



DETERMINATION

Case reference: ADA3272

Objector: Nottingham City Council

Admission Authority: The Flying High Trust for Greythorn Primary School, Nottinghamshire

Date of decision: 23 June 2017

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 for September 2018 determined by the local governing body, under delegated authority from The Flying High Trust, for Greythorn Primary School, Nottinghamshire.

I have also considered the arrangements, as originally determined, in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements, in the ways set out in this determination. The admission authority having already varied its arrangements in accordance with section 88E need take no further action.

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 Nottingham City Council (the objector), about the admission arrangements (the arrangements) for Greythorn Primary School (the school), an academy school for children aged four to 11, which is part of The Flying High Trust (the trust) and which is located in Nottinghamshire. The objection is to the extension of the school's catchment area to include an area within the boundary of Nottingham City.
2. The local authority for the area in which the school is located is Nottinghamshire County Council. That local authority is a party to the objection as is the school, its trust and the objector.

Jurisdiction

3. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined on that basis by the local governing body on behalf of the trust, which is the admission authority for the school. The objector submitted the objection to

these determined arrangements on 10 April 2017. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering this matter 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 objector's form of objection dated 10 May 2017 and subsequent correspondence;
 - b. the school's response to the objection, supporting documents and subsequent correspondence;
 - c. the comments of Nottinghamshire local authority on the objection and supporting documents;
 - d. the composite prospectuses of Nottingham City local authority and Nottinghamshire local authority for parents seeking admission to schools in the area in September 2017;
 - e. maps of the area identifying relevant schools, catchment areas and local authority boundaries;
 - f. details provided by the local authorities of the numbers on roll and the numbers of preferences expressed for admission to schools in their respective areas;
 - g. details provided by the local authorities of new housing developments in their respective areas;
 - h. details of the consultation on the arrangements;
 - i. correspondence with the trust concerning the delegation of responsibility for determining admission arrangements;
 - j. extracts from the minutes of the meeting at which the governing body of the school determined the arrangements and from other meetings of the governors; and
 - k. a copy of the arrangements, as originally determined, and a set of amended arrangements provided by the governing body during the course of my consideration of this case.

The Objection

6. In its arrangements for 2018, the school has enlarged its catchment area to include Wilford village, which is within Nottingham City. The objector considers that this is not "*objective*" or "*procedurally fair*" as required by

paragraph 1.8 of the Code, for a number of reasons:

- it is “*an obvious ‘cherry-picking’ of school populations*” for which “*there is no merit*”;
- the school is under-subscribed and so there is no need to extend the catchment area;
- new housing development is planned that is closer to the school than Wilford village;
- there is no increasing trend or a significant historical pattern of children from Wilford village requesting admission to the school;
- Nottingham City local authority has supported the expansion of South Wilford Church of England (Endowed) Primary School to meet the needs of what it describes as “*the area*”; and
- the extended catchment area could lead to an increase in car journeys at peak times.

Other Matters

7. When I considered the arrangements as a whole I noted that the section relating to the entitlement for parents of children below compulsory school age to defer the date their child is admitted to the school did not precisely reflect the wording of paragraph 2.16(b) of the Code and was said to be “*subject to discussion with the Head of School*”. Setting such a condition may not comply with the requirements of the Code. I also noted that the definition of previously looked after children was unclear in its reference to residence orders, which were replaced by child arrangement orders in the Children and Families Act 2014.

8. There were also several matters that appeared to me to fall short of the requirement of clarity in paragraph 14 of the Code:

- the section headed “*Part-time education for children below compulsory school age*” was almost entirely about the deferred admission of ‘summer-born’ children which is a different matter;
- the section headed “*Special Circumstances*” appeared to describe an oversubscription criterion, but this was not listed in the numbered criteria; and
- the map of the catchment area was insufficiently detailed for all individual addresses to be identified.

