



Determination

Case reference: ADA3558

Objector: Hertfordshire County Council

Admission authority: The Bushey St James Trust for Bushey Meads School, Hertfordshire

Date of decision: 10 July 2019

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 2020 determined by The Bushey St James Trust for Bushey Meads School, Hertfordshire.

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 within two months of the date of the determination.

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 Hertfordshire County Council (the objector) about the admission arrangements (the arrangements) for September 2020 for Bushey Meads School (the school), an academy school for pupils aged 11 -18, which is part of The Bushey St James Trust (the trust), a multi-academy trust responsible for three schools. The objection is to the naming of one of the other schools in the multi-academy trust as a feeder school.
2. The local authority (LA) for the area in which the school is located is Hertfordshire County Council (the LA). The LA is the objector. Other parties to the objection are the trust and the local governing board of the school.

Jurisdiction

3. The terms of the Academy agreement between the multi-academy trust (the MAT) 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 by the local governing body of the school, on behalf of the MAT, which is the admission authority for the school, on that basis. The objector submitted its objection to these determined arrangements on 3 May 2019. 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.

4. Responses to the objections and to my queries were made collectively by the headteacher, on behalf of the school, the chair of the governing board and the chair of trustees of the MAT. I have referred throughout this determination to these as the responses of “*the trust*” as the trust is the admission authority for the school.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

6. The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the local governing body at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector’s form of objection dated 3 May 2019 and supporting documents;
- d. the trust’s responses to the objection and supporting documents, including copies of minutes of meetings of the trust board and the local governing body;
- e. a map of the area identifying relevant schools; and
- f. information supplied by the LA, at my request, indicating the allocation of secondary school places in the area and other statistical analyses.

The Objection

7. The objector believes that the naming of Hartsbourne Primary School as a feeder school is not “*reasonable*.” The Code requires, in paragraph 1.8, oversubscription criteria to be reasonable and, in paragraph 1.15, that the selection of a feeder school **must** be made “*on reasonable grounds*.” The objector also says that the arrangements are in breach of the Code as they do not include a tie-breaker, as also required by paragraph 1.8.

Background

8. The school has a Published Admission Number (PAN) of 200 for admission to year 7 (Y7) in September 2020. The school describes itself as “*heavily oversubscribed*.” Parents of 989 children made the school one of their preferences for admission in September 2019. I

note in this context that in Hertfordshire parents can express preferences for up to four schools and some of the preferences expressed for the school may well have been second or lower preferences. The oversubscription criteria can be summarised as follows:

- (i) Looked after and previously looked after children.
- (ii) Children attending Little Reddings Primary School and Hartsbourne Primary School.
- (iii) Children of staff.
- (iv) Siblings of children at the school.
- (v) Children whose siblings attended the school within the past two years.
- (vi) Children who have a compelling medical reason to attend the school.
- (vii) Other children, ranked in order of proximity to the school.

9. Little Reddings Primary School and Hartsbourne Primary School are the two primary schools in the multi-academy trust. Little Reddings has been part of the trust since its establishment in 2012. Hartsbourne joined the trust in 2017. A feeder school criterion was introduced for children attending Little Reddings for admission in 2016. Hartsbourne was added as a feeder school for admission in September 2019. The LA's objection relates to the naming of Hartsbourne as a feeder school; it does not object to the naming of Little Reddings as a feeder school.

Consideration of Case

10. In its objection the LA says that it,

“does not believe that it is reasonable to name a school as a feeder primary school primarily because it has joined the same multi-academy trust as the secondary school.”

The LA points out that Hartsbourne Primary School is over 2000 metres from Bushey Meads School and that there are five other primary schools that are located closer. It continues,

“the county council believes its inclusion as a feeder primary school may disadvantage children living closer to Bushey Meads but not attending a feeder primary.”

