



DETERMINATION

Case reference:	ADA 2652 and ADA 2694
Objectors:	Two members of the public
Admission Authority:	Surrey County Council
Date of decision:	5 September 2014

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 determined by Surrey County Council for admissions to St Andrew's Church of England (Controlled) Infant School in September 2015.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), two anonymous objections have been referred to the Adjudicator by two members of the public (the objectors) about the 2015 determined admission arrangements (the arrangements) for St Andrew's Church of England (Controlled) Infant School (St Andrew's). Both objections raise issues related to the design and impact of a new catchment area and compliance with the Equality Act 2010.

Jurisdiction

2. The arrangements were determined by Surrey County Council (the council) which is the admission authority for St Andrew's. The first objection to the arrangements was submitted to the Office of the Schools Adjudicator (the OSA) on 28 May 2014 and the second dated 20 June 2014 was submitted on 27 June 2014.

3. As each of the objectors provided his/her name and address, the anonymous objections were allowable under Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider these objections.

Procedure

4. In considering these matters I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:
 - a. the first objection dated 28 May 2014;
 - b. the council's submission with consultation evidence dated 13 June 2014 and the 2015 determined arrangements;
 - c. the submission from St Andrew's dated 13 June 2014;
 - d. responses from the Diocese of Guildford (the diocese) dated 11 and 17 June and 8 July 2014;
 - e. further comments from the first objector dated 19 June, 12 and 19 August 2014;
 - f. copies of two determinations for South Farnham School: ADA 2315 and 2316 dated 24 August 2012, and ADA 2442, 2446 and 2447 dated 30 August 2013;
 - g. historical admissions data downloaded from the council's website;
 - h. the second objection dated 20 June 2014 but submitted by email on 27 June 2014;
 - i. further information from the council dated 7 July, 13, 14 and 19 August 2014;
 - j. the further response of 11 July 2014 from St Andrew's;
 - k. a letter from an anonymous local parent on 11 August 2014; and
 - l. comments from the second objector dated 21 July, 17 and 20 August 2014.

The Objections

5. Both objections raise issues related to the 2015 arrangements which introduce a catchment area for admissions to St Andrew's, and in particular, that the design of the catchment area shifts the intake area further south so that some children for whom St Andrew's is the nearest school to their home address would no longer be prioritised for a place at the school. The objectors assert that the introduction of a catchment area is unreasonable and in breach of paragraphs 1.14 and 1.8 of the Code. Furthermore, the objectors suggest that as St Andrew's is located in the town centre which is less prosperous than the areas to the south of Farnham, the catchment area cuts off children from less wealthy backgrounds, which is discriminatory and contravenes the Equalities Act 2010. In addition, the first objector asserts that during the consultation process the council failed to consult other persons in the local area and the faith body representing the religious denomination, which is in breach of the Code at paragraph 1.44.

Background

6. Situated in Farnham town centre, St Andrew's has a published admission number (PAN) of 40 and a total population of 120 boys and girls aged four to seven years of age. St Andrew's states it is "*the only stand-alone infant school in the centre and south of Farnham, surrounded by all-through primary schools*" such as Potters Gate C of E Primary (Potters Gate) in the town centre, The Pilgrims' Way Primary (Pilgrims' Way) to the west, and South Farnham School (South Farnham), an academy school with separate infant and junior sites to the south.

7. St Andrew's is geographically the closest of the four named feeder infant schools for Year 3 admissions to the junior site of South Farnham. However, whilst the three other named feeder infant schools in villages to the south of Farnham are also named feeder schools to Waverley Abbey Junior School, I note that St Andrew's C of E (Controlled) Infant School only feeds into South Farnham.

8. As a voluntary controlled school, the council is the admissions authority for St Andrew's. Prior to the proposal to introduce a catchment area, the admission arrangements were as follows:

1. Looked after and previously looked after children;
2. Exceptional social/medical need;
3. Children who will have a sibling at the school;
4. Children for whom the school is the nearest to their home address (which may be either inside or outside the county boundary) and
5. Any other children, prioritised according to the distance they live from the school.

Where two or more children share priority for a place, the drawing of lots will determine which child should be given priority.

9. In liaison with the governors of St Andrew's, and following discussions with the diocese and South Farnham School Academy Trust, the council has determined a change to the admission arrangements for the school for September 2015 which replaces the fourth criterion (children for whom the school is the nearest) with a new priority for children living in the catchment area. This means that after siblings, children who live within the catchment area would be prioritised for a place at the school ahead of those who do not.

10. The council reports that the consultation on the proposed change ran from 12 Dec 2013 to 5 Feb 2014, and the 26 responses received were collated and presented to the council's "*decision-making Cabinet on 25 February 2014 so that arrangements could be decided upon.*" The 2015 arrangements were then determined by the full County Council on 18 March 2014 along with those of other voluntary controlled and community schools, and were then made available on the council's website.

