



Determination

Case reference:	ADA3875
Objector:	A member of the public
Admission authority:	Russell Education Trust for Turing House School, Richmond upon Thames
Date of decision:	27 August 2021

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 2022 determined by Russell Education Trust for Turing House School, Richmond upon Thames.

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 a member of the public (the objector), about the admission arrangements (the arrangements) for Turing House School (the school), a free school for children aged 11 to 19 for September 2022. The objection is to the criterion that gives priority for places based on the distance from the applicant's home either to a nodal point or to the permanent site of the school, to the consultation that preceded the determination of the arrangements and to the arrangements for admission to the sixth form.
2. The local authority (the LA) for the area in which the school is located is the London Borough of Richmond upon Thames. The LA is a party to this objection. Other parties to the objection are Russell Education Trust (the trust), the school's local governing board (the school), the objector and the London Borough of Hounslow, a neighbouring local authority with a boundary that is close to the permanent site of the school.

Jurisdiction

3. The terms of the academy agreement between the multi-academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 15 May 2021. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and the parts of it that I am considering are within my jurisdiction.

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. a copy of the minutes of the meeting of the trust at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. details of the consultation undertaken by the trust prior to the determination of the arrangements and the responses that were received;
- d. the objector's form of objection dated 15 May 2021, other material submitted by the objector and subsequent correspondence;
- e. the trust's response to the objection and subsequent correspondence;
- f. the LA's response to the objection and subsequent correspondence;
- g. the London Borough of Hounslow's response to the objection;
- h. maps of the area identifying relevant schools, the nodal point for admissions, the permanent site of the school and ward boundaries;
- i. information from the school about the allocation of places in previous years, including the wards in which applicants lived;
- j. information from the LA about the allocation of places at secondary schools in its area and forecasts of the future demand for places;
- k. a previous determination of the adjudicator relating to the school, issued on 7 June 2016 (case reference:ADA3143); and
- l. other information available on the websites of the LA, the school and the Department for Education.

I have also taken account of information received during a meeting I convened (“the meeting”) that was held virtually on 23 July 2021.

The arrangements

6. The school has a Published Admission Number (PAN) for admission to year 7 (Y7) in September 2022 of 150. It has been oversubscribed for several years. The oversubscription criteria are summarised below.

- (i) Looked after children and previously looked after children.
- (ii) Children who have an exceptional medical or social need.
- (iii) Children whose parents have Founders’ Status.
- (iv) Children who have siblings on the roll of the school.
- (v) Children of staff at the school.
- (vi) The remaining places are allocated by distance of which:
 - (a) 20 per cent are allocated to applicants whose home address is closest to the permanent site of the school; and
 - (b) 80 per cent are allocated to applicants whose home address is closest to the nodal admissions point for the school.

7. The arrangements for admission for the sixth form include a PAN of 30, which relates to external applicants, who must satisfy academic criteria. The oversubscription criteria are the same as for applicants to Y7, except that criterion (iii) is omitted and under criterion (vi) all places are allocated on the basis of distance from the permanent site of the school.

The Objection

8. There are three elements to the objection, namely:

- that the consultation undertaken before the determination of the arrangements did not meet the requirements of the Code, set out in paragraphs 1.42 – 1.45;
- that the distance based oversubscription criterion is in breach of paragraph 1.8 of the Code, which states that “Admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group”; and
- that the arrangements for admission to the sixth form do not comply with the Code’s requirements in several respects.

9. The objector also expressed the view that the LA did not publish information for admissions in September 2021 in its composite prospectus in accordance with the