Background

9. The school became an academy on 1 January 2016, as part of The Flying High Trust, a multi-academy trust (MAT). The chair of the MAT has

confirmed that responsibility for the annual determination of admission arrangements is delegated to the local governing body of the school, subject to the approval of the trust, which was duly requested and obtained, prior to consultation on the 2018 arrangements. The Published Admission Number (PAN) is 45. Parents of 26 children made the school their first preference for admission in September 2017. In September 2016, 38 children were admitted. The oversubscription criteria, as originally determined for September 2018, can be summarised as:

- i) Looked after children and previously looked after children.
- ii) Siblings of children at the school who live in the catchment area.
- iii) Children who live in the catchment area.
- iv) Siblings of children at the school who do not live in the catchment area.
- v) Children of members of staff employed at the school.
- vi) Other children.

The principal tie-breaker within each criterion is distance from the school. In a later paragraph of the arrangements, mention is made of "*Special Circumstances*." Children with particular medical or other needs whose application is supported by evidence from a professional stating that the school is the only one that could cater for their needs will be given special consideration by the governors. Admission under special circumstances is said to take precedence over all but the first numbered criterion.

10. The school is situated to the south of Nottingham city centre, within the area of Nottinghamshire local authority. Prior to the determination of the arrangements for 2018, the western edge of the school's catchment area ran along the boundary between the areas of Nottinghamshire and Nottingham City local authorities. The short southern boundary followed the A52, a major road. The catchment area boundaries of other Nottinghamshire primary schools formed the northern and eastern edges. The extension of the catchment area, to which this objection relates, involved moving the boundary further west so that the River Trent and a longer section of the A52 form the western and southern/south-western edges respectively. The additional area includes a part of Nottingham known as Wilford village and falls within the area of Nottingham City local authority. South Wilford Church of England (Endowed) Primary School is located in this area. Its admission arrangements give priority to children who reside within the ancient parish of Wilford. The parish encompasses Wilford village, the Silverdale area to the south of the A52 and some other adjacent parts of both Nottingham City and Nottinghamshire, including the whole of Greythorn's original catchment area.

Consideration of Case

11. The objector believes that the arrangements breach paragraph 1.8 of the Code. This begins as follows,

*“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation”*

In the initial objection, the objector quoted the words “*objective*” and “*procedurally fair*” from this paragraph. In subsequent correspondence, the view was expressed by the objector that the arrangements were also neither “*reasonable*” nor “*clear.*”

Although it was not specified by the objector, paragraph 1.14 of the Code is also relevant to this determination. It states,

*“Catchment areas **must** be designed so that they are reasonable and clearly defined.”*

It seems to me the reasonableness of the catchment area is a rather different matter to whether the area itself is clear and objective and that the oversubscription criteria relating to it can be administered in a procedurally fair way. In order to reach a decision about the objection, therefore, I consider that there are two key questions that I need to answer:

- (i) Is the enlarged catchment area “*clear*”, “*objective*” and “*procedurally fair*”?
- (ii) Does the enlarged catchment area meet the Code’s requirement that it must be “*reasonable*”?

Is the enlarged catchment area clear, objective and procedurally fair?

12. The school says that it wishes “*to establish a more clear and definitive catchment area with boundaries marked by the River Trent and A52*” and to bring its catchment into alignment with the secondary school (The West Bridgford School) for which it is a feeder school. In 2016, The West Bridgford School enlarged its catchment area to use these boundaries.

13. There is no doubt that the catchment area meets the Code’s requirement that it should be clearly defined. The main road and the river are clear boundaries. The school has provided a list of addresses that fall within the catchment area. Anyone looking at the admission arrangements would be able to find out quickly the extent of the catchment area.

14. The enlarged catchment is also “*objective and procedurally fair.*” Children’s residence within the area can be determined in an entirely objective way, that is, without any personal opinion or discretion coming into play. The procedures to establish the home address of a child, which applicants provide on the local authorities’ common application forms, are straightforward and

fair. Therefore, I do not uphold this aspect of the objection.

Does the enlarged catchment area meet the Code's requirement that it must be "reasonable"?

15. The reasons put forward by the objector that the enlarged catchment area is not reasonable can be grouped under three broad headings:

- (a) "cherry picking" of school populations;
- (b) the demand for school places in the area; and
- (c) an increase in car journeys.

