Office of the Schools Adjudicator

Determination

Case reference: **ADA4115**

Objector: **a member of the public**

Admission authority: **The Governing Board for Gartree High School**

Date of decision: **14 July 2023**

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 2024 determined by the Governing Board for Gartree High School, Oadby, Leicestershire.

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 Gartree High School (the school), an academy for pupils aged 11-16 for September 2024. The objection as originally submitted comprised two parts, the first concerns the selection of feeder primary schools and the second part concerns the way in which the consultation was carried out before the 2024 arrangements were determined. I explain further in this determination that I have not considered the selection of feeder schools and the reasons for this.

2. The local authority for the area in which the school is located is Leicestershire County Council (the county council) and the county council is a party to this objection. Other parties to the objection are the objector, the governing board which is the academy trust and admission authority for Gartree High School, and St Thomas More Roman Catholic Primary School.

3. The objector made a similar objection to the 2024 admission arrangements for another secondary school in the area, Manor High School. This other objection is considered in determination ADA4116.

Jurisdiction

4. The terms of the academy agreement between Gartree High School 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 governing board of Gartree High School on that basis. The objector submitted her objection to these determined arrangements on 20 March 2023.

5. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act.

6. The 2023 arrangements were subject to consideration by another adjudicator under section 88H of the Act. That determination ADA3909 was published on 24 June 2022.

7. I have considered Regulation 22 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the regulations) which says "For the purpose of section 88H(5)(d), where the adjudicator has determined an objection to the admission arrangements of a school or Academy, no objection may be referred to the adjudicator raising the same or substantially the same issues in relation to those admission arrangements within 2 years of the decision by the adjudicator."

8. The first part of this objection is the same or substantially the same as the objection which was brought in 2022 by the same objector concerning the arrangements for 2023. For the reasons given above, this part of the objection is not within my jurisdiction. I say more about this below. I am satisfied that the second part of the objection is a new issue and as such is within my jurisdiction.

Procedure

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

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

a. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;

b. a copy of the determined arrangements;

c. the objector's email of objection dated 23 March 2023 together with subsequent correspondence;

d. the school's response to the objection and subsequent correspondence;

e. comments from St Thomas More RC School and the St Thomas Aquinas Trust which is the multi academy trust in which this primary school operates;

f. comments from Leicestershire County Council;

g. a map of the area identifying relevant schools;

h. confirmation of when consultation on the arrangements last took place and details of the nature of the consultation and responses to it; and

i. previous determinations written by other adjudicators REF3893, ADA3458 and ADA3909.

The Objection

11. The part of the objection within my jurisdiction is:

a. that the consultation about the admission arrangements for 2024 did not comply with the Code's requirements because St Thomas More Primary School did not inform its parents that they were being consulted about the High School's admission arrangements for 2024. The objector asserts that this is despite this being a contentious point in her objection made in 2022 about the 2023 arrangements and covered in ADA3909 and despite her actually writing to the headteacher at St Thomas More School asking her to inform parents this time around. The objector says that the headteacher acknowledged the request but refused to inform parents about the consultation in the same way that she refused a similar request the previous year.

b. that although the requirements of the Code are clear about who should be consulted, the High School does not appear to have checked that parents were informed about the consultation nor did they process all responses received. The objector says that this is despite her asking the High School to make sure they informed parents of children at St Thomas More School and writing to the county council to ask that parents were made aware of the consultation. The objector questions how parents could make an informed response if they did not know that the consultation was taking place.

c. that the High School does not appear to have taken account of views expressed in the previous determinations with the result that the governing board appears to have simply re-determined the previous admission arrangements despite having been informed in a determination that the 2023 admission arrangements did not conform with the Code.

12. The objector raised some other matters in her initial objection and I have concluded that I do not have the jurisdiction to consider the following aspects of the objection and I explain my reasons for this decision below.

