



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2780 and ADA2781

Objector: The Gilstead Village Society and a parent

Admission Authority: The City of Bradford Metropolitan District Council for Eldwick Primary School, Bingley

Date of decision: 3 November 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Eldwick Primary School, Bingley for 2015. I determine that they do not conform with the requirements relating to admission arrangements.

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. The admission arrangements for 2015 for Eldwick Primary School (the school), a community school for children aged 3 to 11 in Bingley, were brought to the attention of the adjudicator by the Gilstead Village Society and a parent, on 13 and 14 July 2014 respectively. Both referrals were about the use of two priority areas in the oversubscription criteria.

Jurisdiction

2. These arrangements were determined on 11 March 2014 under section 88C of the School Standards and Framework Act (the Act), by the City of Bradford Metropolitan District Council, the local authority (LA), which is the admission authority for the school.
3. The parent who made the referral has chosen to remain anonymous but has provided their name and address to the adjudicator as required by regulation 24 of The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations).

4. A previous adjudication, ADA2245 and ADA2267, was made on 12 July 2012 on the same issue. Regulation 22 of the Regulations prevents an objection being made on the same issue within two years of the decision by the adjudicator. This regulation prevented the objections being lodged on or before 30 June 2014 as required by regulation for consideration under section 88H of the Act. Although the referrals were made after this date I am satisfied that I should use my power under section 88I(5) to consider arrangements that come to my attention by other means.

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 referrals dated 13 and 14 July 2014 and subsequent comments and information received from the referrers;
 - b. the LA's response to the objection and supporting documents dated 1 and 12 August 2014;
 - c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014, this being the latest version of this document available;
 - 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.
7. I have also taken account of information received during and after a meeting I convened on 19 September 2014 at the school. The meeting was attended by representatives of the school, the LA and the Gilstead Village Society.

The Objection

8. The oversubscription criteria for the school include two catchment areas, referred to in the admission arrangements as priority areas. When the school is oversubscribed children living in the first priority area (PA1) are given priority over those living in the second (PA2).
9. Both referrals suggested that the use of two priority areas is unfair to families living in PA2 and does not comply with paragraph 1.8 of the Code.

Background

10. Eldwick and Gilstead are two neighbouring villages to the north of Bingley. The two villages are contiguous and share many facilities including the school. Following the reorganisation of schools in the area in 2000, the school's age range was increased and it relocated from Eldwick to a former middle school site in Gilstead.
11. In 2005 two priority areas were introduced with the intention of giving priority for places at the school to those children living farthest from other schools. The area with the highest priority, PA1, is to the north and predominantly made up of homes in Eldwick, while PA2 is predominantly made up of homes in Gilstead. The school itself is situated in PA2.
12. Since 2005 there has been extensive housing development in the villages which has led to the school being oversubscribed. Coupled with underlying population growth this has resulted in there being a shortage of places in the wider area referred to by the LA as the 'Bingley 1 Planning Area'.
13. There are six primary schools serving the Bingley 1 Planning Area, including a Catholic and a Church of England school. In 2014 the published admission number (PAN) at the school was increased from 60 to 75 this followed expansion of the two Church schools in previous years. The neighbouring schools do not use catchment areas to prioritise admissions; straight line distance from home to school is the main criterion.
14. Following the adjudication in 2012, the LA undertook consultation on the priority areas between November 2012 and February 2013. The result of this consultation was that no change was made to the priority areas for 2014 or 2015.

Consideration of Factors

15. The referrers argue that the use of two priority areas is unfair and does not comply with paragraph 1.8 of the Code which says "*Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group*". I have also had regard to paragraph 1.14 of the Code which says "*Catchment areas **must** be designed so that they are reasonable and clearly defined.*"
16. On the LA's website there is a document entitled "Guide for parents about admissions to primary schools 2014". I have taken this to be the composite prospectus. Paragraph 1.51 of the Code requires the LA to have the 2015 composite prospectus available on its website from 12 September 2014, however on 30 October 2014 I could find no more

recent version of the guide on the LA's website. In the 2014 document there is a map of the priority areas, this map does not show all of the new roads built since the priority areas were established.

