



Young People's
Learning Agency

NTI Building
15 Bartholomew Row
Birmingham
West Midlands
B5 5JU

0845 337 2000
www.ypla.gov.uk

Gloucestershire County Council
Shire Hall
Gloucester
Gloucestershire GL1 2TP

20 September 2011

Re: Objection to the Determined Admission Arrangements for Cirencester Kingshill Academy (Objector AC/013)

Further to your letter objecting to the determined admissions arrangements for Cirencester Kingshill School for the 2012/13 admission year, I am writing to inform you that the Young People's Learning Agency (YPLA) has reached a decision on behalf of the Secretary of State.

The YPLA is required to seek the advice of the Office of the Schools Adjudicator (OSA) before reaching any decision on objections to Academies' determined admissions arrangements. This enables the YPLA to draw on the OSA's expertise in admissions matters. The YPLA then reaches a judgement based on all the evidence and issues a decision to all parties on behalf of the Secretary of State.

The YPLA has considered all the relevant material including objections received and the OSA's Recommendation and believes the advice of the OSA to be appropriate. The YPLA has instructed the Academy Trust to fully implement in full the following Recommendation with regard to Cirencester Kingshill School's arrangements for the 2012/13 admission year.

Recommendation from the OSA

"In response to the Secretary of State's request for advice under section 25 of the School Standards and Framework Act 1998, I recommend that the Secretary of State uphold the objections to the admission arrangements of Cirencester Kingshill School."

The OSA's full advice to the Secretary of State, setting out the objections and the Adjudicator's response to them, is enclosed for your information.

I am also copying this letter to the Chair of Governors of Cirencester Kingshill School.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sue Reekie', with a stylized flourish at the end.

Sue Reekie

Director of Academies (South West/West Midlands Territory)

Tel: 0121 345 4549

e-mail: Sue.reekie@ypla.gov.uk

copy to:

Chair of Governors at Cirencester Kingshill School

RECOMMENDATION TO THE SECRETARY OF STATE

Case reference: AC/013

Objector: Gloucestershire County Council

Admission Authority: Governing Body of Cirencester Kingshill School.

Date of decision: 9 August 2011

Recommendation

In response to the Secretary of State's request for advice under section 25 of the School Standards and Framework Act 1998, I recommend that the Secretary of State uphold the objections to the admission arrangements of Cirencester Kingshill School.

The referral

1. Gloucestershire County Council ('the Council') has referred an objection to the Secretary of State about the admission arrangements ('the Arrangements') for Cirencester Kingshill School ('the School'), a foundation secondary school that converted to Academy status on 1 August 2011. The objection is to the published admission number ('the PAN') determined by the governing body for 2012/13.

Jurisdiction

2. These arrangements were determined under section 88 C of the School Standards and Framework Act 1998 (the Act) by the governing body, which is the admissions authority for the School. The Council submitted its objection on 29 June 2011. I am satisfied the objection was properly referred in accordance with section 88H of the Act. Since the referral the School was, on 1 August 2011, designated as an Academy jurisdiction on this matter therefore passes to the Secretary of State. He has requested, acting through the Young People's Learning Agency (YPLA) that I continue to consider this matter and make a recommendation to him about the course of action he should take.

Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code ('the Code').
4. The documents I have considered in reaching my decision include:-
 - The admission arrangements determined by the governing body
 - the Council's objection dated 29 June 2011 and subsequent correspondence;
 - the initial response from the School on 12 July 2011, supporting papers and further submissions;
 - a map of Cotswold Primary and Secondary Schools;
 - the Net Capacity Assessment for the School dated January 2008;

- The Secondary Schools Information Booklet for 2011/12 and School Admissions Guidance Booklet 2011/12.

The Objection

5. The Council has referred an objection to the Secretary of State about the proposed increase to the PAN from 165 to 189 on the following grounds.
 - Pupil projections indicate a continuing decline between 2011 and 2015 and therefore an increase in provision at the School, as early as September 2012, would serve only to add to surplus capacity of secondary provision. This could pose a risk to the viability of neighbouring schools.
 - There is likely to be an insufficient number of children moving into the new housing development, as early as September 2012. However with an increased PAN, the School would have no option but to admit up to its limit and to do this it would have to offer places to pupils who live some distance away. An extra form of entry in 2012 would curtail its ability to any admit in-year pupils from new housing across all year groups.
 - If the School increased its capacity for the 2012 intake, a trend of admissions from families residing outside the catchment area would develop. This would generate a future demand for places at the School that it would not be able to meet, in the event that the number of in-catchment applications increased. This would affect the Council's ability to meet parental preferences and could add to transport costs.
 - The School did not fully consult other secondary schools in the area.

Background

6. Cirencester town is served by two outstanding secondary schools, which are popular with parents. Each school currently has some spare capacity and could accommodate a number of additional pupils and still remain within the Net Capacity Assessment.
7. Within the catchment area of Kingshill School there are plans for 2 new developments which when fully built have the potential for 451 housing units. In Cirencester North, 270 units of mixed development, consisting of 196 houses and a number of flats, commenced in July 2008. However by June 2010 just 24 properties had become occupied and a year on, by June 2011 this number had risen slightly to 37 homes. A second development in Cirencester South initially proposed 311 units of mixed housing to include 255 houses and reserved matters approval was granted in April 2009 for the first 30 houses. However by June 2010 plans had changed and no development commenced. Overall the rate of house building and sales has not been as expected, perhaps reflecting the difficult economic circumstances that prevail.
8. An emerging Regional Spatial Strategy (RSS) had indicated that in the Cotswold district up to 6,000 new homes would be built by 2026 and it had been expected that Cirencester, a key settlement within the district, might have been allocated a significant proportion of new homes but the Council advised the School in June 2010 that RSS would be

abolished and there was uncertainty about future housing development.

