication of unfairness.
48. The school is the only school in the village and access is not easy to other schools. Children from an increasing distance from the school are gaining admission over those who live close by. I do not accept that it is reasonable to set oversubscription criteria that enable children from significant distances away to have priority over children for whom it is their local school.

49. For these reasons and those above I consider the oversubscription criteria and in particular their order of priority, unfairly limit the chances of Woldingham children being allocated reception places. The admission arrangements therefore do not comply with the requirements of the Code at paragraphs 14 and 1.8. In addition the procedure followed by the school when deciding its arrangements did not comply the Code at paragraphs 1.42-1.47.

Determination

50. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Woodlea Primary School.

51. 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 as quickly as possible.

Dated: 28 August 2013

Signed:

Schools Adjudicator: Miss Jill Pullen