



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA2874 &amp; ADA2924</b>
<b>Objectors:</b>	<b>A parent and Greenfylde Church of England First School</b>
<b>Admission Authority:</b>	<b>The governing body of Neroche Primary School, Broadway, Ilminster, Somerset</b>
<b>Date of decision:</b>	<b>13 August 2015</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections made by a parent and by Greenfylde Church of England First School to the admission arrangements determined by the governing body for Neroche Primary School.**

### **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 parent objector), about the admission arrangements (the arrangements) for Neroche Primary School (the school) for September 2016. The objection is to the lack of priority for siblings of children who live outside the new catchment area and will have a reduced opportunity to be allocated a place as they come to join reception. The parent objector would like the governing body to include protection for these circumstances in the admission arrangements.
2. A second objection to the arrangements has been referred to the adjudicator under the Act by Greenfylde Church of England (C of E) School (the school objector). The objection is that the introduction of a shared catchment area is not reasonable and that the consultation did not meet the requirements of the Code.

### **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school as a foundation school with a foundation, on 27 March 2015. The parent objector submitted her objection to these determined arrangements on 22 May 2015. The school objector submitted its objection on 22 June 2015. I am satisfied that the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

## Procedure

4. In considering these matters I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
  - a. the parent objector's form of objection dated 22 May 2015 and subsequent correspondence;
  - b. the school objector's form of objection dated 22 June 2015 and subsequent correspondence;
  - c. the school's response to the objections; supporting documents; and other information in reply to my enquiries;
  - d. the composite prospectus published by Somerset County Council (the local authority) for parents seeking admission to schools in the area in September 2015; and other information and comments provided by the local authority;
  - e. maps of the area identifying: relevant schools; the catchment area for admissions in September 2015 and the catchment area for admissions for September 2016; and where existing pupils live;
  - f. information on the consultation for the arrangements for 2016;
  - g. copies of the minutes of the meeting of the governing body on the 27 March 2015 at which the arrangements were determined; and
  - h. a copy of the determined arrangements.

## The Objections

6. The governing body of Neroche Primary School determined to extend the catchment area of the school to include the west side of Ilminster. The parent objector believes that there has not been consideration of families living outside the catchment area with a child at the school with a younger sibling not yet at school. The parent objector refers to families who have sent an older sibling to the school, assuming there was a reasonable chance of other younger siblings being offered a place. The parent objector wants the oversubscription criteria changed so that the siblings of existing pupils of the school, but living outside of the catchment area, are given a higher priority than children living within the extension to the catchment area.
7. The school objector believes that a shared catchment area in an urban area cannot be clearly defined as required by paragraph 1.14 of the Code. The school objector says that it is not reasonable to have a shared catchment area when there is already a school in the area with capacity to meet the need for places. Furthermore the school objector thinks that the shared catchment area is confusing for parents.
8. In addition the school objector does not think that the data about the number of pupils in the area are robust enough to support the expansion of the catchment area; the travel to school distances and routes are not reasonable or safe; the fact that Greenfylde C of E First School is a faith school should not have been part of the case for expansion of the catchment area as faith schools are permitted by the Code; and that the consultation was insufficiently thorough.

## Background

9. Neroche Primary School provides education for children between the ages of four and eleven years old. It is situated in the village of Broadway about a mile to the west of Ilminster in Somerset. In March 2014 it changed category to become a foundation school with a foundation as a member of a co-operative trust, the Willow Schools Co-operative Trust, together with five other schools. The governing body became the admission authority for the school at that time.
10. The school determined a published admission number (PAN) of 30 for 2015. Edubase records the capacity of the school as 161. A school with a PAN of 30 must offer 30 places in reception which, over time, could lead to a total of 210 pupils. The school provided information on its commitment to adapt the school to make it possible to accommodate 210 pupils in seven classes of up to 30 pupils in each by September 2015.
11. Currently the school has six classes. At the time of its consultation on the arrangements for 2016 there were 172 pupils at the school. The number of pupils on roll has increased from 140 in 2012 to 180 in June 2015. The school believes that local demographics and the judgement by Ofsted in March 2013 that the school was outstanding in all areas have contributed to this increase which it expects to be maintained.
12. Ilminster, the nearby town with a population approaching 6,000, is part of a first, middle and high school system. Greenfyld C of E First School provides education for children in Ilminster between the ages of four and nine years.