11. From the helpful information on admissions data available online, supplemented by information on parental preferences supplied by the council, I have summarised below how places at the school were allocated in the last three years. It should be noted that 2014 was the first year that parents were invited to name four preferences on their application form, having previously been allowed only three preferences. As the total number of first, second and third preferences for 2014 was 155, I consider that the data for 2014 is comparable with previous years.

Year	PAN	Preferences					How the places were allocated					
		Total	1st	2nd	3rd	4th	SEN	Oversubscription criteria				
								Previously/ Looked after	Exceptional social/medical	Siblings	Nearest school	Others by distance
2012	40	163	29	77	57	n/a	0	0	0	10	26	4 0.72km
2013	40	143	51	59	33	n/a	0	1	0	10	29 1.82km	0
2014	40	203	45	61	49	48	0	0	0	12	28 1.276km	0

From the table above, it appears that, for the last two years, St Andrew's has been oversubscribed by applicants nominating the school as their first preference, and as a result, the school has not been able to allocate a place to all of the children who had the school as their nearest school. In the email of 13 June, the council comments that *"for the 2014 intake there are currently 6 children who have the school as their nearest school who have not been offered a place."*

Consideration of Factors

12. After a consultation process, the council determined the 2015 arrangements which included the significant change of introducing a catchment area where there was none before, which would change the way places are allocated to children living in the Farnham area. However, the first objector asserts that the council failed to consult appropriately, in breach of the Code at paragraph 1.44, because it did not consult other persons in the local area and also did not consult the faith body/ person representing the religious denomination. My first consideration is therefore whether the consultation process complied with the Code.

The consultation process

13. When changes to admission arrangements are proposed, consultation is a key part of the process. The Code states at paragraph 1.42 that *"when changes are proposed to admission arrangements, all admission authorities must consult by 1 March on their admission arrangements that will apply for admission applications the following academic year."* Furthermore, the Code

at paragraph 1.43 requires that “*Consultation **must** last for a minimum of 8 weeks and **must** take place between 1 November and 1 March in the determination year.*” The council has provided evidence that the consultation period was from 12 Dec 2013 to 5 Feb 2014, and I am satisfied that the consultation period complied with the Code.

14. The first objector said that as neither local councillors nor the parents of children who would be directly affected by the change had been informed of the consultation, this was in breach of the Code at paragraph 1.44(b) that “*admission authorities **must** consult with other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions.*” The objector also comments that “*there were no notices made public in the town around the school or at the nearest pre-schools and nurseries where the children for ... St Andrew’s often attend.*”

15. The council has provided copies of the consultation documentation and catchment area map that was published on the “*Surrey Says*” portal on the council’s website. The council has also provided copies of emails sent to all local schools and early years establishments, parish councils, county councillors, borough and district councillors, neighbouring local authorities, out-of-county schools, local members of Parliament, diocesan boards and members of the local admissions forum. I am satisfied that the consultation documentation explains the rationale for the proposed change to the admission arrangements. In addition, the council helpfully provided a form of wording that the bodies consulted were asked to share with parents, local community/resident groups or other interested stakeholders as appropriate, through notice boards, newsletters or websites. I also note from the school’s response of 13 June 2014 that, in addition to the consultation notices issued by the council as the admissions authority, St Andrew’s itself organised two meetings for parents (on 29 January 2014 and 3 February 2014) in order to highlight the proposed changes and to advise parents how they might submit their views to the consultation. St Andrew’s also “*circulated the consultation to all existing parents and posted the consultation document on the school’s website.*” I have noted that there was no public notice, such as in the local paper, but I also recognise that it is more common nowadays for information to be published on websites and comments to be made online and through social media networks. Therefore, from the evidence available to me, I am of the view that the consultation complied with the requirements of paragraph 1.44(b).

16. I accessed details about the consultation from the council’s website, and the council provided me with copies of the redacted responses. By the closing date, 26 individual responses had been submitted online, and of those 10 were in support of the proposal to introduce an admission priority based on a catchment area for the school and 16 were opposed to the change. The reasons given for supporting the proposal included more stability for the school; that families to the south east of the proposed catchment area (said to be a “*black hole as too far from St Andrew’s to be allocated a place, despite this being the nearest infant provision*”) would now have access to the school; and that children outside the catchment area would be “*served by a good all*

through primary school". Reasons opposing the proposal included that the catchment area would not serve the town; unfairly excludes children living close to the school and from less affluent areas; affects the social mix of the school; there is continuity already for children at the school because a feeder link already exists; and the busy A31 will need to be crossed by majority of pupils, reducing the number of children walking to school and resulting in increased traffic and impact on environment.