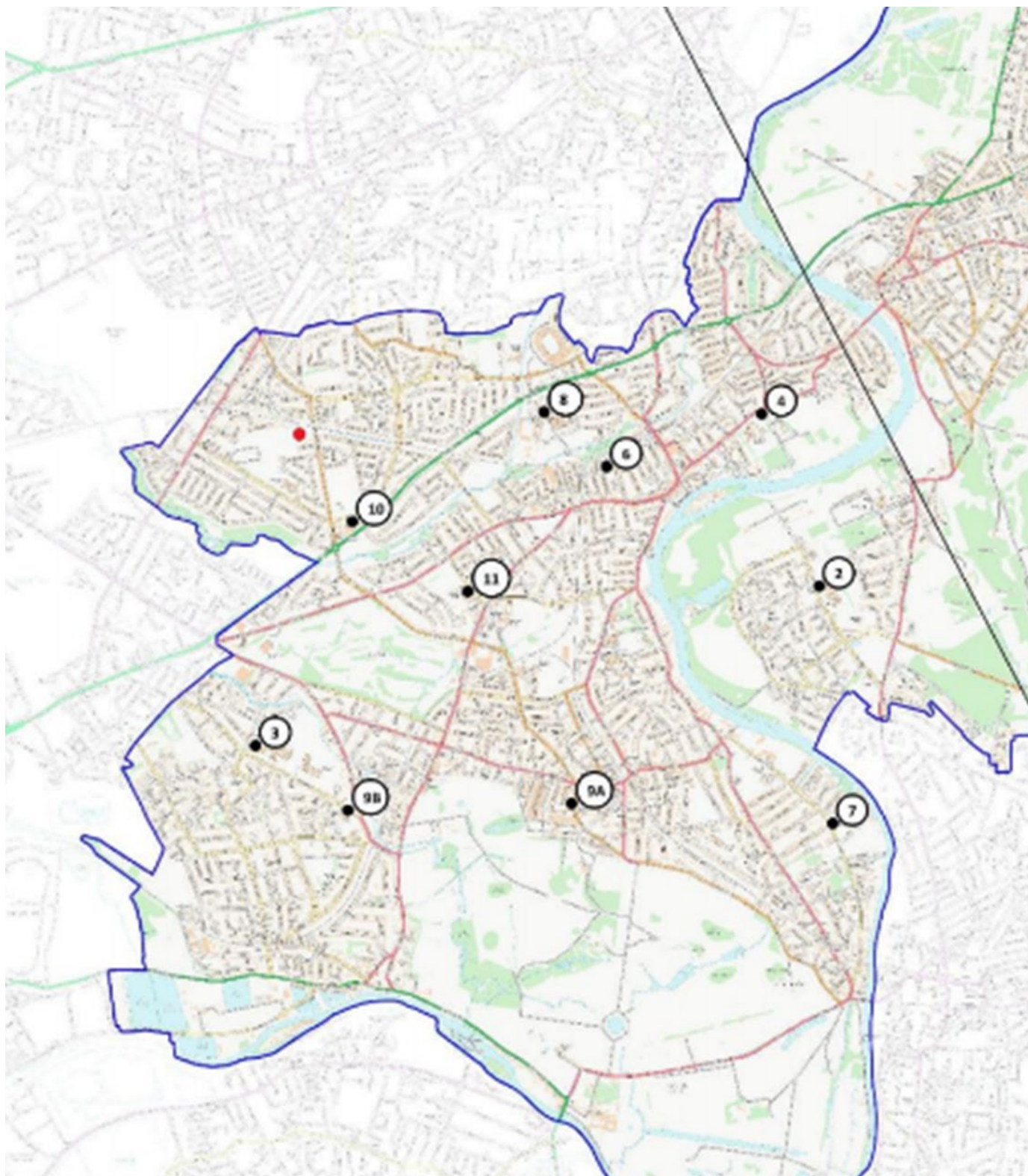
requirements of paragraph 1.51 of the Code. However, the adjudicator's jurisdiction is limited in relation to objections to admission arrangements to the arrangements of individual schools and does not extend to the composite prospectus which each LA is required to publish. I have not therefore considered this matter further as I have no power to do so.

Background

10. The school opened in September 2015 in temporary accommodation in Teddington; a second temporary site, in Hampton, has also been used since 2018. The school was established at a time when there was a need for additional secondary school places in the western part of the borough (also known as the Middlesex side). The school's permanent site will be in Hospital Bridge Road, close to the boundary of the Whitton and Heathfield wards. The school expects to relocate from its temporary sites to the permanent site in early 2022. Map One below shows the locations of publicly funded secondary schools in the LA area and the permanent site of Turing House School (shown as a red dot).

11. The nodal point, proximity to which is the basis for determining priority for 80 per cent of places that remain to be allocated under the sixth oversubscription criterion, was identified, according to the school's website, to meet demand for places in "the broader area of need that the school was established to serve." It is the farthest point from any other local co-educational state funded secondary school and is located a short distance to the north of the temporary Teddington site of the school (9A on the map). It is around three kilometres by road from the permanent site of the school.

