



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4197

Objector: A member of the public

Admission authority: South Gloucestershire Council for a number of community and voluntary controlled primary schools

Date of decision: 27 July 2023

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 2024 determined by South Gloucestershire Council for a number of community and voluntary controlled primary schools.

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 about the admission arrangements (the arrangements) for a number of community and voluntary controlled primary schools for September 2024. The objection is to the design and use of the Area of Prime Responsibility for the Kingswood North/Downend/Emersons Green Primaries Consortium.
2. The local authority (LA) for the area in which the schools are located is South Gloucestershire Council. The LA is a party to this objection. The Castle School Education Trust, one of whose academies is Lyde Green Primary School, is also a party to the case.

Jurisdiction

3. The arrangements were determined under section 88C of the Act by South Gloucestershire Council which is the admission authority for the schools. The objector submitted their objection to these determined arrangements on 15 May 2023. The objector has asked to have their identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of their name and address to me. 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.

Procedure

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

5. The documents and information I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the LA at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 15 May 2023 and supporting documents;
- d. the LA's response to the objection, supporting documents, and subsequent correspondence;
- e. the LA's online composite prospectus for admissions to primary schools (the prospectus);
- f. maps of the area identifying relevant schools;
- g. maps of the area showing how the area has been developed over recent years;
- h. information available on the websites of the LA, the school and the Department for Education;
- i. information on the website of Emersons Green Town Council; and
- j. confirmation of when consultation on the arrangements took place.

The Objection

6. The objection is that the design and use of the Area of Prime Responsibility (APR) for the area of South Gloucestershire covered by Kingswood North/Downend/Emersons Green Primaries Consortium, is neither objective, reasonable nor fair. Paragraph 1.14 of the School Admissions Code (the Code) states that "Catchment areas must be designed so

that they are reasonable and clearly defined.” Paragraph 1.8 of the Code states that “Oversubscription criteria must be reasonable, clear, objective...” and paragraph 14 of the Code states that the criteria used to allocate places must be fair.

7. The objector says that:

“The Area of Prime Responsibility (APR) for the area of South Gloucestershire covered by Kingswood North/Downend/Emersons Green Primaries Consortium, visible in South Gloucestershire Primary Schools Admission Guide Map 15 page 77, is not reasonable or objective, and should be updated or abolished.

This APR has an arbitrary boundary to the East at the A4174 ring road. This excludes all of the housing built in Lyde Green since 2015. This results in all of the houses within the Lyde Green development having no real preference of school, as they will never be high enough up the list of entry/oversubscription criteria for any school within the APR, even though they are the closest schools. This is not reasonable, objective or fair. Due consideration should be given to this new housing development and the APR should be adjusted accordingly.

In regard to Blackhorse School and Emersons Green School specifically, you could live outside the APR but be within 0.6 miles of the school and be rejected. Whereas you could be within the APR and be as much as 2 miles away and be accepted. This is not reasonable or fair.

To say that a resident in Lyde Green is not classed as “local” for the entry/oversubscription criteria is not reasonable, objective or fair, when they could live much closer to the school than others inside the APR.

The purpose of the 3 preferences of school for residents in Lyde Green is pointless. There is only one relatively new school in Lyde Green, which can not [sic] fulfil the demand. This has resulted in residents being offered places at schools even further away than the closest 2 or 3 schools.”

Background

8. In South Gloucestershire, some schools serve Areas of Prime Responsibility (APR), of which there are several across the LA. Each APR is a relatively large catchment area shared by several schools, which exists to ensure that children are able to attend a school within an acceptable distance from their home address. The LA’s prospectus says:

“Where an APR exists, the area indicates to parents/carers the schools which normally serve the home address. South Gloucestershire Council gives priority to those children who live within the APR of the school, though there is no guarantee that places will be offered to all those living within the APR.”

“We strongly recommend that you indicate a preference for a school that normally serves your home address (your APR school or a local school). This will increase

your chances of getting a place at a local school, in the event that your highest ranking preference cannot be met.”