17. The first objector also said that the consultation did not comply with the Code at paragraph 1.44(f) because as a faith school, the admission authority ***“must consult with the body or person representing the religion or religious denomination.”*** The objector said that *“St Andrew’s Church currently has no clergy on the board of governors ... and therefore was not involved in the consultation process...”* However, Schedule 3 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 states that the representative body for a school designated as having a religious character that is Church of England is the appropriate diocesan authority for the diocese in which the school is situated, which in this case, is the Diocese of Guildford (the diocese) and not the parish church associated with the school. In the response of 13 June 2014, the school confirmed that discussions about the admissions proposals had involved the Deputy Director of Education for the diocese who attended the governing body meeting of 10 December 2013 at which the admissions proposals were discussed and agreed, and that he had also proposed changes to the wording of the consultation document. As the diocese confirmed in the email of 17 June 2014 that it was involved in the consultation, I am of the view that the consultation also met the requirements of paragraph 1.44(f). Accordingly, I do not uphold this part of the objection.

18. However, both objectors expressed concerns about the design of the catchment area, saying that it is unreasonable because it shifts the intake area further south so that some children for whom St Andrew’s is the nearest school to their home address would no longer be prioritised for a place at the school. It is therefore appropriate to consider this matter in detail.

The design of the catchment area

19. The Glossary to the Code explains that a catchment area is *“a geographical area, from which children may be afforded priority for admission to a particular school.”* It is the case that after the priority for siblings, the 2015 determined arrangements identifies a new priority for children living in the catchment area, replacing the previous fourth oversubscription criterion which gave priority to applicants for whom St Andrew’s is the nearest to their home address. This means that applicants who live within the catchment area for the school would receive priority for a place ahead of those who do not. As the first objector comments in an email of 12 August 2014, this contrasts with *“the admission criteria for the majority of Surrey’s community and voluntary controlled schools which are based on the nearest school policy.”*

20. The objectors are concerned about the design of the catchment area because it will shift the intake of children *“much further south, leaving St Andrew’s on the very northern edge of the ... catchment. Children in the town centre will no longer be able to attend their nearest school.”* The objectors contend that this is unreasonable and therefore contravenes the Code at paragraph 1.14 which requires that *“catchment areas **must** be designed so that they are reasonable and clearly defined.”* The objectors comment that *“around a third of St Andrew’s yearly intake of 40 comes from the town centre. This number will be dramatically reduced; the school will no longer serve its local community and parish.”*

21. In the consultation documentation supplied by the council, it was explained that the catchment area *“has been drawn up to secure the future viability of St Andrew’s beyond the short-term, to end a period of considerable uncertainty. It is part of the process of formulating a joint working relationship with South Farnham for the mutual benefit of the two schools. Children at St Andrew’s will receive education at a local infant school from which there is a feeder link to South Farnham at Year 3. This should provide for a greater continuity and clarity in admissions for the local area.”*

22. The school is one of the four named feeder infant schools to South Farnham School, which itself has an infant site. The council explains that *“the junior site of South Farnham School is the nearest school with a junior intake to St Andrew’s, although the location of these schools is such that they are separated by the A31, which is the bypass that divides Farnham.”* The council describes South Farnham School as being *“heavily oversubscribed.”*

23. The council has made clear that having a catchment area would *“not prevent parents who live outside the catchment from naming St Andrew’s as a preference”* and that *“those areas are served by other local schools should St Andrew’s not be in a position to offer places beyond the catchment area.”*

24. In the submission of 13 August 2014, the council explained that the catchment area *“was determined so that, as far as possible, the boundary follows main roads and does not cut through areas of housing. In general, the catchment covers an area local to the school but also local to the junior school that names St Andrew’s as a feeder school and to which most children transfer (South Farnham). As the only infant school in the area we are keen to ensure that there is a clear transition to Key Stage 2 (KS2) for children who attend St Andrew’s, especially given the fact that South Farnham, which is the only local school with a Year 3 intake, might increase its Reception PAN to 90 in the future, thereby reducing its capacity to take additional children at Year 3.”* However, in a response dated 19 August 2014, the first objector contends that *“the catchment covers an area local to the [junior site of South Farnham] but only to the south of the A31; there are children living north of the A31 who live a lot closer to the junior school than those in the new proposed catchment area.”*

25. The council explains further that the *“catchment covers the area from which children have typically been admitted to St Andrews, but doesn’t cover*

the full area from which St Andrews has historically drawn its pupils. However, the expectation is that some children who would have historically been admitted to the school would still be admitted from outside the catchment.” The council also suggests that *“if the proposal by South Farnham to give priority according to a child's proximity to either of its school gates goes ahead [currently this matter is the subject of a separate objection to the OSA] then the number who would be admitted to St Andrew's from outside the catchment is likely to increase.”* However, the first objector contends that the council *“cannot second guess which infant school parents would choose... If it is an expectation that children who historically would have been admitted to the school will still be admitted, but from outside the catchment area, then why doesn't the catchment area include them?”*