Map One: Locations of secondary schools in the western part of Richmond upon Thames



Key to schools: 2 – Grey Court School; 3 - Hampton High School; 4 - Orleans Park School; 6 - St Richard Reynolds Catholic High School; 7 – Teddington School; 8 - The Richmond Upon Thames School; 9A – Turing House School (Teddington site); 9B – Turing House School (Hampton site); 10 – Twickenham School; 11- Waldegrave Girls' School; Red dot – permanent site of Turing House School.

Consideration of Case

Consultation

12. The admission authority proposed a small number of changes to the arrangements for admission in 2022. The changes involved clarifying the wording of the oversubscription criteria relating to siblings and children of staff. The objector argues that the consultation was “not widely publicised” and “effectively stated that only changes the school were proposing could be considered and that other elements of the admissions policy were off-limits.” He says that, as a result, the consultation was not “fair or objective.”

13. The requirements for consultations about proposed changes to admission arrangements are set out in paragraphs 1.42 – 1.45 of the Code. These requirements include a list of people and bodies who should be consulted (paragraph 1.44) and that a copy of the full proposed arrangements should be published on the school’s website (paragraph 1.45). The objector says that it was hard to locate the consultation material on the website and that no use was made of social media or the local press to publicise the consultation.

14. In response, the trust explained that the consultation material did include a full copy of the proposed admission arrangements and that three of the four respondents did, in fact, comment on matters other than those that were proposed to be changed. It acknowledged that links on the website from the consultation to other documents “had become detached.” It considered that its social media was not appropriate to be used for this purpose and that the circulation of the local newspaper was too small to warrant a printed notice.

15. The Code does not specify how consultations should be conducted. I am satisfied that, in most respects, the trust used its best endeavours to publicise the changes it was proposing. I do not agree with the objector that respondents were restricted to making responses only to the parts of the arrangements that were proposed to be changed. The required consultees listed in paragraph 1.44 of the Code were contacted directly, with the exception of “parents of children between the ages of two and eighteen” (1.44 a)). Local primary and secondary schools were asked to convey information to parents. Such an approach would not reach parents of pre-school children not attending a primary school with a nursery. In this respect, the Code’s requirements were not met and to this very limited extent, I uphold the objection. The trust has subsequently identified a method of circulating information through the LA’s Community Engagement Team, which may well address this issue for future consultations.

The distance criterion

16. The principal ground of objection relates to the way in which priority for places is determined under the sixth oversubscription criterion. 20 per cent of places will be allocated to those living closest to the permanent site of the school, which will be occupied by September 2022. 80 per cent of places will continue to be allocated on the basis of proximity to the nodal point, which, although close to one of the temporary sites of the school in Teddington, is some three kilometres south-east of the permanent site.

17. The objector comments,

“A great deal of public money is now being spent on the school (over £30 million) which should be open to the local community and [not] just a few who live very close to the school gate.”

He goes on to say,

“Parents who live close to the school have a legitimate expectation of being able to gain a place at the school. However, there have been instances of people whose houses look out on the school...not being offered a place on national offer day.”

He argues that, in this respect, the arrangements are unfair, specifically that they contravene paragraph 1.8 of the Code. He also believes that the admission authority has not “fulfilled the public sector equality duty to ensure that they are not directly, or indirectly, discriminating against ethnic minorities.”

18. There are three factors to consider when a breach of the part of paragraph 1.8 of the Code concerning particular social or racial groups is alleged. First, it must be possible to identify a “particular social or racial group” upon which the admission arrangements have an impact. Second, “disadvantage” to children from that group must be demonstrated and third, it must be shown that such disadvantage is “unfair.” I will consider each of these factors in turn.

19. The objector provides a significant body of evidence that he believes shows that,

“Heathfield Ward is one of the most deprived in the Richmond Borough, and the percentage of admissions allocated to Whitton means the children in the poorest part of this ward...are finding it difficult to gain admissions to [Turing House] school.”

He compares the proportion of pupils eligible for Free School Meals (FSM) and whose first language is not English at secondary schools close to the permanent site of the school with the equivalent proportion at Turing House School, based on the January 2019 schools census. Table One summarises some of this data.

