

## **DETERMINATION**

**Case reference:** ADA2625

**Objector:** A parent

**Admission Authority:** Warwickshire County Council

**Date of decision:** 22 July 2014

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2015 determined by Warwickshire County Council for Keresley Newland Primary School, Warwickshire.**

**I have also considered the 2014 arrangements for the school in accordance with section 88I(5) of the Act and have found that these do not conform with the requirements relating to admissions as set out in this determination.**

**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 parent (the objector), about the admission arrangements (the arrangements) at Keresley Newland Primary School (the school), a 3 to 11 community primary school, for September 2015. The objection is to the boundary of the school's priority area.
2. The objector also commented on the allocation of places to children for September 2014.

### **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the local authority, Warwickshire County Council (the LA), which is the admission authority for the school. The objector submitted her objection to these determined arrangements on 15 May 2014. I am satisfied the objection to the boundary of the priority area has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

4. The objector also made reference to the admission arrangements for September 2014. Although the time has now past when an objection should have been made to the 2014 arrangements I have considered them under section 88I(5) of the Act as they apply to any waiting list held by the LA and because the 2014 arrangements are the same as those determined for 2015.
5. The allocation of places to individual children for September 2014 is not within my jurisdiction. Appeals against admission authorities' decisions for individual children are considered by independent appeal panels established by the admissions authority and governed by the School Admission Appeals Code.

### **Procedure**

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
7. The documents I have considered in reaching my decision include:
  - a. the objector's form of objection dated 15 May 2014;
  - b. clarification from the objector on the names of roads referred to on her form and clarification of the sources of information provided;
  - c. the local authority's response to the objection and supporting documents provided by them and their response to further enquiries of 2 June 2014;
  - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - e. maps of the area identifying relevant schools;
  - f. confirmation of when consultation on the arrangements last took place;
  - g. copies of the minutes of the meeting of the council at which the arrangements were determined; and
  - h. a copy of the determined arrangements.

### **The Objection**

8. The LA's oversubscription criteria for community infant and primary schools include a "priority area" for each school. I am satisfied that what the LA refers to as a priority area is the same thing that is often called a catchment area in other local authority areas and is referred to as such in the Code. I am accordingly treating references to "priority area" in this case as references to "catchment area" in the Code.
9. The county boundary is used to define part of the priority area

boundary for this school. The objector provided maps printed from the LA's website and other websites. These included a map which showed the county boundary in the area near to the school and her home following a different route from that in the maps provided by the LA. The objector considered this demonstrated possible confusion over the boundary of the school's priority area and that this affected her child's priority for the school.

10. Paragraph 1.8 of the School Admissions Code (the Code) says "*Oversubscription Criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation*". Paragraph 1.14 says "*catchment areas **must** be designed so they are reasonable and clearly defined.*"
11. The objector's objection form referred to both the 2015 and the 2014 arrangements which are the same.

## **Background**

12. Keresley Newland is a 3 to 11 community primary school serving the village of Keresley End in Warwickshire. The village itself is sometimes also known as Keresley Newlands, I will refer to the village as Keresley End to differentiate it from the school. Keresley End is south of the M6 motorway near junction 3 to the north of Coventry. The school has a published admission number (PAN) of 30.
13. The LA consulted on proposed changes to some priority areas in the county for the prescribed period before 1 March 2014. The priority area for Keresley Newland was not among the proposed changes. The LA has confirmed that the current priority area has been in operation for at least ten years. Following this consultation the LA decided to make no changes to any priority areas and on 10 April 2014 determined the admissions arrangements for September 2015 in accordance with regulations. The oversubscription criteria for 2015 are the same as they were in 2014 and are:
  1. Children in the care of, or provided with accommodation by, a local authority and children who were looked after, but ceased to be so because they were adopted (or became subject to a residence order or special guardianship order);
  2. Children living in the priority area who have a brother or sister at the school at the time of admission;
  3. Children living in the priority area who have a brother or sister at the partner junior school at the time of admission;
  4. Other children living in the priority area;
  5. Children living outside the priority area who have a brother or sister at the school at the time of admission;
  6. Children living outside the priority area who have a brother or sister

at the partner junior school at the time of admission;

7. Other children living outside the priority area.
14. Straight line distance between home and school is used to prioritise within in each category with children living closer to the school having the greater priority. In the event of two or more children living the same distance from the school a ballot is used as tie-break.
15. The LA's website includes the statement that "*If you live within a school's priority area you have more chance of your child being offered a place at that school.*" It also says "*Living in the priority area does not guarantee an offer of a place at that school as there may be more applicants living in the priority area than the number of places available.*"
16. For September 2014 the school was oversubscribed from within its priority area. The school has only been oversubscribed in one of the previous years, which was in 2012. Even in that year the school was able to admit all children who lived in its priority area and some of those from outside the priority area who had applied.