26. In response to my request for further information about the reason for the unusual shape of the catchment area, the council responded on 13 August 2014 that *“the rationale for the boundary to the catchment which falls between the A31 and the A325 is that this includes the area within which families would have to pass by St Andrew's in order to access Potters Gate, as their next nearest school with a Reception intake. It also includes the area of St Andrew's School. The local authority felt that, on balance, this area of the catchment was reasonable. Children falling outside of this area would have other primary schools which they would be able to access which would be nearer to those families than the alternative schools that families living to the south of the catchment would have if they were unable to access a place at St Andrew's or South Farnham schools.”* However, in the response of 19 August 2014, the first objector contends that *“Pilgrims' Way is the next nearest school (and in most cases the nearest school) with a reception intake for all of the families in the proposed catchment area to the South of the A31, not Potters Gate.”* The first objector suggests that *“children falling outside the catchment area to the north of the A31 do not have access to other primary schools as they are all oversubscribed, and if they do gain a place, will be walking past St Andrew's School to get there, and displacing other children who would have historically attended Potters Gate.”*

27. In a submission dated 11 August 2014, a local parent who has provided his/her name and address but who wishes to remain anonymous (the anonymous parent) comments on the 2015 arrangements. The anonymous parent suggests that the priority for applicants who live in the new catchment area *“is a sensible change which addresses an anomaly ... that people living in our part of Farnham could not get places at any of the nearest infant schools. It also meant that, despite living only 265 m from South Farnham Junior site, our children would not get a place there because they had not attended one of the feeder schools. The result of this would be having to drive them past St Andrew's and across Farnham every day for seven years (to Potters Gate school, where we were offered a place), through a town centre which is already suffering from traffic congestion and pollution, rather than them being able to walk to school for the majority of that time, which would be the case if they attended St Andrew's and then South Farnham Juniors, which would be much more likely under the 2015 policy...”*

28. The anonymous parent suggests that the shape of *“St Andrew’s catchment area in the 2015 policy is also fair and reasonable, as it prioritises children in the southern part of Farnham who cannot access another nearer school and who are likely to want to go on and attend the nearby South Farnham Junior site. Children who live north of St Andrew’s and will not be in the proposed catchment area can attend nearby Potters Gate. If the objection to the 2015 policy were upheld and St Andrew’s were to continue with the 2014 policy, this would result in the unfair and unreasonable outcome that children from north Farnham attend St Andrew’s and then go on to South Farnham Juniors, meaning a drive through the town centre for four years, while children from South Farnham are driving across town in the opposite direction for seven years to attend Potters Gate.”* In a response dated 17 August 2014, the second objector *“sympathises”* and explains that the particular area mentioned in the letter of support is *“well known as a local black triangle for infant children”* but suggests that very few children are affected.

29. In the submission of 13 June 2014, the council said that the arrangements would *“ensure that children living within the catchment who are not successful in obtaining a place in Reception at South Farnham or those who prefer for their child to attend St Andrew’s, are served by a local infant school which in turn will enable them to benefit from a feeder link to South Farnham School at Year 3 transition.”* However, in the email of 14 August 2014, the council cautions that *“South Farnham Primary itself has a Reception PAN of 60 and a Junior PAN of 76 [so if it] decides to expand to a Reception PAN of 90 it is likely that in future it will need to consult on a corresponding decrease in Junior PAN to 46 so that, at the point the first cohort of 90 will transfer to Year 3, the junior site will be able to accommodate all children.”* Clearly, any such reduction in the Year 3 PAN would impact on the places available for children transferring from all of the feeder schools, not just on St Andrew’s, and it is likely that the tie breaker of distance from home to South Farnham would then become a more significant factor.

30. The Code at paragraph 1.14 explains that the existence of a catchment area does *“not prevent parents who live outside the catchment of a particular school from expressing a preference for the school.”* Indeed, the council anticipates that based on the historical pattern of admissions, some children from outside the catchment would still be allocated a place at the school. For example, *“based on the 2014 admission round, there were ...13 children who were allocated a place under the nearest school criterion who live outside of the 2015 catchment area, but only 6 children who live within the 2015 catchment area who have not been offered a place and who remain on the waiting list. As such, based on the 2014 intake, had the 2015 admission criteria applied, at least 7 places would still have been offered to children on distance who live outside the catchment area. In future this number may be higher as children who would previously have been admitted to St Andrew’s and who live within the 2015 catchment area may in future be eligible [instead] for a reception place at South Farnham.”*

31. The council adds that *“for those families who live outside of the catchment and who are unable to secure a place at St Andrew's, it is anticipated that they would be able to access other local schools ...depending on where they live. Whilst the catchment may exclude some children who have St Andrew's as their nearest school, it is the case that for the 2013 and 2014 intakes, St Andrew's has not been able to offer a place to all children who had the school as their nearest school. For the 2014 intake there are currently 6 children who have the school as their nearest school who have not been offered a place.”*

32. The Glossary to the Code confirms that *“a catchment area is part of a school's admission arrangements and must therefore be consulted upon, determined and published in the same way as other admission arrangements”* but the Code does not specify how that catchment area must be designed. The Code does, however, state at paragraph 1.10, that it is for the admission authority *“to decide which criteria would be most suitable to the school according to the local circumstances.”*

33. I am aware that admissions to St Andrew's and then the Year 3 transition to the only junior school for which it is a feeder has been a long-standing problem for the school, for families in the Farnham area, and for the council. Furthermore, the tensions generated by this issue are evident in the correspondence received. The council has taken a positive step to try to reduce the uncertainty for families by introducing a catchment area where there was none before, so that children who live within the catchment area would be prioritised for a place at the school ahead of children who do not live in the catchment, even though St Andrew's may well be the nearest school to their home.