Table One: Data relating to Turing House and schools close to its permanent site

School	Pupils eligible for free school meals in past 6 years	Pupils whose first language is not English
The Heathland School	32.6%	66.3%
Turing House School	16%	6.2%
Twickenham School	33.8%	23.4%

Twickenham School (point 10 on Map One) is a short distance to the south of the permanent site of the school. The Heathland School is in the Hounslow LA area, close to the border with Richmond upon Thames LA, an equally short distance to the north-west of the permanent site.

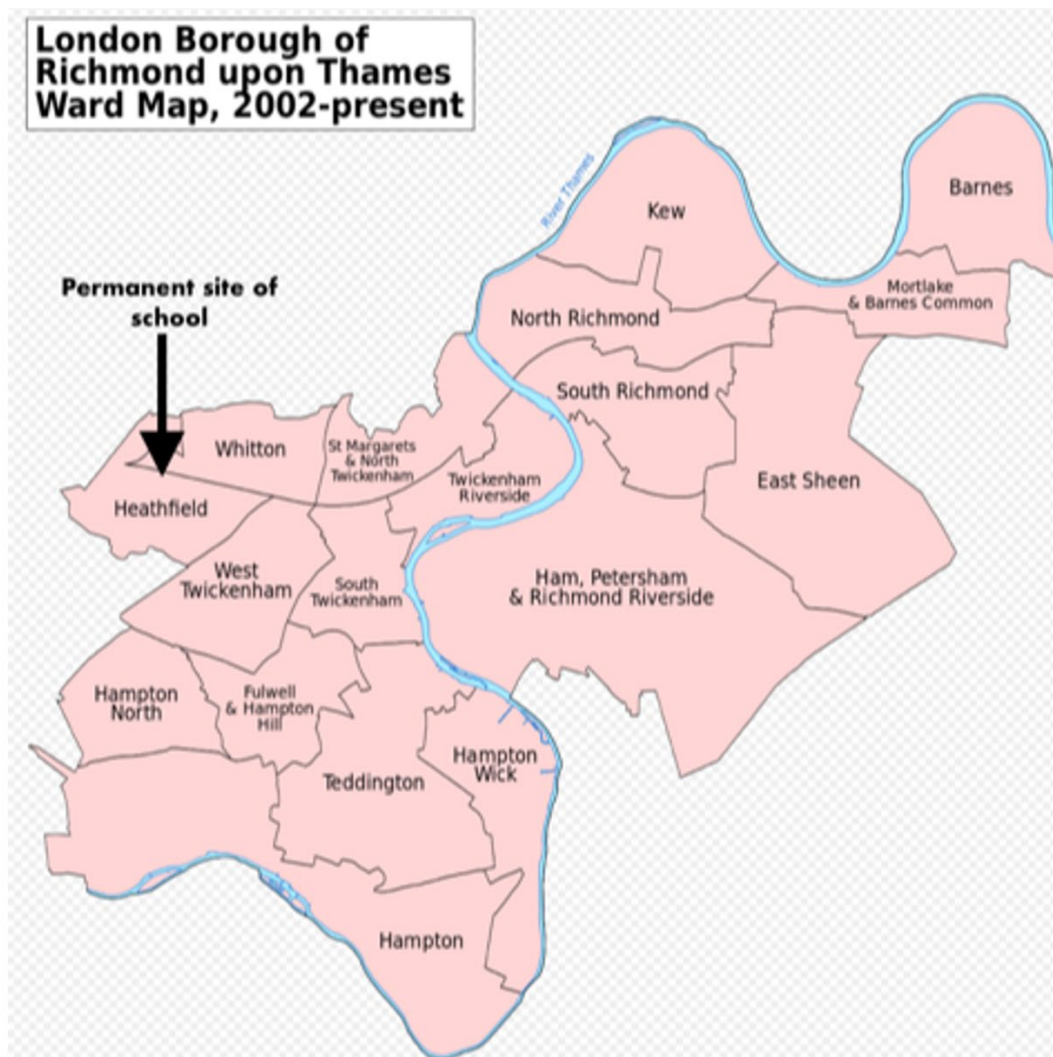
20. The trust expressed some reservations about the conclusions that should be drawn from this data. In particular, it commented that the FSM figure for Twickenham School is “skewed” by the fact that its roll includes pupils from a wide area. The trust also points out that FSM eligibility figures for primary schools in Heathfield and Whitton wards (a median of 16.5 per cent) are not so significantly different from the median for all primary schools in the western side of the borough (13 per cent).