11. In my view, there are two aspects to the LA's objection. First, the LA says that the grounds on which Hartsbourne Primary School has been named as a feeder school are not reasonable, which would be contrary to paragraph 1.15 of the Code. Second, it argues that the effect of the feeder school oversubscription criterion is unreasonable and unfair as it may disadvantage a particular group of children who live closer to the school. In an email

that the LA sent to the school in September 2018 expressing concern about the naming of Hartsbourne Primary as a feeder school, it summarises its view by saying,

“Schools must ensure that their admission arrangements are fair and reasonable to all.”

Paragraph 1.8 of the Code stipulates that “oversubscription criteria **must be reasonable**” and paragraph 14 requires admission authorities to,

“ensure that the practices and the criteria used to decide the allocation of school places are fair.”

12. I will consider the two aspects in turn. With regard to the grounds for naming Hartsbourne Primary as a feeder school, some explanation can be found in the minutes of the local governing body meeting of 28 November 2018, supplied by the trust. At that meeting the LA’s email mentioned above was considered.

“Governors noted the information but wanted to keep the admissions criteria unchanged...particularly considering the strong links and investment that the schools were making across the Trust in terms of joint teaching training, student events and staff working across all three schools.”

13. I consider that the trust has provided a coherent explanation for naming Hartsbourne Primary as a feeder school, citing the links between the schools in the MAT, including the deployment of staff to work at all three schools. This constitutes “reasonable grounds” for the selection of Hartsbourne Primary School as a feeder school. I therefore find the arrangements comply with the requirement of paragraph 1.15 of the Code.

14. In order for the effect of the feeder school criterion to be considered in breach of the Code, as the LA submits, it is necessary to establish that there are children who are likely to be disadvantaged by it in a way that is unreasonable or unfair. As the arrangements are unchanged from those determined for the academic year 2019/2020, the allocation of places for admission to Y7 in September 2019 provides important information. Table One shows the number of places that have been allocated under each oversubscription criterion.

Table One: Allocation of places at Bushey Meads School for admission in Year 7 in September 2019

Oversubscription criterion	Places allocated
1. Looked after and previously looked after children	2
2. Children attending Little Reddings Primary School (LR) or Hartsbourne Primary School (H)	43 (24 from LR and 19 from H)
3. Children of staff	3

4 & 5. Siblings	86
6. Children with a medical need	0
7. Other children, ranked by proximity	62
TOTAL	200*

**Includes four children with Education, Health and Care Plans naming the school.*

15. The last place allocated under criterion 7 was to a child who lives 1,879 metres from the school. The 19 places allocated to children from Hartsbourne Primary compares with six places allocated for admission in September 2018, when it was not a feeder school. Of these 19 children, five were siblings. If the priority for children from Hartsbourne Primary were not in place, the other 14 would have been considered on the basis of their proximity from the school. All but one of them live less than 1,642 metres from the school, the exception being a child who lives over 4,000 metres away.

16. The trust make the point that this information shows that 18 of the 19 children from Hartsbourne Primary who were allocated places in Y7 for September 2019 under the feeder school criterion would have been allocated places as siblings or on the basis of proximity, if Hartsbourne had not been named as a feeder school. The trust concludes,

“only 1 student applicant from the closer primary schools...would have been disadvantaged by Hartsbourne allocations.”

17. The LA concedes that for admission in 2019, it appears that few children were disadvantaged by the feeder school criterion, but it warns that one set of admission allocations provides only a “*snap shot*.” The pattern of allocations may not be repeated in future years. The LA says that there are children attending both Little Reddings and Hartsbourne, who live a considerable distance from their primary schools. It reiterates its objection to the feeder school criterion, by saying,