- the selection of feeder schools for 2024 has not been made on reasonable grounds and so does not conform with paragraph 1.15 of the Code;

- the 2024 admission arrangements remain largely the same as the 2023 arrangements with mostly the same school feeders listed; and

- the objector considers that St Thomas More School should be a feeder school.

13. The objector refers to determinations that resulted from objections concerning previous admission arrangements at this school. The School Admissions Code states in paragraph 3.3e "that the following types of objections cannot be brought: … e) objections to arrangements which raise the same or substantially the same matters as the adjudicator has decided on [in a determination or an objection] for that school in the last 2 years." As the Code explains this derives from regulation 22 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012. The adjudicator's determination, ADA3909, is relevant in this context. ADA3909 concerned the arrangements for 2023 and it follows, therefore, that I cannot consider the elements set out above of the objection to the admission arrangements for 2024 of Gartree High School under section 88H SSFA because it raises the same or substantially the same matters as those covered in ADA3909.

14. While I shall not be taking these elements of the objection forward as an objection for the reason I have set out, opinions have been expressed by the objector as part of the objection. I shared these views with the high school and the opinions are included in this determination. I have included comments that I received from the school in this determination alongside the matters about which I do have jurisdiction. It is not for me to express an opinion about the matters about which I do not have jurisdiction or to take the comments that have been made into account in reaching a decision on the matters within my jurisdiction and I have taken care not to do so.

Background

15. The school has a published admission number (PAN) of 185. In its admission arrangements, the oversubscription criteria are in summary as follows:

a) Looked after children and children who were previously looked after
b) Children who will have an older brother or sister attending Gartree High School at the same time
c) Children of current Gartree High School staff
d) Children who attend a (named) feeder school (see below)
e) Children living nearest to the school measured in a straight-line distance from home address to school gate.

16. The following primary schools are considered to be feeder schools for the purposes of this policy:

Schools that have a historic link to Gartree High School prior to 2016:

- Brooks Hill Primary School
- Brookside Primary School
- Fernvale Primary School
- Houghton on the Hill Church of England School
- Langmoor Primary School

- Launde Primary School
- Overdale Junior School
- St Luke's Church of England Primary School
- St John the Baptist Church of England Primary School
- Woodland Grange Primary School

Schools for whom Gartree High School is the closest secondary school:

- Glenmere Primary School
- St Cuthbert's Church of England Primary School, Great Glen

Consideration of Case

17. The first part of the objection that I am considering is that the school has not complied with the requirements of the Code in carrying out its consultation and specifically that it did not do so because St Thomas More RC Primary School did not write to parents at the school to advise them that the consultation about the feeder schools at the High School was taking place.

18. The requirements for consultation are set out in paragraphs 1.45 -1.48 of the Code and are:

> 1.45 "When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year. …….
>
> 1.46 Consultation **must** last for a minimum of 6 weeks and **must** take place between 1 October and 31 January in the determination year.
>
> 1.47 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 is 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.
>
> 1.48 For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on the school's website or its own website (in the case of a local authority) together with details of where comments may be sent and the areas on which comments are not sought. Admission authorities **must** also send, upon request, a

copy of the proposed admission arrangements to any of the persons or bodies listed above inviting comment. Failure to consult effectively may be grounds for subsequent complaints and appeals."

19. The school has responded to me with details of how it carried out its consultation and said that the consultation took place over a six-week period from Monday 7 November 2022 to Monday 19 December 2022. It went on to say that it notified (about the consultation) its existing parents and all nursery schools, primary schools and secondary schools within a 2.7 mile radius of the high school together with three further schools that have been feeder schools for many years as part of the Leicestershire catchment prior to the removal of home-school transport following the age range change and school reorganisation in Leicestershire. The school also consulted with Leicestershire County Council and Leicester City Council admissions departments.