21. Amongst other data supplied by the objector is the Income Deprivation Affecting Children Index (2015) for wards in Richmond upon Thames. Table Two shows the figures for Heathfield and Whitton wards and six other wards closer to the nodal admissions point. Map Two shows the ward boundaries.

Table Two: Income Deprivation Affecting Children Index for wards served by the school

Ward name	Income Deprivation Affecting Children Index	Number of pupils at the school (September 2020)
Heathfield	19.9	72
Whitton	11.3	57
Fulwell & Hampton Hill	7.4	139
Hampton	8.9	54
Hampton North	20.6	58
South Twickenham	4.4	24
Teddington	5.9	53
West Twickenham	8.4	90
Richmond average	8.7	
England average	19.9	

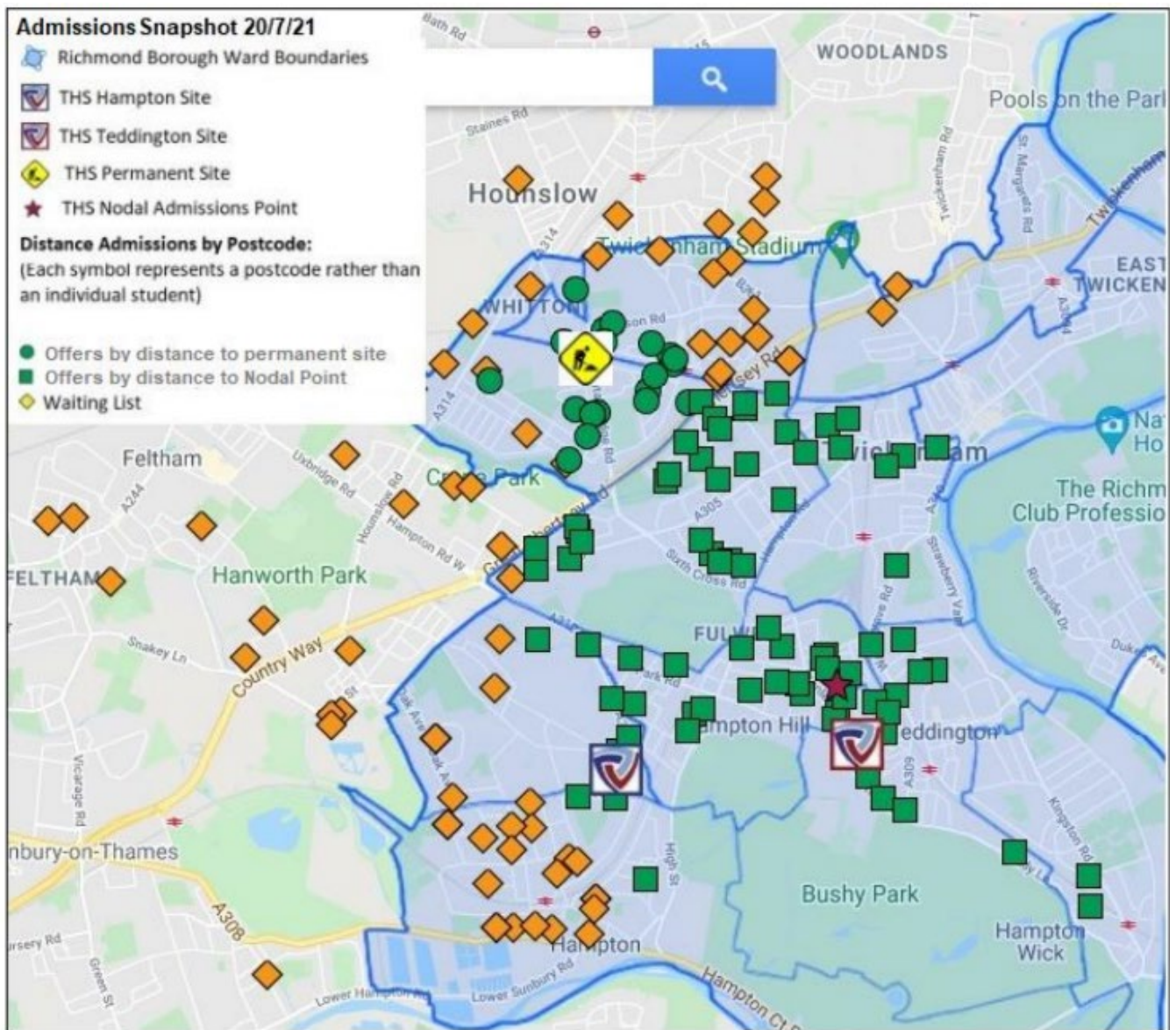
Map Two: Ward boundaries



22. Data of this nature are open to debate and different interpretations. Nevertheless, I consider that it is clear that Heathfield ward and, to a lesser extent, Whitton ward have higher levels of social deprivation than most of the other areas served by the school. This does not necessarily mean that all people living in these wards should be defined as “a particular social group”, a term the Code does not define. Nevertheless, in considering whether the arrangements comply with paragraph 1.8 of the Code, I shall proceed on the basis that the objector has identified such a group. For the avoidance of doubt, I do not consider that a racial group has been identified. While the proportion of pupils on the roll of the school whose first language is not English is relatively low, 24 per cent are from black and minority ethnic groups and 33 per cent are “non-white British.” These are higher figures than the borough averages provided by the objector and do not, of themselves, indicate that the trust is not fulfilling its public sector equality duty responsibilities.

23. The second factor I need to consider is whether a social group, which for the purpose of this consideration, I will define as the residents of Heathfield and Whitton wards, is, in fact, disadvantaged by the arrangements. Looking at the pattern of admissions for September 2021 is helpful in this respect. Map Three shows how places were allocated under the sixth oversubscription criterion (the distance criterion), as of 20 July 2021.

Map Three: Allocations to Turing House School under the distance criterion as of 20 July 2021



24. The orange diamonds on Map Three represent children with a preference for the school that could not be met. A significant proportion of applicants living in Heathfield ward and a smaller number in Whitton ward fall into this category. The furthest distance of the home address from the permanent site of the school of a child allocated a place under criterion 6 a) was 1,019 metres. The furthest distance of the home address from the nodal point (criterion 6 b)) of a child allocated a place at the school was 3,067 metres.