9. The APR is integral to several of the oversubscription criteria in the arrangements. These criteria can be summarised as:

- (i) Children who are looked after or previously looked after;
- (ii) Local siblings: children are defined as local siblings if:

they live within the APR ; or where there is no APR, local siblings will be deemed to be those living up to a maximum of three miles from school by straight line measurement; or where the distance is over three miles but the school is still the nearest school;
- (iii) Children living within the APR;
- (iv) Out of area siblings;
- (v) Children living outside the APR.

Within each criterion, children are ranked by straight line distance from home to school.

10. The LA tells me that the Kingswood North, Downend, Emersons Green Consortium Area of Prime Responsibility (the Kingswood APR) was created in September 2015 after a consultation held during January and February 2014. The community and controlled schools included in the Consortium are as follows, numbered according to the map in figure 1:

1. Bromley Heath Infant School
2. Bromley Heath Junior School
3. Blackhorse Primary School
4. Stanbridge Primary School
5. Barley Close Primary School
6. Mangotsfield Primary School
7. Emersons Green Primary School
8. Christchurch Infant CE VC Primary School
9. Christchurch Junior CE VC Primary School
10. Staple Hill Primary School
11. The Tynings Primary School
12. St Stephen's Infant CE VC Primary School
13. St Stephen's Junior CE VC Primary School.
14. King's Forest Primary School

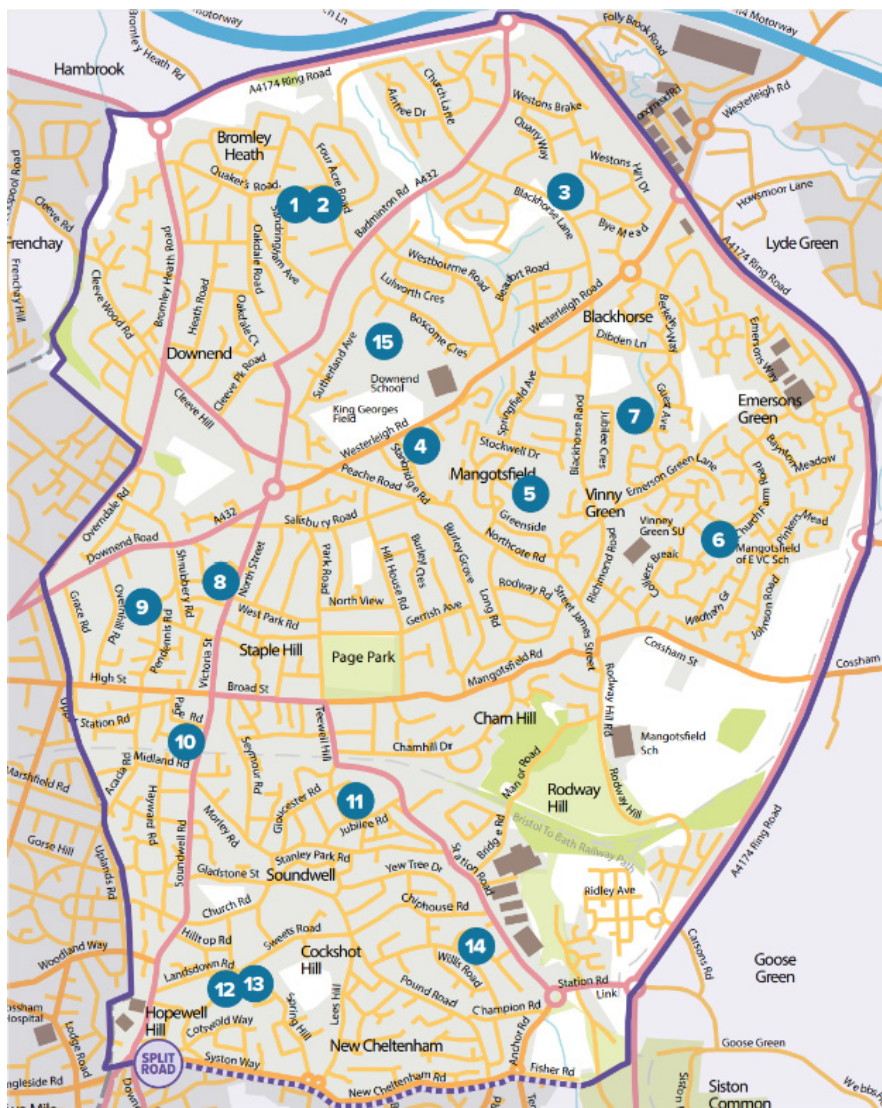
15. (not included in the APR for admissions purposes) St Augustine of Canterbury Catholic Primary School