## Consideration of Factors

13. I have considered the objections together as both concern the enlargement of the school's catchment area.
14. The school consulted on its arrangements for 2016 with advice and administrative support from the local authority. The consultation started on 17 December 2014 and closed on 11 February 2015 which meets the requirements of paragraph 1.43 of the Code that the consultation **must** be for a minimum of eight weeks.
15. Paragraph 1.44 of the Code says that "*Admission authorities **must** consult with:*
  - a) *parents of children between the ages of two and eighteen;*
  - b) *other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
  - c) *all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
  - d) *whichever of the governing body and the local authority who are not the admission authority;*
  - e) *any adjoining neighbouring local authorities where the admission authority is the local authority; and*

*f) in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.”*

16. The local authority informed me that the consultation included use of an early years Facebook page, a notice in a monthly bulletin for early years providers, posters, emails, articles in a free local paper that is delivered to all households as well as items in the school's newsletter, the local newspaper and the school's website. An email was sent to all schools. A letter and a poster were sent to early years' settings and businesses with a poster for display.
17. The school objector points out that the free newspaper does not reach all houses and that some parents do not appear to be aware of the consultation. During the consultation period the opportunity was not taken to ask all local schools to make their parents aware of the consultation.
18. The school objector has also questioned what consultation was held with the local diocese. The local authority provided me with its consultation email to the Diocese for Bath and Wells, the relevant diocese, which included the consultation for Neroche Primary School. This provided evidence that the diocese had been consulted, even though there is no requirement for the school to have consulted any faith body.
19. The governing body considered the responses to the consultation at its meeting 27 March 2015. The minutes record that the majority of responses were in favour of expanding the catchment area but none related to the proposed admission arrangements. I understand this to mean that the comments received only related to the extension of the catchment area.
20. The school provided me with the responses to the consultation considered by the governing body. There were 46 responses to the consultation; a few of which were from the same family and expressed the same view. Of these 37 were supportive of the proposals and nine were opposed. Responses included those from four families who expressed concern that they had children currently at the school but would live outside the new catchment area and thus the opportunity for their younger children to join the school in the future would be reduced as children in the new extended catchment area would have a higher priority.
21. The responses from the local authority and the schools in Ilminster did not support the proposals. The schools in surrounding villages that responded did support the proposals. The minutes of the meeting of the governing body which determined the arrangements record consideration of each point that was made during the consultation. I am satisfied that the conduct of the consultation met the requirements of the Code and do not uphold the part of the objection concerning the consultation. I have also noted the careful consideration given to the

responses to the consultation by the school's governing body.

22. The information from the school described how currently the school has pupils coming from a wide area which affects the viability of some village schools and how, as members of the same trust, the school wished to support these schools if it could. The extension to the catchment area was partly stimulated by the wish to make it less likely that children in the catchment areas of other village schools would be able to be allocated a place at the school.
23. The school's newsletter dated 8 January 2015 tells parents about the consultation and explains that for 40 years about 20 – 40 per cent of the school's population has come from the west part of Ilminster. It also says that there were 97 primary school aged children living in the existing catchment area so far fewer than needed to fill the capacity of the school.
24. The map of the 2015 catchment area for the school shows a wide rural area. Pupils come from an even wider area with, for example, four pupils living in South Petherton which is 12 miles away and 18 pupils travelling from Chard which is eight miles away. The new part of the catchment area, which is to the west of Ilminster, had 31 of the school's pupils living in it as at June 2015.
25. Those parents who supported the extension to the catchment area gave reasons which included not wanting to use the first, middle and high school system in Ilminster, convenience and that the first school for Ilminster is a church school and they wished to have the choice of a non faith school. The school objector does not accept the point about some parents preferring a non faith school, but parents are entitled to express their view so the feedback was correctly considered by the governors as part of the responses received by the school.
26. The school objector raises concerns that the route to Neroche Primary School from Ilminster is across a busy main road and this raises the risk of accidents. The school objector is also concerned that if parents choose to send their child to the school then there may be increased traffic and this is not environmentally sound. I must test admission arrangements against the Code and I do not consider these matters to be within my jurisdiction. .
27. The school also explains in its newsletter that it is expecting a greater pressure for places because of the national and local increases in the number of children but also because of the increased popularity of the school. It expresses the wish "*to protect the rights of parents from our existing 'unofficial catchment' of the west side of Ilminster.*" The school objector states that it has the capacity to meet this need and therefore the extension is not required. There are therefore two aspects to this part of the objection. One is that there is no need for the places which the school is providing by the increase to its PAN for 2015. The second part is that the school should not have increased its

catchment area into Ilminster.