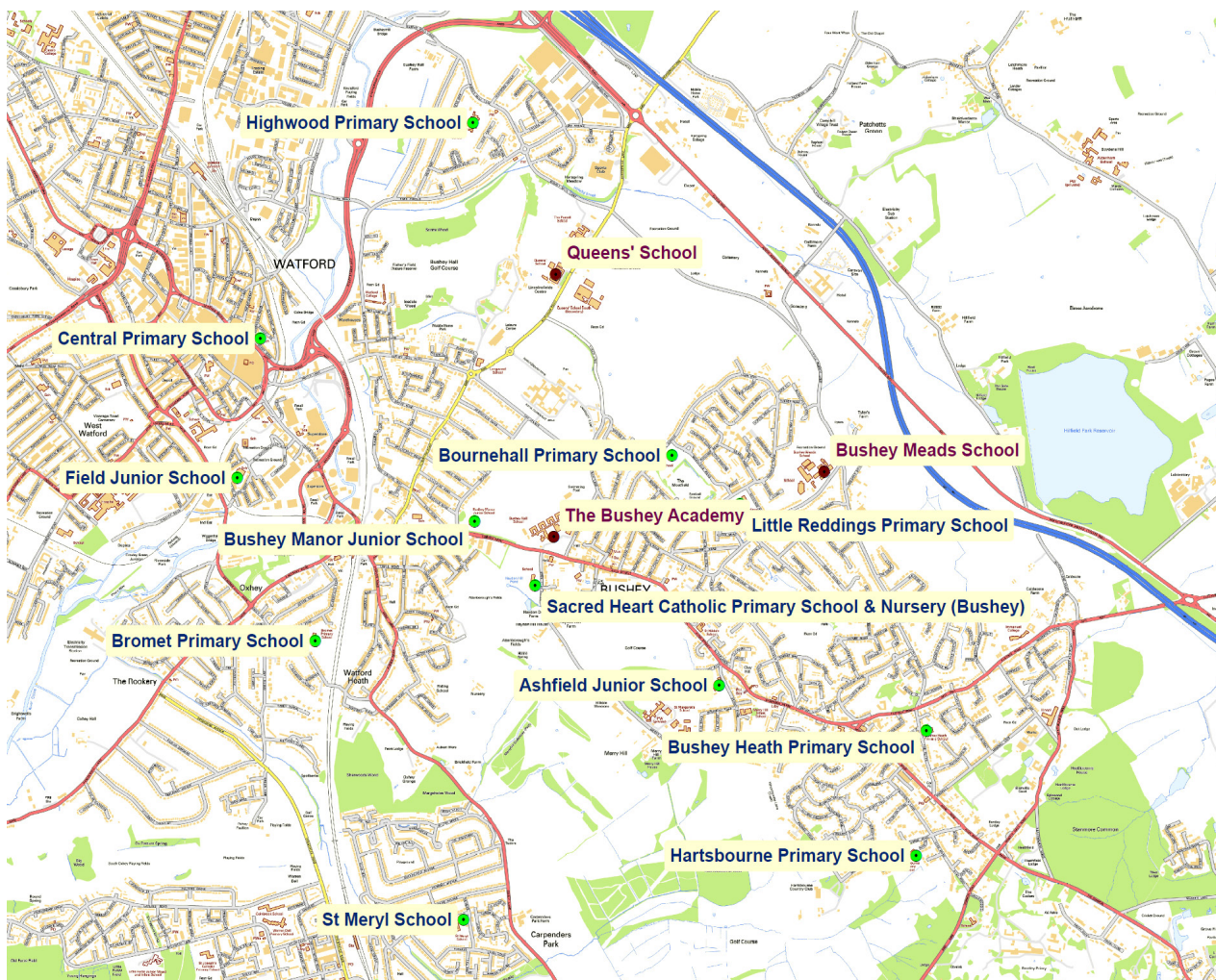
“the prioritisation given to children for Hartsbourne does not appear reasonable because there is no guarantee that Hartsbourne children allocated a place will live closer to Bushey Meads than other children in the area, regardless of whether they attend a local primary school.”