34. Recognising that this change will have wider implications for the way places are allocated to children living in the Farnham area, the council has drawn up the boundaries of the catchment area to take account of the local geography of Farnham, as well as admissions data for St Andrew's and for the other schools nearby. It is clear that creating a catchment area where there was none before has involved some difficult decisions, as no matter where the boundary would be drawn, there will be families who might have wanted to apply for a place at the school, but now find they are not within catchment and may feel this is unfair. However, no matter where the line is drawn for the catchment area, paragraph 1.14 of the Code makes clear that parents who live outside the catchment of the school are not prevented from expressing a preference for the school. From the 2013 maps showing the home location of Year R pupils on roll in Farnham schools, and from the data projections presented by the council, it appears likely that there may well be places available at St Andrew's after children living in catchment have been accommodated, so it seems that for the foreseeable future, there is a reasonable chance that at least some children living outside the catchment area may secure a place at St Andrew's.

35. I also recognise that outlining the catchment area on a map does provide certainty for parents about the boundaries of the catchment area, so

they can make an assessment of the likelihood of their child being allocated a place at the school. Therefore, families living in the catchment area will have greater certainty of their child being allocated a place in Year R at St Andrew's and then at Year 3 transition, a KS2 place at South Farnham.

36. The first objector said that *“around a third of St Andrew's yearly intake of 40 comes from the town centre. This number will be dramatically reduced; the school will no longer serve its local community and parish.”* In the email of 13 June, St Andrew's responded that *“the reference to the parish ... is not relevant to the proposed changes. The parish covers a large area and many children currently living within the parish boundaries would not have been offered place at St Andrew's under the existing admissions arrangements. With the catchment area some children living within both the catchment area and the parish will now be likely to get places when they wouldn't have before.”*

37. I note the implication from the first objector's submission that St Andrew's is a parish school, and I accept that St Andrew's is a voluntary controlled school designated as having a religious character that is Church of England, but there is no priority in the admission arrangements for children living within the parish, nor is there a faith-based oversubscription criterion. Accordingly, I do not see that there was any requirement for the council to draw up the catchment area to match the parish boundaries.

38. The school explained the long-standing concern that *“St Andrew's children who live in the town centre would eventually live too far from the South Farnham Junior site to be offered Y3 places as was borne out earlier than we feared. In April six of our 40 children, five of whom live in the town centre, were not offered Year 3 places at South Farnham.”* The school also added that *“for many families living in the town centre, St Andrew's is indeed their nearest Infant school, but the nearest primary school and hence the nearest junior provision is actually at Potters Gate Primary School, not South Farnham.”* However, in a response dated 21 July 2014, the second objector contests that there has been any problem *“with the 40 St Andrew's children getting into South Farnham.”* The objector suggests that *“in 2013, the two cases stated either lived far away or did not want to go to South Farnham, and that in 2014, the six cases that did not gain places were as a result of the bulge class that was put on two years ago and the subsequent siblings, and nothing to do with the lack of a St Andrew's catchment area. The only result of this catchment area would be to exclude the children from the town centre from going to South Farnham, which is what South Farnham has been trying to achieve for the last three years.”*

39. In the response of 21 July 2014, the second objector agrees that Potters Gate may be the nearest junior provision for some children north of the bypass but *“it does not have a PAN at Year 3 and St Andrew's does not have links with Potters Gate. Over 95% of all children from St Andrew's go onto South Farnham and their parents have the expectation of them doing so from the start of their school career.”* In the response of 21 July 2014, the second objector contests that *“the vast majority of children from the town*

centre actually attend St Andrew's. Potters Gate takes children from the West and far East of Farnham and further afield."

40. Irrespective of the reasons why some of the St Andrew's cohort did not transfer to the South Farnham junior site for Year 3, it is clear that there are a number of conflicting pressures associated with the transfer of St Andrew's children for Year 3. The council has a duty to enable infant school children at the end of Year 2 to transfer to junior school for their KS2 education. There is a well-established parental expectation that all the children at St Andrew's will have a right of access to KS2 at South Farnham because there is no other school available that has a junior PAN. However, it seems likely that in future years there will continue to be insufficient places available at South Farnham in Year 3 to accommodate all the children seeking places, and yet before making their preference for a reception place in an infant school, parents need greater certainty that there will be junior provision available. I accept that the council has taken the step of introducing a catchment area in an attempt to try to resolve this difficult situation.