25. Map Three confirms that children living in Heathfield and Whitton wards are at a relative disadvantage in obtaining a place at the school compared to children living closer to the nodal point. For example, all children living in Fulwell & Hampton Hill and Teddington wards who were considered under the sixth criterion were allocated places. The objector points out that on the National Offer Day (1 March 2021) the position would have been rather different as some families who intend their child to attend an independent school nevertheless accept an offer for a place at a publicly funded school. These places later become available to be allocated from the waiting list. The objector suggests that some

parents in Heathfield and Whitton will, in the interests of certainty, accept the offer of an alternative school to Turing House School, rather than wait for the possible offer of a place after National Offer Day.

26. There is significant pressure on places in secondary schools in Richmond upon Thames. The LA expects there to be a surplus of 92 places (out of 1512) in Y7 at schools in the western side of the borough in September 2021. For September 2022, this figure is forecast to fall to just 13 places. A greater demand for places across the area as a whole suggests strongly that the relative disadvantage for children in Heathfield and Whitton in obtaining a place at Turing House School will not diminish.

27. Of course, that one group of children is at a disadvantage compared to another in obtaining a place at a particular school does not of itself mean that paragraph 1.8 or any other provision of the Code is breached. Oversubscription criteria by their very nature advantage some groups over others; indeed, that is their purpose. A breach of paragraph 1.8 occurs when a group is unfairly disadvantaged. This is the third factor I must consider. The Code does not define unfairness but, in my view, it can be said to occur when admission arrangements cause disadvantage to a group that is substantial or significant and which cannot be justified by the benefits that accrue to other groups.

28. The parties to the case provided me with a great deal of information about the history of the school's establishment. There is, for example, some disagreement about the geographical area for which it was intended to help to meet a shortfall in secondary school places. This information provided me with some useful context, but it is not my responsibility to resolve disputes about past events. My jurisdiction extends only to determining whether the arrangements for admission in September 2022 meet the Code's requirements, at this point specifically the requirement for fairness. The objector says,

“The general feeling in the Whitton area is that the admissions are unfair and that a richer area is taking advantage of us.”