20. The school went on to say that all the consultation materials were published on its website and neighbouring properties had the materials posted directly to them. The school reported that its aim was to reach the parents of two-eighteen year olds and interested parties in its community. It said that it had legal advice and oversight of its consultation process and associated documentation. The school said that because it does not hold personal data for the parents in other schools it was necessary to rely on the primary schools to support with the distribution of materials or at least to notify parents about the consultation and direct them to the school's website. I note that this is a common approach adopted by secondary schools although it is not the only way in which secondary schools can and do reach parents of local primary aged children. I note too that primary schools when they wish to consult the parents of children not yet of school age must find other ways to reach them.

21. The school sought advice from the county council's admission department about how to reach parents of children between the ages of two and eighteen and was advised that "most schools do this by contacting local schools, early years providers, local press releases, social media, website, community centres etc. Although not a requirement, you can ask schools consulting (sic) to market their consultation further to ensure a good response."

22. The first part of the objection is that the consultation is defective because St Thomas More primary school did not pass on any information about the consultation to its parents. I contacted the primary school and asked if this was the case and received the following response from the Chief Executive Officer of the St Thomas Aquinas Trust of which St Thomas More Primary School is a part. "In your communication, you state that an objector is suggesting that St Thomas More "did not inform its parents that they were being consulted about the High School's admission arrangements for 2024". This assertion is correct. The School Admissions Code sets out at 1.47 who the admission authority must consult with if they are looking to change their arrangements, including those within the relevant area who, in the opinion of the admissions authority, have an interest in the proposed admission. As a local primary school, St Thomas More was consulted with by Gartree High School, so there seems to be no issue there. Having taken legal advice on

your communication and examined the School Admissions Code, we can find no obligation whatsoever on a school that has been consulted with by a separate admissions authority to inform its parents that either they or the school are being consulted with; perhaps you could point me to the specific obligation within the code if you disagree on this point? If it was a requirement for the consulted school to carry out a survey of their parents, then it would be reasonable for the code to make this explicit. As it stands, it seems that it is up to the consulting admissions authority (Gartree High School) to consider how they were going to contact any persons who would have an interest; they may consider asking other admissions authorities/schools to assist but, again, there seems to be no obligation at all for them to do so. Finally, even if the parent had approached St Thomas More directly about the consultation, s/he is obviously not a consulting admissions authority. S/he could presumably have approached the consulting school to ask them to consult directly with those that had an interest in the proposals."

23. The respondent from the trust is correct that the Code places no obligation on St Thomas More Primary School or indeed any other primary school to communicate with its parents about the admissions arrangements of another school. However, other primary schools did share the information and so perhaps considered it in their parents' interests to have heard about the consultation as their children would be requiring a secondary school in the future.

24. The high school headteacher points out that the school received 22 responses to the consultation and, of these, five were from parents of children at St Thomas More primary school. The high school headteacher goes on to say that "given that we received responses, it is reasonable to assume that parents were aware of the consultation and had ample time to contact us directly and/or check the website. With the use of WhatsApp groups and social media amongst parents, information spreads very quickly, and therefore parents could readily access the information on our website. Even if the headteacher at St Thomas More primary school did not support us by distributing the information directly."

25. Leicestershire County Council responded that "it reminded Gartree High School at the point they consulted on their policy for entry 2024, of the previous Office of the Schools Adjudicator determination and the requirements that they were bound by, amongst other aspects. In terms of a comment, Leicestershire is of the opinion the same objections were raised previously and the determination was clear. Furthermore, as (its) own admitting authority it remains for Gartree High School to propose and determine their feeder schools in accordance with para 1.15 of the Code. In addition, at the point of Gartree High School consulted Leicestershire's position was to ensure that no Leicestershire child attending a county feeder school would be disadvantaged. The local authority was assured by Gartree High School the intentions would be to seek to prioritise county feeder schools."