41. I have studied the maps provided by the council of the catchment area and of the home location of Year R pupils on roll in Farnham schools in October 2013. Having considered the distribution of pupils allocated to St Andrew's, and given that there was no catchment area at the time, it is not surprising to find that the children came from a range of places in and around Farnham. However, the provision of reception admissions at this infant school which does not have a paired junior school for ease of transition to Year 3 has been a complex, and at times controversial, ongoing problem for a number of years. With the agreement of the school governors, the diocese and the school for which St Andrew's has a feeder link, the council has introduced a catchment area as the best solution in difficult circumstances. Given the constraints of its town centre location, there does not seem to be any possibility of expanding St Andrew's to include junior provision on site, so the only other option available to the council to resolve the situation was to introduce a catchment area, and having studied the maps provided by the council, I cannot see where else the catchment boundary would be drawn without impacting on the other schools nearby.

42. I have also been reassured by the council's rationale that children living outside the catchment would be in areas served by other schools which, being all-through primary schools, means that once children are admitted in reception, there would be no transition issues between the infant and junior phases.

43. In my opinion, the council has taken a positive step towards trying to resolve a complex issue, and I recognise the merits of the arguments for and against the design of the new catchment area. The catchment area has been clearly defined, and parents will be able to look at the arrangements and understand easily how places for the school will be allocated. I also consider that the design of the catchment area appears, on balance, to be reasonable with respect to the local circumstances. I am also aware that the council consults on admission arrangements each year, which affords an opportunity

to keep the design and impact of the catchment area under review. Given the evidence available to me, I consider that the design of the catchment area meets the requirement of paragraph 1.14 of the Code that “*catchment areas **must be designed so that they are reasonable***” and so I do not uphold this part of the objection.

44. However, the objectors have also asserted that the catchment area shifts the intake area south, away from the less prosperous town centre where St Andrew’s is located and, as a consequence, cuts off children from less wealthy backgrounds in favour of children from the more affluent areas to the south of Farnham. The objectors suggest that the catchment area is discriminatory and therefore it is necessary to consider whether the arrangements comply with equalities legislation and with paragraph 1.8 of the Code which requires that “*admission authorities **must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social ... group.***”

Compliance with equalities legislation and paragraph 1.8 of the Code

45. In addition to the requirement that the admissions authority must comply with admissions law, the Code at paragraphs 1.1 and 1.8 require that an admission authority must act in accordance with equalities legislation. The equalities legislation relevant to admissions is found in the Equality Act 2010 (the Equality Act) which requires that an admission authority **must not** discriminate against a person in the arrangements and decisions it makes as to who is offered admission because of their disability, gender reassignment, pregnancy or maternity, race; religion or belief, sex, or sexual orientation (together known as the protected characteristics).

46. I note that St Andrew’s is a school designated by the Secretary of State under section 69(3) of the Act as having a Church of England religious character, and as such, would be exempted by Schedule 11 to the Equality Act from the requirement in section 85 of the Equality Act not to discriminate on the grounds of religion in terms of the admission of pupils to the school. It would therefore be permitted by Schedule 11 to the Equality Act for St Andrew’s to prioritise applicants for a place at the school on the basis of faith, and yet the oversubscription criteria do not include a faith-based priority. Clearly the council, as the admissions authority, and with the agreement of the governing body of the school, has chosen not to exercise the exemption right to select pupils on the basis of religion, which is one of the protected characteristics, and I note that there is no suggestion that the arrangements are discriminatory on the grounds of any of the other protected characteristics.

47. Being a public authority, the council as the admission authority for St Andrew’s, is also the subject to the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act. Accordingly, in shaping its policies and delivering services, the council **must** have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations in relation to persons who share a relevant protected characteristic and persons who do not share it. From the equalities impact

assessment on the council's website called "*Addressing Inequalities*", it is clear that the council has reviewed its admissions policy and co-ordinated schemes to ensure that the processes and criteria for admitting children to community and voluntary controlled schools do not disadvantage unfairly any particular groups. I am satisfied that the council has had due regard to the PSED requirements and that the arrangements are, of themselves, not discriminatory in terms of equalities legislation. Accordingly I do not uphold this aspect of the objection with respect to the Equality Act.

48. Nevertheless, both objectors are concerned that families in the town centre and in north Farnham are excluded from the catchment area and imply this is discriminatory on socio-economic grounds. The first objector suggests that the catchment area is "*heavily biased to the more affluent south side of Farnham*" yet the immediate area of the school has a "*less favourable*" socio-economic profile. Objector 2 states that "*historically, all of the children from St Andrew's who lived in the town centre and requested a place, have gained a place at South Farnham.*" Both objectors say that the introduction of the catchment area is in response to the previous OSA decisions in 2012 and 2013, when South Farnham proposed dropping St Andrew's as a feeder school, and proposed a catchment which cut off at the A31 bypass. The objectors suggest that this is another attempt to exclude children from the less prosperous area of Farnham by preventing them from going to the town centre infant school. In a response dated 17 August 2014, the second objector comments that "*it makes no sense that families [to the north of Farnham] who have St Andrew's as their nearest infant school should be displaced by families [in the south] for whom the school is not even their closest infant school.*" The objector adds that "*it is all the more important that children that are most disadvantaged have the option to attend South Farnham. Currently the only way for poorer children to attend one of the best junior schools in the country is via St Andrew's. If this catchment area is approved then only very wealthy families will be able to attend, which can never be fair.*"

49. Poverty is not a protected characteristic specified in the Equality Act, but paragraph 1.8 of the Code stipulates that "*admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social ... group.*" It is therefore important to consider the socio-economic implications of the catchment area.