29. The LA provided me with information about the children in Heathfield and Whitton wards whose parents made Turing House School their first preference for admission in September 2022. There were 34 first preferences expressed, of which 22 resulted in the allocation of places at Turing House, 11 under the distance criterion and 11 under higher criteria. Additionally, another ten applicants for whom the school was a lower preference, were allocated places under the distance criterion, as their higher preference(s) could not be met. There were two successful appeals.

30. Table Three, also provided by the LA, shows how places were allocated for the 12 children who were not allocated places at the school despite it being their first preference.

Table Three: School allocations for applicants living in Heathfield and Whitton where the first preference for Turing House was not met.

Pupil	Distance to nodal point (km)	Distance to permanent site (km)	Preference met	School Allocated	Distance to allocated school (km)
1	3.144	1.022	2	Richmond upon Thames	2.562
2	3.541	1.604	5	Richmond upon Thames	0.692
3	3.615	1.109	3	Twickenham	0.967
4	3.762	1.584	3	Richmond upon Thames	0.832
5	3.919	1.131	2	Twickenham	1.272
6	3.956	1.479	3	Richmond upon Thames	1.178
7	4.026	1.511	2	Richmond upon Thames	1.248
8	4.351	1.563	3	Heathland	not known
9	4.44	1.768	LA allocated	Twickenham	1.585
10	4.492	1.575	3	Twickenham	1.844
11	4.67	1.286	2	Twickenham	2.019
12	4.675	1.39	2	Heathland	not known

The table indicates the overwhelming majority of these applicants were allocated a place at their second or third preference school, which is located a similar distance from their home address to the permanent site of Turing House School. In my view, none can be said to face an unreasonably long journey to school. In this respect, these applicants have not been put at a significant disadvantage by the arrangements for admission to Turing House.

31. The objector, however, argues that applicants living close to the permanent site of Turing House School are disadvantaged despite the relative proximity of alternative schools. He says:

“Access is only certain for Twickenham School which has been historically undersubscribed and had a sequence of inadequate and requires improvement ratings from Ofsted.”

It is the case that for admission in 2021, 125 of the 250 places at Twickenham School were allocated by the LA to children whose parents had not made the school a preference. At the time the objection was made, the most recent OfSTED inspection of Twickenham School, conducted in May 2018, rated the school “Requires Improvement.” Turing House School was also inspected in May 2018 and received a “Good” rating.

32. Nevertheless, I do not agree with the objector. All of the schools allocated to the pupils listed in Table Two are suitable alternatives to Turing House School. They are co-educational comprehensive schools located within a reasonable distance of addresses in Heathfield and Whitton wards. The popularity and performance of individual schools can change markedly within a short period. It is not appropriate for me to consider whether attendance at one school or another would advantage or disadvantage a group of children

over the course of their secondary education, based on the performance and popularity of those schools at a particular point in time.

33. I do not consider that the arrangements for Turing House School for admission in 2022 will create a substantial disadvantage for children living in Heathfield and Whitton wards. Therefore, no unfairness is caused and paragraph 1.8 of the Code is not breached. The arrangements are atypical. The use of nodal points is quite rare – although it is expressly contemplated in paragraph 1.13 of the Code. It is the case that where nodal points are used, the reasons include the need to establish an additional school to serve an area when there is no suitable site in that area itself, as was the case here. It may be that the arrangements could be improved upon, but my responsibility is solely to determine if they comply with the Code and the law relating to admissions. In this respect, that is, the distance criterion, I determine that they do and I do not uphold the objection on this ground. The trust says that it is committed to reviewing the arrangements annually. In my view, this is wise. Richmond and Hounslow LAs, which both expressed support for the current arrangements, will have important data and other perspectives to bring to such reviews. Any change to the arrangements will, of course, have implications not only for children living in the vicinity of the permanent site, but also for those whose addresses are closer to the nodal point.