11. The prospectus states that the area is defined by the A4174 to the north and east, then at the footbridge by Siston Common it tracks westwards to Fisher Road, then westwards along the middle of Fisher Road, New Cheltenham Road, Syston Way and Soundwell Road; at South Gloucestershire Council's administrative boundary it tracks northwards along the boundary until the River Frome, then northwards along the River Frome until the A4174.

12. The most recent consultation on proposed admission arrangements was in December 2021. The LA tells me that the APR is reviewed annually but no changes have been made and so "this APR does not form part of any consultation changes".

13. Figure 1 shows a map of the area and the schools within it, taken from the prospectus.

Figure 1:



14. The area referred to as Lyde Green by the objector is in the top right corner of figure 1. It is the area northeast of the ring road, bounded by Westerleigh Road, the M4, and a disused railway line (see figure 2 below).

15. The area has not always been highly developed. In 2006, South Gloucestershire Council published a development brief for “Emersons Green East,” as the area was then known. This can be found at <https://beta.southglos.gov.uk/wp-content/uploads/Emersons-Green-East-development-brief-SPD.pdf>.

A map on page 6 of this document shows the nature of this area to be undeveloped land with minimal housing. This map is reproduced below (figure 2).

Figure 2



16. Throughout the 2010s, a significant amount of building took place on the area marked as Emersons Green East in figure 2. The changes are shown in figure 3.

Figure 3: (taken from Google Maps)



17. To accommodate the new population, there has been a need for more educational provision. Lyde Green Primary School opened in 2015 and there have been plans to

commission additional primary places. The council’s website shows a letter from the Head of Education, Learning and Skills to local residents dated 9 July 2020 which says:

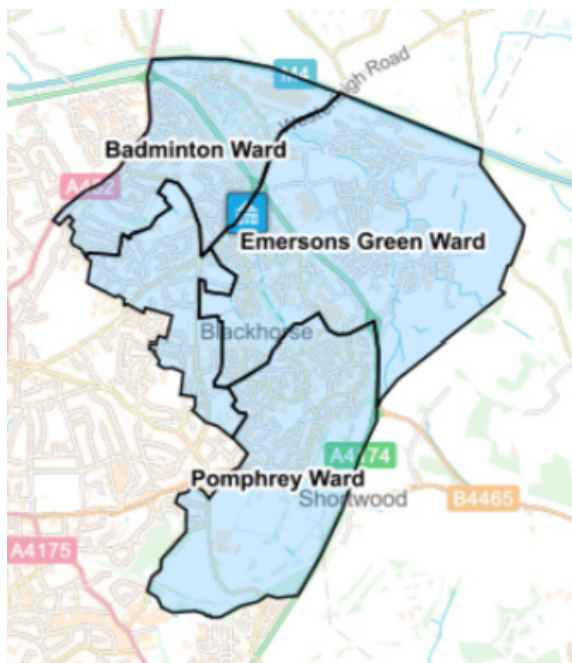
“A primary school in the area (Lyde Green Primary School) was opened in 2015, and in 2020 a proposal was put forward to commission:

- a. new primary school places equivalent to a 420 place primary school by September 2022. The school will provide for children aged 4-11; and
- b. a new 900 place secondary school (made up of 450 places required to mitigate the impact of new housing and 450 places to meet basic need growth) by September 2022. The school will provide for children aged 11-16.”

However, the LA’s website has an update from March 2023 which explains that the proposal has been delayed and that “at this stage we can say that the schools will not be open in September 2024 and that we anticipate the build programme will take approximately 2 years.”

18. Since the housing development in the Lyde Green area began, there has been a degree of reorganisation of parish councils. The website of Emersons Green Town Council shows it has four wards (Badminton / Emersons Green / Blackhorse / Pomphrey) as demonstrated in figure 4 below:

Figure 4



A notable feature of these ward boundaries is that the Emersons Green Ward straddles the ring road and covers the new housing in the Lyde Green area, as well as a substantial amount of residential housing within the Kingswood APR.