50. The council provided a map for the area around St Andrew's showing the "*income deprivation affecting children indicators*" (IDACI measures) for Surrey based on the 2010 data (the most recent set of data available to the council). IDACI measures show the proportion of children under the age of 16 that live in low income households within small geographical areas, and are used to indicate relative deprivation. The IDACI measures for Surrey range from 0 to 0.4, and the council comments that "*whilst the ... area to the south west of the school is relatively high for Surrey at 0.31, this is not an area that St Andrew's has historically admitted pupils from and as such there will be no disadvantage caused to that area as a result of the catchment. The ... area to the north east of the school is 0.2 which is mid-way through the range for*

Surrey, but is not of significant disadvantage. This is demonstrated by the fact that, although the school has historically admitted children from this area, in the 2014 January census data it is recorded as having fewer than two children in receipt of free school meals [and] the January 2013 census data was comparable at fewer than three pupils.”

51. The council accepts that the catchment excludes an area which indicates a higher IDACI indicator than south of the A31, but it is the council's view that this will not cause disadvantage because some of the children living in that area are still likely to be eligible for a place at the school and where they are not, there will be other schools available. The council provided a map which highlights the higher IDACI area excluded from the catchment and it can be seen that only 18 of the 72 reception children living in this area attend St Andrew's; the majority of the other children go to a range of other schools including 31 children to Potters Gate. The council maintains that children living outside the St Andrew's catchment would be able to access reception places at other schools within a reasonable distance, but that the same may not be said for children living within the catchment area if they were unable to secure a place at St Andrew's or South Farnham School. The council suggests that if families living to the south of the catchment are unable to access a place at St Andrew's or South Farnham, their alternative schools are more distant from their home than the alternative school would be to families in the north falling outside the catchment area.

52. In the response of 13 June 2014, the school says that *“the south of Farnham may be more affluent than the area where the school is situated, but it is only relatively more affluent, for example it is rare that we have more than one child on free school meals. The rationale for the catchment area is for St Andrew's to work with South Farnham in addressing their oversubscription problems and to avoid the situation where children from the town centre come to St Andrew's but, despite parental expectations, find in three years' time that they do not live close enough to South Farnham to be offered a Year 3 place.*

53. The school adds that *“there are areas of social housing in the town centre but very few children at St Andrew's have historically come from these areas. Whilst it may be that the town is less prosperous than the south of Farnham, it is relative. This year out of 120 children on our roll one is entitled to free school meals. Last year we had no children entitled to free school meals.”* However, the second objector responds that *“it is irrelevant that families from social housing do not choose St Andrew's, the opportunity to go there is currently open to them and should remain so. The only way to gain access to the best junior School in the country if you have lesser means is via St Andrew's and living in the town centre.”*

54. In the response of 19 June 2014, the first objector states in *“that St Andrew's School is a separate state school that feeds into South Farnham at Year 3, it is not a part of South Farnham School Academy, and so the admissions criteria should be focused on what is right and relevant for St Andrew's School and the children local to it, rather than South Farnham.”* In an ideal world, admissions for St Andrew's would be the only consideration,

but the parental expectation that children attending St Andrew's then transfer to South Farnham is such that the admissions arrangements for St Andrew's cannot realistically be regarded in isolation from South Farnham. The council describes South Farnham School as being "*heavily oversubscribed*" and, as a result, the council and the school have chosen to work with South Farnham to resolve the difficulties associated with St Andrew's having no linked junior school to which children would automatically transfer at KS2. This is an ongoing problem as St Andrew's is the only infant school left in an area where the educational provision has changed to all-through primary schools, except for South Farnham which has retained an intake at Year 3.

55. In the response of 11 June 2014, the diocese confirmed "*we were made aware of the proposed solution and we accepted that this was a sensible and pragmatic approach. However, the diocese had no access to data to verify or otherwise, the advisedness of the catchment area that was finally agreed.*" In the further response of 17 June 2014 the diocese confirmed that "*St Andrew's catchment area has been drawn up to maximise inclusion but if an unintended consequence of the line is that local families are unable to get in the line will need to be reviewed. The adjudicator should however bear in mind that Potters Gate C of E Primary School also serves the centre of the town.*" As Potters Gate is also a voluntary controlled school designated as having a religious character that is Church of England, this appears to offer a viable alternative for families living in the town centre who fall outside the catchment but would have chosen St Andrew's because it is a "faith school".

