

DETERMINATION

Case reference: ADA/0002194

Objector: A group of eligible parents

Admission Authority: Surrey County Council

Date of decision: 7 September 2011

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Surrey County Council.

I determine that for admissions to primary schools in Surrey in September 2012 the arrangements shall be as determined by the County Council.

The referral

1. An objection has been referred to the Schools Adjudicator by a group of eligible parents about the admission arrangements for 2012 for primary schools for which Surrey County Council (the County Council) is the admissions authority. The objection relates specifically to the arrangements for admission to Wallace Field Junior School (WFJ).

Jurisdiction

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the Council, which is the relevant admissions authority. The parents submitted their objections to these determined arrangements within the prescribed timescales. I am satisfied this objection has been properly referred to me in accordance with section 88H of the Act and that it falls within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code.
4. The documents I have considered in reaching my decision include:
 - a. the objectors' letter of referral date 22 June 2011;
 - b. the Council's response to the objection dated 29 July and supporting information;
 - c. comments from the Epsom and Ewell Partnership of Schools;

- d. subsequent additional comment provided by both parties;
- e. the Council's booklet for parents seeking admission to schools in the area in September 2011;
- f. maps of the area identifying relevant schools.

Background

- 5. The admission arrangements for primary schools in Surrey including WFJ include, as the third oversubscription criterion (after children in the care of a local authority and those in exceptional circumstances) children who will have a sibling at the school "or at an infant/junior school on a shared/adjoining site at the time of the child's admission." The criterion goes on to say that in the event of there being more such sibling applicants than available places, places will be offered on the basis of distance with those living closest to the school having priority.

The Objection

- 6. The objector argues that the arrangements are unfair and therefore in contravention of the School Admissions Code. Specifically they submit the following arguments in respect of admission to WFJ.
 - a. The arrangements give unfair advantage to children attending Wallace Fields Infant School as compared to those attending Ewell Grove Infant School.
 - b. The application of the criterion in 2012, when there will be a larger than usual number of applicants for places at WFJ, will lead to a significant number of families having to accept places in schools at an unreasonable distance from their homes, whilst a number of successful applicants will live within reasonable travelling distance to at least one alternative school. This will be disruptive for families and lead to an unnecessary increase in road traffic.
 - c. The objectors submit that the provision objected was introduced despite the express disagreement of a significant number of parents local residents and the head teachers of a number of local schools.
- 7. The objectors and the Epsom and Ewell Partnership of Schools submit that the arrangements would be fairer if they included what is referred to as a "tiered sibling criterion" whereby sibling applicants for whom WFJ is the nearest school would be afforded priority over siblings living closer to alternative schools. They point to the successful application of this refinement to the sibling criterion in other parts of the County.

The County Council's Response

8. In response the County Council submits the following points.
 - a. The criterion which takes account of the attendance of a younger sibling at an associated infant school was introduced for the first time for 2011 admissions. The County Council is of the view that this provision assists families by making more likely that two or more siblings will be educated on the same site albeit in different schools.
 - b. It is acknowledged that there will be greater competition for places at WFJ in 2012 because of the unusually large number of children in the relevant age group in the area.
 - c. Responses to the consultation on admission arrangements for 2012 in Epsom and Ewell reflect a wide range of views within the community. Even though no change had been proposed for WFJ, most responses related to the admission number for that school with many arguing that it should be increased to accommodate the additional numbers projected for 2012. A small number of responses, including that from the Epsom and Ewell Partnership of Schools Confederation, touched specifically on the issue of the increase in siblings and the potential to introduce a "tiered sibling policy".
 - d. The County Council acknowledges the potential benefits of the "tiered sibling" criterion, but argues that any such change to criteria should be the subject of full consultation on a substantive proposal.

Consideration of Factors and Conclusion

9. The Code provides (at paragraph 4.14) for parents to refer an objection to the Schools Adjudicator if they consider that the arrangements objected to do not comply with the law or one of the mandatory requirements of the Code. In this case the objectors do not cite a particular mandatory requirement of the Code which they consider to have been breached, but as is clear from my consideration below the objections do relate to certain mandatory requirements.
10. The Code sets out in paragraph 2.16 a number of oversubscription criteria which must not be used. The criterion objected to is not included in this list. Paragraphs 2.21 and 2.22 identify the benefits of including a criterion which benefits siblings of children already in a school, and recognises that the same arguments apply in the case of schools with a local association. On the face of it, therefore, the Code seems to support the use of the criterion as drafted.
11. A major theme of the objection is that the arrangements and the criterion objected to in particular, are unfair in that they will have a more disruptive effect on some families than others. Paragraph 4.6 of the Code states that local authorities must ensure that their admission arrangements "...are

clear, objective and fair.” If it can be established that the arrangements are, indeed, unfair, this mandatory provision will have been breached.

12. In this case the objectors argue that some of the families who will benefit from the sibling criterion as drafted have reasonable access to at least one alternative school, whereas some of the objectors live at an inconvenient distance from alternative schools. I understand the perception of unfairness on the part of families who might be disadvantaged by this rule, but it important to recognise that families who might benefit from the criterion objected to will have a different and equally valid view and that any assessment of perceived unfairness must take all interests into consideration. I have not seen persuasive evidence that the application of this criterion is necessarily and intrinsically unfair.
13. Oversubscription criteria serve to allocate a limited number of places to a greater number of applicants. Inevitably they operate to the disadvantage of some applicants. Such disadvantage can be said to be unfair in a legal sense, such as in circumstances where a child who is a member of a particular group is denied a place at a school which he would have been offered, but for his membership of that group. This does not apply in this case.
14. I recognise that there is potential in the “tiered sibling” criterion to make the arrangements more fair, but that is not to say that the present arrangements are unfair and thus in breach of the Code. Furthermore, I am persuaded by the County Council’s argument that such a refinement requires more careful analysis and consultation in the particular circumstances of this school and the communities it serves. This is particularly material in this case, in view of the range of views strongly expressed during the consultation period, and the views of local head teachers. I applaud the Council’s intention to give further consideration to this option in the future.
15. In the light of these factors, I have concluded that the arrangements are consistent with the requirements of the Code and that the objection against them should not be supported.

Determination

16. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Surrey County Council.
17. I determine that for admissions to primary schools in Surrey in September 2012 the arrangements shall be as determined by the County Council.

Dated:

Signed:

Schools Adjudicator: Andrew Baxter