Consideration of Case

19. The Code defines a catchment area as “A geographical area, from which children may be afforded priority for admission to a particular school.” The Code also requires at paragraph 1.14 that “Catchment areas **must** be designed so that they are reasonable and clearly defined. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school.” Catchment areas are commonly used in school admission arrangements and often the purpose is to ensure that no child has an unreasonably long journey to school, although a catchment area does not necessarily guarantee a place at a school, and a catchment school may not necessarily be a child’s closest school. It is less common but not rare for there to be an arrangement, as here, where one relatively large catchment area is served by several schools. From the definition and rationale of the Kingswood APR, I am satisfied that it serves the purpose of ensuring that children who live in the Kingswood APR should be able to gain a place at one of the schools there.

20. The objection falls into three parts, namely whether the description and use of the Kingswood APR (henceforth referred to as the APR) is objective, reasonable, and fair. I will consider these aspects in turn.

Is the description and use of the APR objective?

21. The boundaries of the APR are clearly defined on the map in the prospectus and in the accompanying commentary. The wording is precise, going so far as to specify the middle of certain roads. I therefore find the description of the APR conforms with the requirement under paragraph 1.14 of the Code to be “clearly defined”. When I consider the map and the commentary, I do not find that it is likely that an ordinary individual could look at the definition and conclude that there was a subjective element of judgement that would need to be exercised for the boundaries to be identified and for the oversubscription criteria to be applied. Indeed, the objector has not suggested that this is the case. I therefore conclude that in this respect the arrangements are compliant with the Code and I do not uphold this aspect of the objection.

Is the description and use of the APR reasonable?

22. I asked the LA for a full explanation of the rationale and history of the APR. They have explained that:

- a. demand for primary school places increased significantly in the four years prior to 2014 across many parts of South Gloucestershire. Pupil projections showed that demand would increase further over the next five years leading to severe pressure on primary phase places across Kingswood and Emersons Green;
- b. this was exacerbated by increasing numbers of Bristol resident children seeking primary school places in South Gloucestershire;

- c. parents in the Kingswood and Emersons Green areas were finding it increasingly difficult to obtain a place at their nearest schools;
- d. increasing admission numbers, alone, could not be guaranteed to secure places for children within a reasonable distance from their home address; and
- e. to address these issues, it was proposed to create a new Kingswood North, Downend, Emersons Green Primaries Consortium Area of Prime Responsibility (APR).

23. Having viewed the aerial view of the area in figure 2 above, I consider that at the time it was perfectly reasonable for the ring road to form the north-eastern boundary of the APR. At the time there was little or no housing in the Emersons Green East area, and indeed it would have been difficult to justify any other northeastern boundary than the one that was drawn.

24. As mentioned earlier, whilst the LA has reviewed the APR annually as part of its preparation for consultation on the determined admission arrangements, no changes have been made.

25. When I asked the LA about its planning for future years it told me:

“The impact of major new house building growth will be incremental and sustained on land at Emerson’s Green East (Lyde Green). Lyde Green is fairly self-contained and therefore patterns of preference tend not to impact on the demand for existing schools which comprise the Kingswood Consortium Area of Prime Responsibility.”

26. In relation to the reasonableness of the APR, I make a number of observations in the following paragraphs.

27. I do not find that the LA’s description of Lyde Green as “fairly self-contained” to be logical, because:

- a. it is not consistent with the re-organisation of the parish boundaries, in which the new Emersons Green Ward straddles the ring road;
- b. in a spreadsheet of projections for the planning areas for schools, the LA has grouped Lyde Green Primary School into the same area (“Area 5”) as Emersons Green, Barley Close, Blackhorse and Mangotsfield, all of which schools are in the APR;
- c. a key element of the LA’s sufficiency strategy is to meet the current need for places for children resident in the Lyde Green area from within the APR, as there are insufficient places in the Lyde Green area to meet the demand for primary provision. The LA says:

“The projections show that certain year groups in this period [until the new school is built] will be at, or even slightly over capacity and this should be managed by