18. The objection relates to the determined arrangements for admission in September 2020. I can only consider the likelihood of children being disadvantaged that year by the naming of Hartsbourne Primary as a feeder school. I accept the LA’s caution about relying too heavily on the pattern of admissions for September 2019 when drawing conclusions about the following year. However, I note that the number of children currently in year 5 at Hartsbourne, that is, the group of children transferring to secondary school in September 2020, is two fewer than in year 6. Overall, the total of children in year 5 at primary schools in the Bushey area is 559, compared with 584 in year 6.

19. These figures suggest strongly to me that it is unlikely that, compared with the figures for September 2019, a significantly greater number of children, who live closer to the school than children from Hartsbourne Primary, will not obtain a place at the school in September 2020, as a result of the feeder school priority given to children who attend Hartsbourne. I recognise that this is not, as the LA says, guaranteed to be the case, but even if more children are disadvantaged, I do not expect the effect of that disadvantage to be unreasonable, which is what the Code prohibits. It is the case, of course, that all oversubscription criteria advantage some children and disadvantage others – that is their purpose.

20. The nearest secondary school to Bushey Meads School is The Bushey Academy which, as the map below shows, is centrally located in Bushey, a relatively short distance away from Bushey Meads School. The Bushey Academy has a PAN of 210, but agreed to admit up to 220 children into Y7 in September 2019, and has allocated 211 places. Together, the two schools serve the Bushey area. Neither of the schools give priority in their admission arrangements to children for whom it is the closest school. In each case, the final oversubscription criterion is distance from the school.

Map one – Locations of Primary and Secondary Schools in the Bushey area



21. I would consider the disadvantage caused by naming Hartsbourne as a feeder school to be unreasonable if a group of children could be identified who would, as a result,

not be allocated a place at Bushey Meads School and would face a long journey to an alternative school. The evidence does not suggest that this will be the case. It may be that a small number of children will not be allocated a place, when children who live further away from the school obtain places under the feeder school criterion. This does not of itself mean that the arrangements are unfair, as admission authorities are not required to use distance from the school as the sole means of allocating places. In my view, real unfairness would occur if the effect of naming Hartsbourne as a feeder school would mean that significant numbers of children who live in the Bushey area could not obtain a place at either of the secondary schools, because children who live outside Bushey had a higher priority for places. The LA has not given any indication that it expects this to happen for admission in September 2020.

22. Therefore, I do not uphold the objection that the feeder school criterion breaches paragraphs 1.8 and 14 of the Code, as I do not consider that it will be unreasonable or unfair in its effect in September 2020. I note that the local governing body has undertaken to analyse the pattern of admissions and to “*review the admissions criteria...if needed.*” I consider this to be wise. If, in the future, the effect of including Hartsbourne Primary as a feeder school were to be that a group of children could face an unreasonably long journey to an alternative school, a reconsideration of the position might be necessary.

The tie-breaker

23. The LA correctly points out that the determined arrangements do not include a tie-breaker to prioritise applicants who live exactly the same distance from the school. This is a breach of paragraph 1.8 of the Code, which stipulates that,

*“Admission authorities **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.”*

I uphold this aspect of the objection. The trust has shown me the wording of a tie-breaker that it proposes to incorporate into the arrangements, which appears to meet the Code’s requirements.

Summary of Findings

24. The trust has provided a coherent explanation for naming Hartsbourne Primary School as a feeder school, which meets the Code’s requirement that feeder schools must be selected on “*reasonable grounds.*” The criterion is likely only to affect a small number of children for admission in September 2020 and not in a way that could be considered unreasonable or unfair. I do not uphold this aspect of the objection.

25. I uphold the objection that the arrangements do not include a tie-breaker.

Determination

26. 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 2020 determined by The Bushey St James Trust for Bushey Meads School, Hertfordshire.

27. 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 within two months of the date of the determination.

Dated: 10 July 2019

Signed:

Schools Adjudicator: Peter Goringe