26. I shall now consider the information that I have received beginning with whether the consultation was defective because parents of children at St Thomas More primary school were not individually and directly consulted. The trust responsible for St Thomas More primary school chose not to share the consultation that Gartree High School was undertaking with the primary school's parents. The objector is of the view that knowing that

St Thomas More Primary School would not pass on information about the consultation to its parent body, the school (that is Gartree High School) should have found some other way to contact them directly and individually, and she suggests that the school should have written to them. The obvious problem with this suggestion is that the school had no way to do so; it did not hold the names and addresses of these parents and, as it has pointed out, had no means lawfully to obtain what is a large amount of personal data.

27. The fact that St Thomas More Primary School did not share the information does not in my view invalidate the consultation that was being carried out by the high school as the objector suggests it did. I find that the school took reasonable steps to reach those it was required to consult and I do not uphold this aspect of the objection. There is in fact evidence that the consultation did reach the parents of St Thomas More Primary School, not least as the high school reports that five of the 22 responses received were from parents of children at St Thomas More.

28. The second part of the objection is that although the requirements of the Code are clear about who should be consulted, the High School does not appear to have checked that parents at St Thomas More Primary School were informed about the consultation nor did they process all responses received. The objector says that this is despite her asking the high school to make sure they informed parents of children at St Thomas More School and writing to the county council to ask that parents were made aware of the consultation. The objector questions how parents could make an informed response if they did not know that the consultation was taking place.

29. In the previous paragraphs I have dealt with the fact that St Thomas More primary school chose not to disseminate the high school's admissions consultation to its parents. I have already dealt with aspects of this and concluded that there was no obligation in the Code that it should do so. Given that the high school did not have a direct route to communicate with parents at the primary school I cannot see how it would be able to ensure with certainty that the individual primary school parents were informed about the consultation. The evidence is that the high school used a range of channels to try to communicate with primary school parents and this did reach at least some parents at this primary school. The County Council's advice is set out above in paragraph 20. It appears from the evidence that the school took this advice and used the communication channels that were open to it.

30. The objector asserts that the high school did not process all the consultation responses that it received. I have seen all the responses and have seen no evidence that there were unprocessed consultation responses. Five responses were received from parents at St Thomas More School despite the consultation not having been shared directly with its parents and I can see no reason why the high school should not process consultation responses received. With no specific evidence that there are responses that were not considered I do not uphold this part of the objection.

31. The last part of the objection is that the objector considers that the High School does not appear to have taken account of views expressed in the previous determinations with

the result that the High School appears to have simply re-determined the previous admission arrangements despite having been informed in a determination that the 2023 admission arrangements did not conform with the Code.

32. The high school responded by saying that it had considered the previous determinations REF3893 and ADA3909 very carefully. It provided evidence of its consultation for the 2024 arrangements which proposed reducing the number of feeder schools to take into account the weakening relationship with three of the schools. It also provided evidence of consultation responses from, amongst others, the county council and a local councillor, that indicated that this change was not supported. As a result, the school responded to the consultation and changed its view about removing as feeder schools the three schools that it had proposed should stop being feeder schools. In this way it arrived at the final approved policy where the oversubscription criteria changed but the named feeder schools have not. The school explains that this was in response to the consultation feedback, the school had sought to reduce the number of feeder schools because this may have resulted in more pupils getting a place based on distance rather than on attendance at a feeder school.

33. In reviewing this matter I do not uphold the objection that the school simply adopted the previous arrangements without consultation. I have been shown evidence that a consultation took place and that the governing board of the school considered responses made and determined its arrangements accordingly.

34. I turn now to the objector's argument that because, in her view, the consultation process was defective, the arrangements are defective. I need to explain first it is open to an adjudicator to determine that there has been a failure to consult in accordance with the relevant legal requirements, and therefore a failure to comply with both the 2012 School Admissions Regulations and the School Admissions Code. However, even where consultation was defective, this does not mean that arrangements are necessarily also defective. In any case, an adjudicator cannot impose a requirement upon an admission authority to re-consult after it has determined the arrangements even if the consultation has not been conducted in accordance with the requirements of the Regulations and the Code. Nor can an adjudicator require the admission authority to re-instate the previous year's arrangements.