(a) *Cherry picking*

16. The objector alleges that extension of the catchment area to include Wilford village, but not the Silverdale area to its immediate south, on the other side of the A52, amounts to a "*cherry picking of school populations.*" In subsequent correspondence the objector explained what is meant by this. It argues that Greythorn Primary School is attempting to give priority to children from more affluent family backgrounds. It has provided data from the Index of Multiple Deprivation, issued by the Department of Communities and Local Government in 2015, showing that much of the Silverdale area is in the 4th to 6th deciles (that is, 'out of ten') of deprivation in the rankings of neighbourhoods in the country. Most of Wilford village, on the other hand, is ranked in the 7th to 10th deciles. Therefore, according to the objector, the school is extending its catchment to incorporate only the least deprived neighbourhoods in this part of the city of Nottingham. A contrast is drawn with South Wilford Primary, which has 49 children from Silverdale on roll. Silverdale is within the "ancient parish of Wilford", residence in which gives priority for admission to South Wilford. The objector suggests that as well as not being reasonable, excluding Silverdale from the catchment area may be contrary to paragraph 1.9 f) of the Code, which does not allow admission authorities to "*give priority to children according to the occupational, marital, financial or educational status of parents applying.*"

17. It is the case that there are relatively higher levels of deprivation in the neighbourhoods immediately south of the A52, but I do not believe that in determining the main road as the boundary, the school is contravening paragraph 1.9 f) of the Code. That sub-paragraph prohibits the use of admission arrangements that prioritise children on the basis of the financial status of their parents or the jobs they do. It lists some limited exceptions:

"The exceptions to this are children of staff at the school and those eligible for the early years pupil premium, the pupil premium and the service premium."

These exceptions confirm to me that paragraph 1.9 f) is concerned with arrangements that explicitly advantage certain parents. This is not what the school is doing. I have not been provided with any evidence that the school

took into account the levels of deprivation on either side of its proposed boundary. It has provided clear reasons for using the A52 as a boundary. I note that the objector also uses this part of the A52 to form the northern boundary of the catchment area of Dovecote Primary School and the southern boundary of the "*City Council bounded catchment area*" for South Wilford School. These areas are used for admission and school place planning purposes respectively. I am satisfied, therefore, that it is reasonable not to include the Silverdale area in the enlarged catchment area.

(b) *The demand for places at the school*

18. The objector advances several arguments relating to pupil numbers to support its view that the extension of the catchment area is unnecessary. It is pointed out that the school has been undersubscribed in recent years. In 2016, only 14 of the 45 available places were taken up by children living in the school's catchment area. There is no need, says the objector, to extend the catchment area in order for children from Wilford village to be admitted to the school, as all applicants will be offered a place. The objector also emphasises the very low level of applications for places at the school from Wilford village. In each of the past three years, the parents of only one child from Wilford village have made the school their first preference. Evidence from Nottinghamshire local authority confirms this low level of enrolment: there were only 11 children in total from Wilford village on the roll of the school in January 2017.

19. The school recognises that the numbers on roll are somewhat below its PAN and that they vary from year to year. Two of the reasons given by the governors for enlarging the catchment area seek to address this issue. They say that they are aiming to "*ensure a secure and stable community for Greythorn with as many children as possible coming from the catchment area, or the near surrounds.*" They also wish "*to provide for parents in Wilford the choice of a primary school that is not faith based*" and that links to The West Bridgford School. Both of the primary schools in Wilford village are faith schools (South Wilford Church of England Primary and a Roman Catholic School).

20. Neither of these reasons is, in my view, particularly strong. The evidence of recent years is that there is not a significant demand from Wilford village for the "*not faith based*" education provided at the school. Places have been readily available but parents from Wilford village have not taken them up for their children. Furthermore, the objector points out that there are other "non-faith" primary schools in close proximity to Wilford village. I am also not convinced that the extension of the catchment area will contribute to providing a "*secure*" or "*stable*" community for the school. If, as it hopes, the school were to become more popular locally, the increased demand is equally likely, in my view, to come from the school's immediate vicinity. Figures from Nottinghamshire local authority show that there are enough children living in the current catchment area to fill the school, but over 130 of these children attend other Nottinghamshire primary schools.