28. For the first aspect, paragraph 3.3b of the Code prohibits objections to an increase in PAN by own admission authorities, even if there had been an increase for 2016, the arrangements that I am considering, which there has not. This matter is therefore not in my jurisdiction.
29. With regard to the second aspect the Code sets the requirements for a catchment area if one is included in admission arrangements. Paragraph 1.14 of the Code says, "*Catchment areas **must** be designed so that they are reasonable and clearly defined.*" There is no prohibition on shared catchment areas. The reasons the school objector has given for objecting to the existence of a shared catchment area, such as travel and parents not understanding what a catchment area means, are not matters on which I can comment as they do not contravene the Code. The school objector also queried how a shared catchment area would affect the admissions to secondary schools and this too is not a matter for this determination.
30. The school objector feels that the shared catchment area in an urban area cannot be clearly defined as required by paragraph 1.14 of the Code. Definitions of catchment areas are normally by clear features such as roads or rivers. The school provided me with a detailed definition of its catchment area using such features. It also explained that the local authority has an interactive mapping service that parents can use to pinpoint for which schools their home address is in catchment. In addition the local authority will update its interactive map to show the new catchment area. The catchment area is clearly defined and the increase includes an area from which a significant number of children already attend the school. My view is that the catchment area is reasonable and clearly defined. I do not uphold this part of the objection.
31. The parent objector does not object to the expansion of the catchment area; her concern is that the governing body has not taken into consideration the impact on the younger siblings of pupils already attending the school who do not live in the 2015 or the new 2016 catchment areas.
32. The relevant parts of the over-subscription criteria in the 2016 arrangements were determined as:
  4. *Children living in the catchment area, with an older sibling at the school at the time of admission, and who live at the same address.*
  5. *Children living in the catchment area.*
  6. *Children living outside the catchment area, with an older sibling at the school at the time of admission, and who live at the same address.*
  7. *Children outside the catchment area."*

33. In practice these are the same arrangements as existed previously; it is only the catchment area which has changed. The parent objector's point is that the school has taken insufficient notice of the potential effect on families who live outside the catchment area who previously thought that they had *"a reasonable chance of other younger siblings gaining a place."* The extension of the catchment area has increased the number of children with a higher priority for a place above those with a sibling at the school but living outside the catchment area.
34. The minutes of the meeting of the governing body record how this was *'the most debated point and the governing body had empathy with this observation which had been made solely by parents carers of four children currently attending Neroche.'* The school wrote to all those who had responded to the consultation explaining their decision, but not their consideration of this particular point.
35. In the school's correspondence with me it has said, *"Our understanding was that if we had prioritised children out of catchment with a sibling, above children living in catchment, the school would not have been compliant with the Admissions Code and would have potentially left itself open to multiple appeals to the Adjudicator from parents in catchment. This advice was taken from the Local Authority."* The local authority does not recall giving this advice but notes that all arrangements can be subject to challenge.
36. The school has further said, *"If the Adjudicator should rule that in fact we are legally compliant in prioritising children with a sibling in school who live out of catchment above those living in catchment prior to September 2016, the school would accept and indeed welcome this ruling as this was the most debated point at our Governing Body meeting that determined our Admissions Arrangements, also bearing in mind the very small number of children that are known to be affected this change would be welcomed. It must be noted we did not discuss a time limited change as proposed by the objectors, as far as we are aware this is not part of the Admissions Code."*
37. Parents who live outside of the catchment area, where that is part of the oversubscription criteria, will have a lower priority for a place for their children than those who live in the catchment area. The extension of the catchment area will only have an effect when there is oversubscription for places. Under the previous arrangements a child living in Chard, for example, which is eight miles distant, would have had a lower priority than a child living to the east side of Ilminster which is about three miles from the school. This will not change.
38. The effect is likely to be on the rural areas around Neroche and potentially making it less likely that children living in nearby villages are allocated a place at the school. They lived outside the previous catchment area but were relatively near the school and so gained a place on distance. They remain outside the extended new catchment area, but there will be more children eligible for higher priority from

within the catchment.

39. The governing body had understood that the Code did not permit making a time-limited priority within the over-subscription criteria for siblings of current children. The Code requires admission arrangements to be determined every year so a decision cannot be taken for arrangements beyond the determination year. It does not prohibit including a priority for particular siblings if that were to be thought appropriate and such provision is checked for compliance with other parts of the Code.
40. There is no evidence that the arrangements determined by the governing body do not conform with the Code with regard to catchment areas or to over-subscription criteria. I do not uphold the objections.

### **Conclusion**

41. The school has determined admission arrangements which are permitted by the Code and meet the requirements of the Code.

### **Determination**

42. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections made by a parent and by Greenfylde Church of England First School to the admission arrangements determined by the governing body for Neroche Primary School.

Dated: 13 August 2015

Signed:

Schools Adjudicator: Mrs Deborah  
Pritchard