### **Consideration of Factors**

17. Paragraph 14 of the Code requires oversubscription criteria to be fair clear, and objective while paragraph 1.14 says catchment areas must be designed so they are reasonable and clearly defined. The objector has provided evidence that the boundary of the priority area for the school might not be clearly defined and could be interpreted in more than one way. I have considered the clarity of the priority area boundary and also considered its reasonableness.
18. The LA provides a description of the priority area for the school on its website which describes it as follows. "*The northern boundary is formed by the M6. The eastern boundary cuts across the countryside between the Keresley Newland and Ash Green areas from the M6 to the Warwickshire County boundary. The southern boundary follows the Warwickshire County boundary to the Corley parish boundary. The western boundary follows the Corley parish boundary to the M6.*"
19. The LA's website also provides a facility where a parent can enter their postcode and is then presented with a map centred on their post code with nearby schools and their priority areas indicated. The county boundary is clearly shown by green shading and is in agreement with the Ordnance Survey (OS) map of the area. Parents are invited to switch to a more detailed view where it is possible to click on an individual house to find out which priority area it lies in together with contact details for that school. The priority area described in paragraph 18 for the school is in agreement with this interactive map. The objector provided copies of both the written description of the priority area and of the interactive map.

20. The objector also provided a copy of a Michelin map taken from the internet showing the Warwickshire county boundary and a copy of another internet map published by Google showing the boundary. These maps show the county boundary following different routes in the proximity of the school and the objector's home.
21. The objector argued that if the county boundary as shown on the Google map had been used to define the priority area, her child would have had higher priority for a place at the school. This is because it would have reduced the number of houses in the priority area which is the fourth category, making it more likely that a child in the fifth category, an out-of-area sibling, would be able to get a place.
22. On the screenshot of the Google map there is a note explaining that the map shown was converted from a data file provided by Warwickshire County Council. The LA's data file quoted on this webpage is available on their website. I have looked at it and note that file is consistent with the OS and the Michelin maps. The Google map appears not to be so detailed in its delineation of the boundary with the result that it has a straight line in the disputed area whereas the other maps give more detail.
23. I am satisfied that the boundary of the priority area is consistently and clearly defined by the LA. It is possible to find inaccurate maps of the county boundary from other sources on the internet, but that is not the fault of the LA which is not responsible for the actions of those who have published these other maps. The council's interactive webpage does invite parents to contact the council if parents have any queries or cannot find their property on the interactive map. This makes it possible for parents to resolve any confusion that may arise from the use of third-party maps.
24. I now consider the fairness of the priority area boundary. The Greenwich judgement, *R v Greenwich London Borough Council, ex parte John Ball Primary School* (1989) 88 LGR 589 [1990] Fam Law 469, held that pupils should not be discriminated against in relation to admission to a school simply because they reside outside the local authority area in which the school is situated. The use of a local authority administrative area boundary to define a catchment area is permissible but must be on the basis of its being reasonable, objective and fair.
25. Keresley End is a village lying south of the M6 motorway and north of Coventry. It is separated from Coventry and other settlements in Warwickshire by fields and an industrial estate on the site of a former coal mine. As well as the school, Keresley End has some shops, a health centre, a library and a community centre.
26. The school is in Grove Lane in the north-west corner of Keresley End. Grove Lane is a no-through road accessed from Bennetts Road North. The school itself is less than 200m from the county boundary.

