

DETERMINATION

Case reference: ADA/001127; ADA/001130 and ADA/001174

Objectors: Derbyshire County Council; Melbourne Junior School and seven individual parents

Admission Authority: the Governing Body of Chellaston Foundation School and Technology College

Date of decision: 14 August 2007

Determination

In accordance with section 90 (3) of the School Standards and Framework Act 1998, I do not uphold the objection lodged by Derbyshire County Council, Melbourne Junior School and seven individual parents.

I determine that for September 2008 admissions, the arrangements for Chellaston Foundation School and Technology College should be as determined by the governing body of the school.

The referral

1. Derbyshire County Council (the County Council), the governing body of Melbourne Junior School and seven individual parents have referred an objection to the adjudicator about aspects of the oversubscription criteria included in the admission arrangements (the arrangements) for Chellaston Foundation School and Technology College (the school) for September 2008.

Jurisdiction

2. These arrangements were determined under section 89(4) of the School Standards and Framework Act 1998 (the Act) by the governing body which is the admission authority for the school. The arrangements were notified in a letter dated 27 April 2007. The County Council and governing body of Melbourne Junior School submitted their objections to the arrangements on 17 and 14 May 2007 respectively. The objections from individual parents were received between 4 and 11 June. I am satisfied that these objections have been properly referred to me in accordance with section 90 of the Act, and that it falls within my jurisdiction.

Procedure

3. In coming to my conclusions, I have had full regard to the Act and Regulations made thereunder, the Schools Admissions Code (the Code) and all the evidence presented so far as it is relevant to the objection. I have also had regard to the relevant provisions of the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; and the

Human Rights Act 1998.

4. Among the documents I have considered are:

- the letter from the governing body of Melbourne Junior School dated 14 May 2007;
- the County Council's letter of objection of 17 May 2007;
- the parents' letters of objection;
- the school's response to the objection and supporting documentation;
- a letter from Derby City Council dated 5 June 2007, providing background information and comment;
- the City Council's booklet for parents seeking admission to schools in the area in September 2007;
- approximately 175 letters from individuals and organisations expressing views about the arrangements;
- maps of the area identifying relevant schools;
- previous determination dated 19 June 2006.

The Objection

5. The principal points made by the objectors are as follow.

- a. The use of random allocation as an element within the oversubscription criteria is inconsistent with the Code in this case as the school serves an area which is, in part, rural.
- b. The arrangements will have a detrimental effect on Derbyshire pupils whose rural location means that they may live many miles from an alternative school. This point is reinforced by the governing body of Melbourne Junior School which points to children from their village being a particular case in point. Some individual parents highlight the difficulty which some people living in the City will have in accessing alternative secondary schools, and argue that the transport difficulties faced by children from the villages have been over-stated.
- c. Children living in the vicinity of the school should be afforded higher priority than those living in more rural areas, so as to promote community cohesion and to protect the interests of socially and economically disadvantaged families.
- d. The introduction of random allocation would be more likely to lead to the break up of friendship groups as children move from primary to secondary school.
- e. Parents will be unable to plan for their children's secondary education,

and the additional uncertainty introduced will add to the anxiety experienced by children and families.

6. The submissions made by individuals reflect the points made by the objectors, especially those relating to the accessibility of alternative schools for children living in the County, giving rise to concern about journey times and environmental considerations. In addition many argue that Chellaston School was originally built to serve Melbourne and neighbouring villages, and that it is the City Council's failure to make sufficient additional provision to accommodate children moving into new housing in the city which has precipitated the current difficulty. Conversely, others argue that the school should serve the community in which it is located as a priority.

The School's Response

7. In response to these objections and comments the school makes the following points.

- a. The school has given careful and extended consideration to their arrangements and, in doing so, has taken careful account of the range of views expressed to them during consultation.
- b. The governing body is committed to the principle that the school should serve the range of communities (urban and rural) found in what it refers to as its "normal area". As a result they have resisted the inclusion of oversubscription criteria which rely on simple measures of distance, as this would be bound to operate to the disadvantage of some part of the relatively large geographical area currently served by the school.
- c. The governors have sought to base decisions on principles of common sense, reasonableness and transparency, and to avoid what might be considered narrow factional interests.
- d. The governing body will always strive to accommodate all pupils living in its normal area, but there is an underlying issue arising from the growth in pupil numbers consequent on building development in the area. Although the school has expanded to increase its capacity and accommodate additional pupils, it is now at or near the capacity of its site, and must secure a reliable means of constraining pupil admissions to the level which the premises can reasonably accommodate.
- e. Developments in the normal area of the school over recent years and the development of the road and transport infrastructure in particular, make the use of the term "rural" arguable.
- f. It is unreasonable to suggest that children from the villages (and Melbourne in particular) will be disproportionately disadvantaged by the random allocation tie-breaker. Alternative schools likely to have available places for children living in the city part of the area are some distance away, as is the case for children living in the villages.
- g. The proposed tie-breaker is no more likely to cause distress to individual children or uncertainty to parents than any of the available

alternatives.