Sixth form admissions

34. On the objection form, the objector argues that the arrangements, as they relate to admission to the sixth form for external applicants, are in breach of paragraph 2.6 of the Code, which states that admission authorities can, “set academic entry criteria for their sixth forms, which **must** be the same for both external and internal places.” He draws attention to the following statement within the arrangements that were provided to me as the determined arrangements for admission in September 2022:

“Conditional offers will be made to internal and external candidates likely to satisfy the Academic Criteria including relevant course requirements, based on an assessment of their predicted GCSE grades, other appropriate grades and information from staff at the applicant’s current school.”

The objector says,

“This disadvantages external applicants because internal applications will secure a place as long as they meet the minimum entrance requirement and can change the A level subjects if needed whilst the external applicant would just be refused entry.”

He also commented that the arrangements appeared to be in breach of paragraph 1.9 (g) of the Code, which states that admission authorities **must** not,

“take account of reports from previous schools about children’s past behaviour, attendance, attitude or achievement, or that of any other children in the family.”

35. At the meeting I convened, it was confirmed by a representative of the trust that, in fact, “conditional offers” are made to all applicants who wish to proceed with their application. The paragraph from the arrangements quoted above was, I was told, “previously identified for removal but mistakenly published.” Corrected arrangements, which omit the paragraph in question, have subsequently been published on the school’s website. I note that these arrangements use the term “provisional offer” rather than “conditional offer”. I consider this to be appropriate. Any offer of a place is dependent on the applicant meeting the academic criteria. In the case of external applicants, it may be necessary to rank applications in accordance with the oversubscription criteria, if there are more applicants meeting the academic criteria than the PAN of 30.

36. In the course of correspondence, the objector expressed a further concern, relating to the ‘application form’ for applicants for places in the sixth form. This form gathers basic information, including the applicant’s address and their preferences for courses they wish to study in the sixth form. It also contains two questions about the applicant’s “Future Education Plans” and “Interests Outside School.” A note below the questions states, “These are optional and not part of the application but will help us discuss your course choices with you.” The objector commented that he was “somewhat uneasy” about the asking of these questions.

37. Paragraph 2.4 of the Code states:

“In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.”

The application form gathers all of the information required for the admission authority to consider applications for places in the sixth form. There is not, as is the case for admission to schools at Y7, a Common Application Form (CAF) and a supplementary form that requests additional details. Nevertheless, I am in no doubt that the requirements of paragraph 2.4 of the Code apply in exactly the same way as when there are two distinct forms. The application form is requesting additional details beyond that which would be captured on a CAF.

38. The trust explained that the optional questions “provide background to the informal meeting which takes place with the applicant to discuss their course options.” I appreciate that the information requested may be helpful in this context and that applicants are not required to answer them, but they do not relate to the oversubscription criteria for admission to the sixth form, which are broadly similar to those for admission to Y7. It is a breach of the prohibitions in paragraph 2.4 of the Code for them to be asked on an application form.

39. In summary, the arrangements for admission to the sixth form, as originally determined and published, did not comply with the Code in several ways. They were unclear, as they contained information that does not match the school’s practice (a breach of the requirement for clarity in paragraph 14) and indicated that the school seeks

information from applicants' previous schools which is prohibited by paragraph 1.9 (g). Questions are asked on the application form that do not relate to the oversubscription criteria, contrary to paragraph 2.4. I do not find, as the objector suggests, that there is a breach of paragraph 2.6, as the published academic criteria are the same for internal and external applicants. His concern relates to a matter of procedure, rather than the arrangements themselves, and is not within my jurisdiction.

Summary of Findings

40. The consultation that preceded the determination of the arrangements met requirements other than reaching all parents of pre-school children. The distance criterion does not cause substantial disadvantage to children living in Heathfield and Whitton wards as there are suitable alternative schools within a reasonable distance. No unfairness is created and paragraph 1.8 of the Code is not breached. The arrangements for admission to the sixth form, as originally determined and published, were in some ways unclear. The application form requests information that the admission authority is not allowed to seek.

41. I partially uphold the objection, that is, in respect of some aspects related to consultation and the sixth form arrangements. I do not uphold the objection relating to the oversubscription criterion that prioritises applicants for places on the basis of their distance from the permanent site of the school and the nodal point for admissions.

Determination

42. 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 2022 determined by Russell Education Trust for Turing House School, Richmond upon Thames.

43. 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: 27 August 2021

Signed:

Schools Adjudicator: Peter Goringe