21. It is my conclusion that the school's arguments for extending its catchment area do not convincingly address the objector's contention that

there is no need for the school to extend its catchment area. However, this does not mean that the enlarged catchment area fails to conform with the Code. I have set out above the Code's requirements in relation to catchment areas: that they are to be reasonable and clearly defined. In addition, all admission arrangements **must** be fair. The enlarged catchment area that Greythorn intends to use from 2018 matches to a much greater extent the ancient parish of Wilford which is already used by South Wilford School. With the exception of Silverdale and some other smaller parts of the parish that are further afield, the schools would be using the same area to give priority for admission. This may be a relatively unusual state of affairs but that does not make it unreasonable. I do note, though, that the number of children resident in what will be the 'common' area far exceeds the physical capacity of Greythorn School. An analysis of the current boundaries suggests that there is a small number of addresses in the south-west corner of Greythorn's catchment that are slightly further from the school than the nearest point of the area the school is adding. It would be of concern if the effect of the change were to be that children who live in Greythorn's current catchment area found themselves unable to obtain a place at the school. I am, however, satisfied that this will not be the case for admission in 2018 which is the year with which I am concerned. Information from Nottinghamshire local authority, based on January 2016 pupil numbers, indicates that around 40 per cent of Greythorn's roll live beyond its current catchment boundary; the school says the figure is now 50 per cent. These children live both in other parts of West Bridgford and in the area of Nottingham City local authority. On the basis of the patterns of enrolment over recent years, I do not expect any children living in Greythorn's historic catchment area to be disadvantaged by the change in 2018.

22. The objector also points to the fact that South Wilford has recently been expanded to meet an increase in demand for places, including children from two new developments totalling 400 houses north of the A52 in the area Greythorn is including in its enlarged area. Its PAN has been increased from 45 to 60 and it is fully subscribed. I do not see how the increased capacity at South Wilford provides an argument that Greythorn's enlarged catchment area is unreasonable. The admission arrangements of South Wilford are designed in such a way that those resident in the parish will, in almost all circumstances, have priority over other children whose parents may seek a place on faith grounds. In this respect, the admission priority for pupils living in the "common" area will be the same for both schools. Figures provided by the objector show that in September 2016 only 38 of the 60 children admitted to South Wilford came from within the parish. None lives in Greythorn's current catchment area. I have seen no evidence to suggest that these figures will alter significantly in 2017 or 2018. Therefore, it does not seem to me to be unreasonable for Greythorn's enlarged catchment broadly to overlap substantially with that of South Wilford.

23. In its comments on the objection, Nottinghamshire local authority (the local authority) put forward different reasons for not supporting the enlargement of Greythorn's catchment area. The local authority draws attention to the demand for places within the West Bridgford planning area, in which Greythorn is located. Two nearby schools have in recent years been

unable to offer places to all applicants from their catchment areas and places at Greythorn have been offered as an alternative. The local authority is concerned that if Greythorn were to enrol children from outside West Bridgford, there would inevitably be additional difficulty in finding places for children who live in West Bridgford outside Greythorn's catchment area. Places at Greythorn are also offered to "in-year" applicants, ensuring children moving into the area can attend a school within West Bridgford, which the local authority describes as a "*cogent and defined community*."

24. The local authority also mentions two new housing developments. One of these is a proposal for 175 houses, which was also referred to by the objector. These houses would be largely within Greythorn's catchment area and are closer to the school than Wilford village. The local authority is concerned that if Greythorn admits pupils from outside its current catchment area, children from this development (forecast to total around 37) may not be able to be accommodated at the school. However, as this development has not yet received planning permission, it is highly unlikely to have an impact on admissions in 2018. The second development, known as Sharp Hill, is larger (1500 houses) but is located further away, in the Ruddington planning area, which is not adjacent to Greythorn's catchment area. It will eventually have its own school, but new housing is now beginning to be occupied and the local authority is anticipating that capacity across nearby schools, including that at Greythorn, will provide the flexibility needed to accommodate children who move in before its school is built.