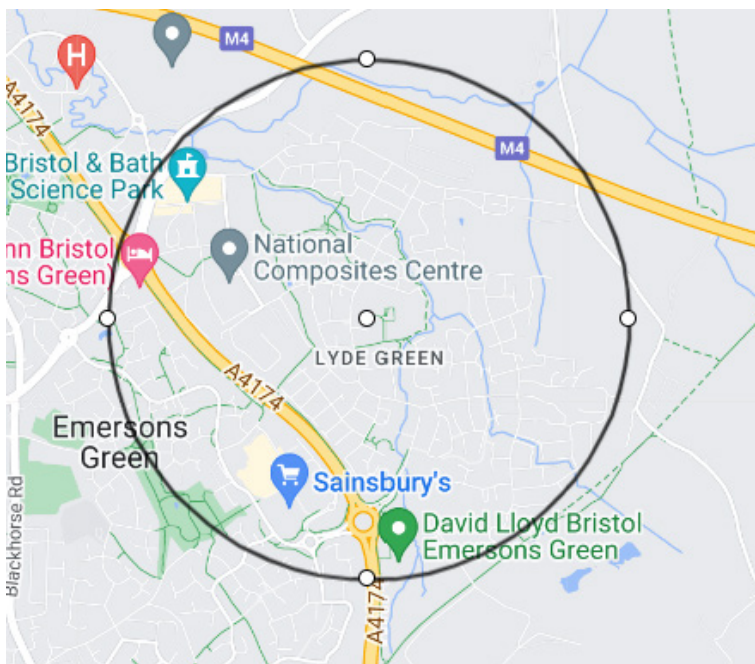
breach classes where possible i.e. at schools who still have the physical capacity but who have reduced their planned admission number in the short to medium term until the new primary provision at Lyde Green is built out.”

28. I now turn to the allocation of school places to children in the Lyde Green area. I have been provided with spreadsheets by the LA which show information for children who were refused a place at Lyde Green in 2022 and 2023 with no higher available preference. This data includes the home to school distance. In looking at that data I have defined “Lyde Green children” as those meeting two criteria:

- a. students who live around 0.5 miles or less from Lyde Green Primary School; and
- b. who also are not in the APR (which excludes those living southwest of the A4174 ring road).

Figure 5 below shows a circle of just over 0.5 miles centred on Lyde Green Primary School. The above two criteria will include children resident within the circle, apart from those living southwest of the A4174 (the ring road).

Figure 5



29. The data for 2022 shows that:

- a. 25 Lyde Green children were refused a place at Lyde Green Primary School, of whom 23 were then offered places at schools in the APR; and
- b. of those 25, four were offered a place at their second preference school and the other 21 were allocated a place at Barley Close School in the APR (school 5 in figure 1), a school for which none of them had expressed a second or third preference.

30. For 2023:

- a. 30 Lyde Green children were refused a place at Lyde Green Primary School, of whom 28 were then offered places at schools in the APR; and
- b. of the 30, 14 were offered a choice at their second preference school and 6 were offered their third preference. The remaining 10 were allocated a place at Barley Close.

31. I note at this point that the objector's assertion that "they [Lyde Green children] will never be high enough up the list of entry/oversubscription criteria for any school within the APR" is not entirely supported by the data. However, the previous two paragraphs again tend to the conclusion that it is illogical to describe Lyde Green as "self-contained". For any children who have been refused a place at Lyde Green but fortunate enough to receive an offer of a lower preference, these offers are more likely than not to have been for a school in the APR. Those unable to receive any of their preferences have been offered a place at a school in the APR which has low numbers of first preferences.

32. Finally, I have considered where, having considered the above points, a reasonable person might draw the north-eastern boundary if the APR for 2024 were being set up from scratch now, for the reasons given for its introduction in 2015. In my view there would no compelling reasons for drawing the line along the ring road and I have not been able to infer any such reasons from the response of the LA to the objection.

33. Taking into account all the above, I conclude that it is unreasonable that the definition of the APR in the 2024 arrangements excludes children living in the Lyde Green area. The arrangements do not conform with the requirements for reasonableness set out in paragraphs 1.14 and 1.8 of the Code. I uphold this aspect of the objection and the arrangements will need to be revised.