17. Although the 2015 admission arrangements for community and voluntary controlled schools and up to date maps of the priority areas can be found elsewhere on the LA's website, parents following the "Apply for a school place" link from the home page could easily find themselves presented with inaccurate, out of date information and not be able to identify whether or not they live in PA1 or PA2. The local authority needs urgently to meet the requirement of the Code to publish its composite prospectus for admission to primary schools.
18. While the representatives of the community that I met on my visit had a good understanding of where the boundary of each priority area is there remains the possibility that someone new to the area could be misled by the map in the parents' guide on the LA's website despite the evidence that estate agents market houses as being in PA1. I am of the view that the LA has not fully met the requirement of paragraph 1.14 of the Code for the catchment area to be clearly defined.
19. There were two main strands to the arguments about the fairness of the two priority areas presented in the referral. The first set of arguments concerns the geography of the area and the second the consultation undertaken by the LA in 2012 following which it was decided to retain the priority areas as they were at the time of the previous adjudication. I will begin with a consideration of the geography.
20. There are 12 primary schools listed on Edubase as being within a two mile radius of the postcode in which one of the referrer's lives. However it was put to me that the gradient of the hill on which Eldwick and Gilstead sit was a greater issue for parents than distance. Having explored part of the area on foot on the day of the meeting I can confirm that the route to the nearest alternative school does involve a steep descent which would be challenging for someone who was not fully fit, pushing a child's buggy or in adverse weather conditions.
21. In their response to the referral the LA has explained that the two priority areas were introduced in 2005. This was in anticipation of increased demand from housing growth and gave higher priority for places at the school to families who lived farthest from alternative schools. On my visit I was shown the moorland which lies to the north of Eldwick, there are no schools for several miles in that direction, while to the south there are a number of schools within a mile, all-be-it a steep one.
22. If there are more children living in Gilstead and Eldwick who want a place at the school than there are places available some families will be disappointed. It would seem to me to be fair and reasonable for the LA to devise a mechanism to give priority to families that would be most disadvantaged if they did not get places at the school. Using two

priority areas is one way to do this. If the LA chooses to use this mechanism then its implementation must comply with the Code. If the two priority areas are not drawn so that all homes in PA1 are farther from alternative schools than all homes in PA2 it defeats the object of the exercise. This would not be fair or reasonable and would not comply with paragraph 1.8 of the Code.

23. Both referrals argued that parts of PA1 are closer to the nearest alternative school than parts of PA2 and that this is unfair. Having toured the area and studied maps I have been able to identify homes where this is the case. These homes are also in the farthest parts of PA2 from the school and as priority within each priority area is based on distance, children living in them would have low priority for the school and if unable to secure a place they would have low priority for other schools too. This is precisely the situation the two priority areas were intended to prevent.
24. To my mind it cannot be fair that a mechanism intended to minimise disadvantage is operated in such a way that some families are left in the situation the mechanism was intended to prevent. It may be that when the priority areas were drawn up in 2005 this was not the case, but it is today.
25. When the LA was preparing to consult on the priority areas in 2012, it identified for possible change the same areas as I have where parts of PA2 are farther from other schools than parts of PA1.
26. Consultation began in November 2012 on both enlarging the school and changing the priority areas. The enlargement of the school was agreed and building work is currently underway to allow the school to admit up to 75 pupils in all year groups. The proposed change to the priority areas was not agreed and the referrers have criticised the consultation process which I will now examine.
27. Only one option for a change in the priority area was consulted on. This option proposed adding two parts of PA1 that were farthest from both the school and other schools to PA2 and moving part of PA1 near the school into PA2. The net effect would leave a similar number of homes in PA1. These are the same areas where I think the priority areas do not operate fairly. At the same time the LA proposed to move the southern boundary of PA2 northwards significantly reducing the number of homes in PA2.
28. Given that at this consultation followed the previous adjudication when the idea of merging the two priority areas had been raised by the objectors I asked the LA why alternative options had not been put forward for consultation and what the rationale was for the proposal that was consulted on. In response the LA sent me a number of maps and a document setting out the factors that had been taken into

account and some alternative options that had been evaluated. They maintained that the wish to ensure priority at the school for families who lived farthest from other schools did not allow consideration of combining the priority areas.