56. As St Andrew's is a popular, oversubscribed school, it seems likely that there will continue to be insufficient places in Year R to accommodate all the applicants who nominate the school as their first preference. Furthermore, it seems likely that the demand for Year 3 places at South Farnham to accommodate all of the children hoping to transfer from St Andrew's and from the other feeder schools will continue to increase. Therefore the school and council are seeking to avoid the situation where parents have been faced with the prospect of not being offered a Year 3 place at South Farnham which they had, in good faith, expected would be the onward route for their children after St Andrew's. Accordingly, the council has introduced a catchment area so that families living in catchment and choosing St Andrew's for their child's infant education will have greater certainty of their child being able to access junior education at South Farnham. Families living north of the bypass, so not in catchment, have the option of attending an all-through primary from Year R which avoids the transfer issues at Year 3. The catchment area does not prevent families living outside it from applying to St Andrew's but given the increasing demand for places in South Farnham, there is no certainty that their child would find a Year 3 place in South Farnham, and it seems unlikely that there would be any vacancies left in any of the local primary schools which tend to have a full cohort from Year R.

57. The IDACI information from the council does support the assertion that the socio-economic profiles of the two areas are different and that the town centre is less affluent than the Farnham area south of the bypass. It is clear that parents who express a preference for their child to attend St Andrew's do

so in the expectation that their child would then transfer to South Farnham at Year 3, irrespective of where they live. However, it is also entirely reasonable for parents who live in the south of Farnham to want to send their child to the school in South Farnham. Therefore it seems likely that as the demand for places at South Farnham increases, children living north of St Andrew's may not get a place at South Farnham. It seems to me that the catchment area has been set up to minimise the risk where parents would unwittingly apply to St Andrew's for a place in Year R for their child, only to find out three years later that they do not live close enough to South Farnham to be offered a Year 3 place. Only in time will it be possible to determine whether the catchment boundaries have been drawn in the best place to fit the local circumstances.

58. I recognise that children living in the town centre and out of catchment may well be living in an area that is less affluent than south Farnham, but I am not persuaded that the impact of the catchment area being introduced for admissions in September 2015 will indirectly discriminate children from less affluent families. Introducing the catchment area is a proportionate step by the council in trying to resolve long-standing issues in Farnham related to admissions to Year R and transfer at Year 3, and I can see no other viable solution as the limitations of the town centre campus would seem to prevent St Andrew's becoming an all-through primary. Therefore families need greater certainty that when their child is admitted to St Andrew's in Year R, they will be able to access KS2 provision at South Farnham three years later. Children not living in the catchment area for St Andrew's will be able to access other local primary schools, and some may still be able to secure places at St Andrew's if there are places available after catchment children have been accommodated. On balance, I consider that the arrangements therefore comply with paragraph 1.8 of the Code that "*admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social ... group.*" However, as part of the continuing duty to eliminate discrimination, the council may wish to keep the impact of the catchment area under review.

Conclusion

59. After a consultation process, the council has introduced a catchment area where there was none before. The council has also changed the fourth oversubscription criterion to give priority to children living in the catchment. Previously, after looked after and previously looked after children, those with exceptional social/medical need, and siblings, the fourth criterion gave priority to applicants for whom St Andrew's is the nearest school to their home address. The fourth criterion of the 2015 determined arrangements now prioritises children living in the catchment area ahead of those who do not. As a result, the 2015 arrangements for St Andrew's contrast significantly with the admission criteria for most of the other community and voluntary controlled schools in Surrey which are still based on the nearest school policy.

60. I have considered carefully the objections that the consultation process was flawed, and that the design and impact of the catchment area discriminates against children from less affluent backgrounds and therefore

contravenes both Code and the Equalities Act.

61. I find that the consultation process was thorough and met the requirements of the Code. I also conclude that in the Farnham area which has a number of primary schools, the catchment area is clearly defined and reasonable in the local circumstances where there was no catchment before.

62. The arguments are finely balanced, but after considering the objections, evidence, background history, factors, views and implications of the change, I conclude that the introduction of a catchment area is a necessary and proportionate step by the council towards resolving the long-standing issues in Farnham related to admissions to Year R and transfer at Year 3. I conclude that the council has complied with PSED requirements related to admissions, that the Equality Act has not been breached, and that on balance, the arrangements also comply with paragraph 1.8 of the Code. However, as part of the continuing duty to eliminate discrimination, it may be apposite for the council and the governing body to monitor and review the impact of the catchment area.

63. For the reasons given above, I do not uphold any aspects of the objections to the 2015 determined arrangements.

Determination

64. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by Surrey County Council for admissions to St Andrew's Church of England (Controlled) Infant School in September 2015.

Dated: 5 September 2014

Signed:

Schools Adjudicator: Ms Cecilia Galloway