25. I understand that from a school place planning perspective, it is very helpful to local authorities to have places available at some schools, both to relieve pressure points, where other schools are full, and to cater for "first arrivals" to new housing. I do not, though, believe that it is a sustainable policy to aim to maintain surplus places at particular schools for this purpose. Paragraph 2.8 of the Code sets out a fundamental principle of the requirements relating to admissions, that when there are enough places available, schools "*must offer a place to every child who has applied for one*." Therefore, I do not think it is correct to oppose Greythorn's strategy to secure a fuller roll on the basis that unfilled places might be required in the future.

(c) *Increase in car journeys*

26. The objector believes that it is unlikely that parents from Wilford village would expect their children, especially the younger ones, to walk to Greythorn School. This is because of the distance (some addresses in Wilford are over two miles away) and the need to negotiate a busy road crossing. It can be foreseen, it is argued, that there would be additional car journeys, with associated congestion and pollution.

27. The requirements relating to admissions are silent on the matter of car journeys. However, it is a key principle of those requirements that parental preference should be maximised. If parents choose to travel further to the school they want and they can secure a place that is a matter for them. Concern about car journeys is not a grounds for considering a school's admission arrangements unreasonable. In Greythorn's case, as it happens, a large proportion of the children currently on roll live outside the school's

current catchment area. Some of these children live in other parts of West Bridgford and others (nearly 60, according to provisional figures for January 2017), live in the Nottingham City local authority area. Within this total, 23 children live in Clifton and 18 live north of the River Trent, locations that are considerably further from the school than Wilford village.

28. The school hopes that the new catchment area will increase the numbers of children attending who live in Wilford village. If the effect of this increase were for the school to become fully subscribed, I would expect that, over time, the number of children travelling from further afield will reduce. This is because the oversubscription criteria for the school use distance from the school as a tie-breaker. It is true that an increase in roll may well lead to more car journeys to the school, but as the school is obliged to admit children up to its PAN, this cannot be avoided, whether the catchment area is enlarged or not. Precise predictions are impossible, but I conclude that, on balance, including Wilford village in the school's catchment area will not of itself have a significant impact on the journeys made to the school by car. I also note that the school says it is exploring ways of encouraging parents to park away from the school grounds and walk for some of the way to school.

Other matters

29. The school responded quickly when I drew its attention to the other ways in which the arrangements did not, or may not comply with the requirements. I was provided with an amended set of arrangements, which the chair confirmed had been determined by the governing body in accordance with section 88E of the Act and as provided for in paragraph 3.6 of the Code. The amended arrangements address all of the matters about which I was concerned:

- the section relating to the admission of children below compulsory school age now reflects the wording of paragraph 2.16 b) of the Code and the phrase "*subject to discussion with the Head*" has been removed;
- the definition of previously looked after children has been corrected;
- the inaccurate section heading has been amended;
- "*Special circumstances*" now appears as the second numbered oversubscription criterion; and
- a list of the streets included in the enlarged catchment area has been provided, to appear alongside the map.

30. I am satisfied that the arrangements have been varied appropriately.

Summary of Findings

31. The objector argued that the enlarged catchment area of the school is not "*clear*", "*objective*" or "*procedurally fair*", as required by paragraph 1.8 of

the Code. I do not agree. The new boundaries are obvious and residence within them can be readily ascertained using straightforward procedures. I do not find that paragraph 1.9 f) of the Code is breached, as the school is not deliberately prioritising children on the basis of their parents' financial status. I have also concluded that the new catchment area is "*reasonable*" as required by paragraph 1.14 of the Code. The objector believes that the demand for places from the extended area will be small, whereas Nottinghamshire local authority is concerned that difficulties might be caused to the provision of school places in West Bridgford. The objector has also expressed concerns about an increase in car journeys. For the reasons I have given above, I do not think that these are sufficient grounds for deeming the new catchment area to be unreasonable. Therefore, I do not uphold the objection.

Determination

32. 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 the governing body, under delegated authority from The Flying High Trust, for Greythorn Primary School, Nottinghamshire.

33. I have also considered the arrangements, as originally determined, in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination. The admission authority having already varied its arrangements in accordance with section 88E need take no further action.

Dated: 23 June 2017

Signed:

Schools Adjudicator: Peter Goringe