Is the description and use of the APR fair?

34. The objector has raised the matter of fairness as well as reasonableness. The Code does not define fairness, which means that it has its ordinary dictionary meaning. In considering whether the arrangements are unfair to children living in the Lyde Green area, I will look at the consequences for them of their current exclusion from the APR. I will consider also the effects of the higher priority that the arrangements give to children living in the APR. In doing this, I have in mind that all oversubscription criteria will advantage some and disadvantage others; I have to consider whether they have done so fairly, balancing the effect on different groups.

35. The LA have supplied with me with detailed data regarding preferences, allocations and home to school distances for 2022 and 2023. This shows that:

- a. in 2022 and 2023 any child living in the APR was able to obtain a place at Mangotsfield (school 6 in figure 1) or Emersons Green (school 7) if that was their highest preference, regardless of distance;
- b. these two schools are the most popular second preferences for Lyde Green children;

- c. if Lyde Green children are unable to achieve a place at either of those schools then they are likely to be offered a place at Barley Close;
- d. of the 21 Lyde Green children allocated a place at Barley Close in 2022, the average straight-line home to school distance was 1.1 miles, with a minimum of 0.9 miles; and
- e. of the 10 Lyde Green children allocated a place at Barley Close in 2023, the average straight-line home to school distance was 1.2 miles, with a minimum of 0.9 miles.

36. On the face of it, the arrangements would seem to disadvantage children resident in the Lyde Green area who are unable to secure an offer from Lyde Green Primary School. They are a relatively low priority for alternative schools and so there would appear to be a lower chance of any parental preference for an alternative school being met.

37. However, an expansion of the APR to mitigate any such apparent disadvantage to Lyde Green children might also increase the disadvantage to some APR children, as both groups would now fall under the same oversubscription criterion. They would all be living in the new APR so the relative priority for any of the schools within the APR would depend (leaving aside such matters as looked after status and siblings) on distance between home and school.

38. In order to judge the effect of the arrangements on the different groups of children, I have looked in detail at the impact on the pattern of offers for Emersons Green and Mangotsfield for 2022 and 2023, and considered how they might have been different had Lyde Green been in the APR.

Table 1

	2023	2022
Emersons Green (PAN 30)	Last successful Lyde Green preference is further away than last APR place. Hence no impact on actual offers (except ranking order) if Lyde Green had been added to the APR.	Up to two APR offers would be displaced with Lyde Green added to APR (both further away than last successful Lyde Green preference). Average journey to Barley Close for these two is 1.3 miles.
Mangotsfield (PAN 90)	Last successful Lyde Green preference is further away than last APR place.	A maximum of five APR offers displaced with Lyde Green added to APR.

	2023	2022
	Hence no impact on actual offers (except ranking order) if Lyde Green had been added to the APR.	Average journey to Barley Close for these five is 1.2 miles

39. Table 1 shows that whilst the arrangements might appear in the first instance to be unfair to Lyde Green children, the disadvantage arises primarily from home to school distance rather than from the exclusion from the APR. The geography of the area and the locations of the schools are such that any expansion of the APR would not have had a significant effect on the availability of places at Mangotsfield or Emersons Green for children in the Lyde Green area, nor on the availability of places within the APR for children in the current APR. In the event that some children were left without any of their preferences, the average distance to a school with available places would be similar to what it is now.

40. It is not possible to model the outcome for 2024 since we do not know how patterns of preference for different schools in the APR might change. However, based on the information from 2022 and 2023, I have no evidence that the arrangements breach the requirement for fairness as set out in paragraph 14 of the Code and so I do not uphold this aspect of the objection.

Summary of Findings

41. I do not that find the arrangements breach the requirements in the Code to be objective and fair. However, I find that the arrangements are unreasonable. This is because the definition of the APR, which excludes the new housing in the Lyde Green area, is no longer rational and logical in light of the significant development that has taken place in the Lyde Green area, and the subsequent availability of school places for children resident there. I partially uphold the objection.

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 determined by South Gloucestershire Council for a number of community and voluntary controlled primary schools.

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 July 2023

Signed:

Schools Adjudicator: Clive Sentance