29. I have considered the option that the LA consulted on and I am convinced that it is based on a careful assessment of the situation at the time. However, the consultation document which was sent to consultees covered the enlargement of nine primary schools, changes to the LA's admission arrangements as a whole and notification of proposed changes to the admission arrangements of three other schools besides the proposals for changes to these priority areas.
30. In this 13 page document there are just six paragraphs about the proposed change to the priority areas. None of these paragraphs set out what the proposal was intended to achieve or how it would affect families living in the area.
31. In the report on the consultation to the LA's Executive Committee on 12 March 2013 there is a list of consultees. Paragraph 1.44 of the Code requires consultation with "*parents of children between the ages of two and eighteen*". The list of consultees includes "*Parents of schools affected by proposals*" and "*Relevant Private and Independent Years Providers*" and refers to publicity in the local press.
32. One of the representatives of the Gilstead Village Society claimed not to have seen the letter from the LA to early year's providers although they were actively involved in early year's provision at the time.
33. While the LA may involve schools and early years providers to distribute consultation materials to parents, in my view the material which the LA sent to them did not enable those third parties to pass on information about the proposals easily. The advantages and disadvantages of the proposals were not set out and the issue could easily be overlooked among the many others being addressed in the same paper.
34. While I am satisfied that the LA attempted to consult at least some parents of pre-school children and the other groups required by the Code, I do not think the consultation met in full the requirements of the Code or was effective. This is reflected in the analysis of the consultation reported to the Executive Committee.
35. Of the 128 individual responses to the consultation on this matter, just four were from people identified as "*Parents whose children will require places in the future*". I also think it understandable that 116 of the responses were against the proposal and just seven in favour because more people had their priority for places at the school reduced than increased by the proposal without any explanation of why this might be necessary or arguments to support it in the consultation paper.

36. The consultation did show that there was support for merging the two priority areas. The LA were correct in saying they could not progress that option on the basis of this consultation because people who would be affected by such a change had not had the opportunity to express their views on it. The LA did undertake to consider merging the priority areas in a future consultation, but has not yet done so because *“it was felt that to implement an increase in the admission number at the same time as a change in the priority areas may complicate matters for both the school and the parents.”* And *“a decision was taken to defer any further consultation on the priority areas until a later date when the impact of the expansion of this school is known.”*
37. I do not find this to be a convincing argument. The expansion was already agreed after consideration of the potential impact and the LA had acknowledged through their previous consultation that the existing priority areas could be improved. If the arguments and data were clearly presented I am sure that parents would have been able to understand the issues and contribute to finding a solution.
38. The LA has provided me with data on the number of pre-school children living in the area who are due to start school in 2015 onwards. This would suggest that the total number of children in the two priority areas will not exceed the new PAN of 75 in the foreseeable future. This is corroborated by the school reporting that there are places available in its nursery class this year for the first time in some while.
39. While the referrers have drawn my attention to some new applications for planning permission, the number of new houses which have been given planning consent is small and is unlikely to have a significant impact on the number of children in the area. These are matters which the LA should continue to monitor and adjust its arrangements if required to meet changing needs.
40. The LA has indicated that there will be consultation on the future of the priority areas for September 2016. This will need to present the demographic data and rationale for any change more clearly than the previous consultation did if it is to resolve the matter.

Conclusion

41. Maps of the priority areas can be found in two places on the LA's website. One of these sets of maps is inaccurate; therefore it is my view that the priority areas are not clearly defined as required by paragraph 1.14 of the Code.
42. Paragraph 1.8 of the Code says *“Oversubscription criteria **must** be reasonable, clear, objective, [and] procedurally fair”*. The use of two areas to give priority for places at the school to families who would be most disadvantaged if they had to attend other schools is fair and reasonable. However the current priority areas do not achieve the

intended outcome as families living in some parts of PA2 would be more disadvantaged by having to go to other schools than some families in PA1.

43. I am satisfied that the LA considered a number of options to address the unfairness before consulting on a possible alternative delineation of the two areas. However I am not convinced that this consultation was effective or fully met the requirements of paragraph 1.44 of the Code.
44. As no changes to the priority areas were made after the consultation it remains the case that some parts of PA2 are farther from other schools than some parts of PA1 and this is in my view unfair so does not comply with paragraph 1.8 of the Code.

Determination

45. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Eldwick Primary School, Bingley for 2015. I determine that they do not conform with the requirements relating to admission arrangements.
46. 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: 3 November 2014

Signed:

Schools Adjudicator: Phil Wiffing