35. In this case I have not found that the consultation was inadequate. I have found that one school declined to assist with the consultation but this is not a requirement of the Code. I have found that the high school took what action it could to communicate with the wider group of parents whose children were attending primary schools in the area and some of whom will be parents who might be interested in seeking a place for their child at the high school.

36. I shall now comment about the previous determinations that have been written about this school and its admission arrangements. A determination is a judgement concerning the matters raised in an objection under section 88H or a referral under section 88I of the School Standards and Framework Act 1998, about the admission arrangements for a

particular year. If matters in arrangements are found to be unlawful, then it is the responsibility of the admission authority to consider that matters raised and to decide how to address the matters raised to ensure that their arrangements comply with the School Admissions Code and other relevant legislation. The objector's concern is primarily that Gartree High School has failed to determine arrangements for 2024 that comply with the determinations made in cases REF3893 and ADA3909. These determinations did not relate to 2024 but to the arrangements for 2022 and 2023 respectively. However, as an adjudicator neither I, nor the Office of the Schools Adjudicator, have enforcement powers to ensure that actions have been taken following a determination to ensure that amended arrangements comply with the School Admissions Code and other relevant legislation. Failure to take appropriate action is a matter for the Secretary of State and the Department for Education. As I have previously set out, the objection is about the same or similar matters as the previous objection and as such I do not have jurisdiction to re-examine the matter.

37. There are three aspects to the part of the objection that I am not considering because I do not have jurisdiction to consider them as they have previously been considered in the most recent determination ADA3909. For completeness I shall list them again here, the first part is that the selection of feeder schools for 2024 has not been made on reasonable grounds and so does not conform with paragraph 1.15 of the Code. This was the key objection in the previous determination referred to. At that time and in respect of the 2023 arrangements, the adjudicator concluded that the admission authority had given reasons for the selection of feeder schools but had not applied these reasons consistently.

38. The second part is also linked to the previous objection and I repeat the point made above about the responsibility of the admissions authority to take such action as is necessary to ensure that its arrangements comply with statutory requirements and to review its arrangements in the light of determinations that are made concerning its arrangements in any given year.

39. In respect of the last part of the objection, the objector considers that St Thomas More primary school should be a feeder school for the high school or alternatively that the feeder school approach should be dropped and some new approach adopted. The adjudicator does not have the power to determine what admission arrangements for any school should be; our jurisdiction in this regard is solely for whether or not existing arrangements do or do not conform with requirements. How to address an adjudicator's determination that arrangements do not conform is for the admission authority. The objector has made some observations about the arrangements for the high school, and comments "that Beauchamp (College) (in the previous round of objections) never did name St Thomas More as a feeder, but yet changed the criteria in such a way that it is now fair to all children in the Knighton-Clarendon Park area, as all children in the area are now on the same footing. So much so that (she) didn't place an objection to Beauchamp's new criteria and that it is open to the High School to also put children in the area on the same footing, even if through a different admission criteria". I have explained above that this part of the objection concerning the selection of feeder schools is not within my jurisdiction. I have included the objector's observation but I make no further comment on this matter.

Summary of Findings

40. I have not upheld the main points of the objection that were within my jurisdiction on the grounds that I have been provided with evidence that the consultation had been carried out to the best of the school's ability in compliance with the Code's requirements. I acknowledge that St Thomas More primary school did not pass on information about the consultation to its parents but it was not explicitly required to do this by the Code.

41. For completeness, I have set out the aspects of the objection about which I do not have the jurisdiction to consider. I have explained that I do not have jurisdiction because they cover the same or substantially the same matters that were considered in ADA3909, a determination published in 2022.

Determination

42. 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 2024 determined by the Governing Board for Gartree High School, Oadby, Leicestershire.

Dated: 14 July 2023

Signed:

Schools Adjudicator: David Lennard Jones