8. The school's arrangements are supported by the City Council and the Admissions Forum for the area.

9. The City Council confirms the points made by the school and points out that pupil number projections suggest that the contested tie-breaker is unlikely to be required in respect of applications from within the school's normal area for the next five years.

Consideration of Factors and Conclusion

10. It is important to be clear that in this case random allocation is used not as a primary oversubscription criterion, but as a tie-breaker, to be used only in the event that the application of other criteria leave the school with more applicants than it can accommodate in any given year. There is no objection to the principal oversubscription criteria.

11. The governors of the school have gone to considerable lengths to consult and to find a set of criteria (and a tie-breaker) which are seen as fair and acceptable by the communities they serve. The admission arrangements (and the oversubscription criteria in particular) have been constructed precisely to avoid many of the concerns articulated by the objectors and their supporters: high priority is given to siblings; the use of a catchment area protects friendship groups and gives parents a firm basis on which to make decisions about their children's secondary education. It is clear that the principles underpinning the governors' decision are consistent with those espoused by the objectors.

12. The problem arises from the possibility that the number of children living in the normal area whose parents apply for a place at the school may exceed the number of available places in one or more of the years ahead. This being the case, the school is confronted with three options: it could reduce the size of the normal area; it could expand further; or it could introduce a factor to the arrangements, enabling it to limit admissions from the normal area should this be necessary. The scope for further expansion of the school is apparently limited and, in any event, would depend on the availability of resources from beyond the school. It is not an option for the governing body acting alone. A reduction in the size of the normal area would give rise to many of the disadvantages objected to in the present case. I have to say that, if a growth in pupil numbers greater than that for which the governors are planning were to materialise, this unattractive options may have to be pursued in consultation with other local admission authorities.

13. In the meantime, however, on the basis of the pupil number projections available to me, there appears to be every likelihood that the school will be able to meet demand from its normal area in the next few years. Thus the determined arrangements, including the provision of a tie-breaker to be used in exceptional circumstances, provide a reasonable way forward. The core issue then becomes the suitability of the chosen tie-breaker.

14. Many of those objecting to the arrangements refer me to the points made

in the Code about the usefulness of random allocation and, in particular, to the suggestion that this approach may not be suitable in rural areas. It is important to be clear that the focus of the section of the Code in which this advice occurs is oversubscription criteria generally, not tie-breakers in particular. Indeed, in the paragraph urging admission authorities to include an effective tie-breaker in their arrangements, random allocation is given as an example of good practice without qualification as to context. Furthermore, contrary to the view expressed by many correspondents, the Code does not preclude the use of random allocation in rural areas. It warns that it might be less applicable there than in urban areas.

15. In any event the term “rural” is a relative not an absolute one. In this case there is some disagreement as to how rural the southern part of the normal area now is. I note that Melbourne Junior School, the governing body of which is one of the objectors to the arrangements, is designated as a rural school by the Department for Children Schools and Families. What is not in dispute is that the south of the normal area is more rural than the north. But the only significant practical issue arising from this is the accessibility of alternative schools for children potentially denied a place at Chellaston as a consequence of the application of the tie-breaker. It is not suggested that there are no alternative schools available. Concern is expressed about the length of the journeys which children living in the south of the normal area would have to undertake. This concern is understandable, although the distances involved compare favourably with those confronted by children in other rural areas of the country. I accept that access to schools likely to have places for children living in the City would also be problematic in some cases.

16. The governors of the school have confronted a difficult issue honestly and openly. They have been thorough in their consideration of options and their consultation. They have made it clear that they will do all they can to accommodate children from their designated area. They are right to include in their arrangements a tie-breaker mechanism for use in exceptional circumstances. Their chosen mechanism is clear and objective and consistent with the requirements of the Code. I therefore conclude that the objections should not be allowed.

Determination

17. In accordance with section 90 (3) of the School Standards and Framework Act 1998, I do not uphold the objection lodged by Derbyshire County Council, Melbourne Junior School and seven individual parents.

18. I determine that for September 2008 admissions, the arrangements for Chellaston Foundation School and Technology College should be as determined by the governing body of the school.

Dated: 14 August 2007

Signed:

Schools Adjudicator: Andrew Baxter