27. While the northern, eastern and western boundaries of the priority area run through the fields surrounding the houses in Keresley End, the southern boundary described in paragraph 18 does not. It follows the boundary between Warwickshire and Coventry which runs along the middle of Bennetts Road North. Even-numbered houses in the road are in Warwickshire while odd-numbered houses are in Coventry. A no-through road called Thompsons Road joins Bennetts Road North on the odd-numbered side and is entirely within the Coventry local authority area. Using the county boundary to define the priority area puts about 80 houses in this part of the village outside the priority area for the school.
28. I have noted that the straight line distance to the school gate from the junction of Bennetts Road North and Thompsons Road as measured on an OS map is approximately 460m. I have also noted that the route to school for almost all children is along Bennetts Road North past houses that are not in the priority area.
29. The nearest alternative schools are Parkgate Primary School in Coventry and Wheelwright Lane Primary in Warwickshire. Both of these schools are just over two kilometres away as measured in a straight line on the OS map from the junction of Bennetts Road North and Thompsons Road. Another school in Coventry, Keresley Grange Primary, has a catchment area that includes Thompsons Road and the odd-numbered houses in Bennetts Road North; this school is over 2.4km away using the same method of measurement.
30. It would seem reasonable to me for families living in Thompsons Road and in odd-numbered houses in Bennetts Road North to consider Keresley Newland to be their local primary school. I understand why parents who live in these 80 or so houses, which are closer to the school than much of the priority area, would find it difficult to accept that their children have lower priority for the school than other children in the village just because they live in another local authority's area.
31. The LA has provided details of admissions to the school in each of the last five years. Until 2014 children living in Bennetts Road North and Thompsons Road would have been able to secure places at the school as there were places left after children from the priority area were admitted. The LA has said "*where applications have been received, children living outside of the priority area have traditionally been accommodated. This includes those living outside of the priority area who will in some cases be served by a school in their home local authority (in this case, Coventry)*".
32. In 2014 the school was oversubscribed from within the priority area. The council's website says that children who lived in the priority area up to 0.408 miles (657m) from the school were admitted. As some houses in the priority area are over 1100m from the school this suggests that the pattern of admissions in the area might be changing.
33. Examination of maps of the area shows that new housing has been

built in Keresley End. The detailed map provided by the LA shows some of this housing development is outside the priority area for the school straddling the county boundary. These new houses are at the end of a cul-de-sac called Coopers Meadow and are accessed through the priority area.

34. The new housing appears to be exacerbating the situation in two ways. It will be increasing the number of children in the village and it will be adding to the number of homes which while being part of the village will not be in the local school's priority area.
35. The LA has said that for September 2015 and 2016 it is aware of 28 children living within the priority area and it would therefore expect all in-area applicants to be admitted. The LA does not have data beyond 2016. I asked the LA if these figures included the new housing and I have been told that it does not.
36. As it is possible that there could be more children living in Keresley End than places available at the village school, it is necessary for the LA to decide which children from the village will and will not be offered the places if the situation arises. Using a priority area is a legitimate way of doing this.
37. Paragraph 1.14 of the Code requires priority areas to be reasonable. In setting a priority area I would expect an admissions authority to consider factors including the proximity to the school, the distance to alternative schools and the journey to these schools for children. The Greenwich judgement said that pupils should not be discriminated against in relation to admission to a school simply because they live outside the local authority area in which the school is situated.
38. I have asked the LA what rationale was used to exclude the houses in Bennetts Road North and Thompsons Road from the priority area. Their response was "*Due to the school being close to the local authority boundary, the priority area follows this, with the area itself designed to ensure that those living in the vicinity of the school are able to secure a place.*"
39. I am not satisfied that the LA has justified the use of the county boundary to define the priority area in this case. Using the county boundary also contradicts the LA's aim as some children living in the vicinity of the school have a lower priority for places at the school than children living farther away from it.
40. It seems to me both unfair and unreasonable that children who live in some of the houses in Keresley End which are close to the village school have lower priority for places than children living elsewhere in the village simply because they do not live in Warwickshire.

## **Conclusion**

41. Paragraph 1.14 of the Code requires catchment areas to be defined so

they are reasonable and clearly defined. In this case the catchment area is clearly and consistently defined by the LA and can be checked at the level of individual houses on the LA's website. I do not uphold the part of the objection relating to the clarity of the priority area boundary.

42. I have concluded that to omit about 80 homes in Keresley End from the priority area on the basis of their being in another local authority and without consideration of other factors is unreasonable and contrary to the Greenwich judgement. This is not compliant with paragraph 1.14 of the Code and I do uphold that part of the objection.

43. As the 2014 arrangements are the same as the 2015 arrangements they are also not compliant with paragraph 1.14 of the Code. These are the arrangements that apply to the waiting list that paragraph 2.14 of the Code requires to be kept for at least the first term of the academic year of admission.

### **Determination**

44. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2015 determined by Warwickshire County Council for Keresley Newland Primary School.

45. I have also considered the 2014 arrangements for the school in accordance with section 88I(5) of the Act and have found that these do not conform with the requirements relating to admissions as set out in this determination.

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: 22 July 2014

Signed:

Schools Adjudicator: Phil Whiffing