9. The Council objects to the proposed increase of 24 places to 189 for September 2012 at Kingshill School, because pupil projections indicate that the number of 11-15 year olds will decline in the Cotswold District, falling from 4957 in 2011 to 4647 in 2015.
10. Deer Park School, the second school serving the town, retains capacity to admit pupils within its PAN; it has been the first of the two schools to experience the impact of declining secondary school numbers.

Consideration of Factors

11. In considering the issues I have been greatly assisted by the quality and rigour of the submissions from the School and Council and it is evident and extremely helpful that both parties have maintained excellent records of the numerous, ongoing communications with each other.
12. The first aspect of the objection relates to the impact that an increase to the PAN of the School, might have to the viability of other local schools, particularly given the current context of a surplus of secondary capacity in other local schools that are also outstanding, and falling secondary pupil numbers in the area.
13. The School correctly points out that Council projections for the next four years do not include any pupil product from housing developments. The Council acknowledges that new housing could potentially increase the demand for places and that this might counteract the decline in pupil numbers to some extent, but it does not expect any significant change to the overall downward trend of secondary pupil numbers.
14. With housing development very slow, but nonetheless ongoing, data about the number of houses built and occupied, and the actual number of secondary pupils generated by this, is constantly changing. The Council calculates that when both developments are finally completed, some years from now, there is the potential for 13 pupils per year group to be generated, with a maximum of 81 pupils aged between 11-16 years. The School strongly disagrees with the methodology used and does not agree with this calculation, as pupil product from families moving into flats has not been included and would, in its view, increase pupil product to 91 pupils.
15. The Council states that the formula it applies determines the financial contributions from developers and therefore has to be robust. It has applied a standard formula for calculating 'pupil product' based on its experience of monitoring the actual number of pupils generated in fifty countywide housing developments. The latest information shows that around a third, (130) of the planned homes have become occupied over a period of 18 months and have generated just 16 or so secondary age pupils. These pupils have already been accommodated in local schools and therefore must be excluded from future forecasts of additional pupils. The Council contends that even if it included flats in its housing calculation, *'.....an additional 11 pupils would not change the principle that the school does not currently need to offer an additional 24 places at the year of entry from 2012, particularly because pupils arising from the development will be across all year groups(not just year 7).'*
16. The School disagrees, asserting that it is popular with parents and feels confident that its record of popularity combined with the housing development within the catchment area, will create a sustained demand for 189 places in 2012 and in each subsequent year. It refers to its March 2010 waiting list of 27 pupils and its request for a temporary increase

to its PAN which was not agreed by the Council. The number of first preferences for 2010 was 184 and for 2011, 174. The School's view is that the reduced number of first preferences for September 2011 is not indicative of declining pupil numbers but rather that parents had expressed preferences for other schools because of oversubscription at the School in previous years.

17. Taking each point raised by the School, the Code (paragraph 1.22) does refer to the presumption that proposals to expand popular schools should be approved and states that the existence of surplus capacity in neighbouring schools should not in itself prevent expansion, but rather that the local authority should consider how it can take parallel action to remove surplus places. However in my view the underlying intention of the Code is to provide parents with the most favourable opportunity of accessing high quality education rather than to enable schools to expand their intakes without due regard for the impact on other local schools that are also outstanding. It is clear that other schools in the area have been taking action in conjunction with the Council to reduce surplus capacity.
18. The School states that it is confident that there will be an increased and sustained demand for additional places but the number of pupils moving into the new housing has been very low to date and there are few indications that the rate of house building will increase in the next 12 months. The Code also refers to key role of the Council as the strategic commissioner of school provision and the importance of securing the closest possible match between pupil numbers and school places.
19. The Council acknowledges that planned housing developments are sited within the catchment area boundary of Cirencester Kingshill School and it is supportive of an increase to the PAN, should this become necessary at some point in the future. To this end it has made a firm commitment that capital funds from developer contributions will be allocated to the School and has advised the School that the timing of payments will be directly linked to the rate of build and this has been affected by the economic slowdown.
20. Turning to the issue of the impact on other schools, the governing body does not accept that increased capacity at the School would be detrimental to any other local schools. However objections were received from 2 local secondary schools and the following points were raised:-
 - Pupil projections for South Cotswold indicate an increase in the number of surplus places which is already impacting on the intakes of 3 local secondary schools
 - Pupil numbers are projected to decline year on year until 2015/16
 - Other popular and outstanding local schools are experiencing the impact of falling pupil numbers
 - In response to this demographic dip 2 schools have already reduced their PANs in order to reduce the number of surplus places and it would be incongruous for Kingshill to increase its PAN in these circumstances
 - Consideration should be given to the fact that two other local secondary schools judged by Ofsted to be outstanding both have spare capacity and that a more cost effective way to deal with any increase that might materialise, would be to consult on catchment area boundaries

- In a time of recession any capital investment to create additional capacity when there is already a surplus in local outstanding schools make no economic sense
- Many first preferences for the outstanding schools in the area come from parents living well beyond each catchment area and this can mask the actual number of parents expressing preferences from within each respective catchment area
- It should be the number of children who live within the School's catchment area plus any projected increase due to housing development, that should determine the PAN for the School but it was insufficiently clear, how many pupils currently attending the School were drawn from outside its catchment

21. The Council states that if the School were to increase the number of places available too early, overall capacity would exceed even the most optimistic projections of future demand from within the School's own catchment area. In the absence of sufficient numbers of pupils from new housing to fill it, the School would have no option but to accept more applications from the catchment areas of other schools. In its view this can only have a detrimental effect on the other local schools from which these pupils would be drawn.

22. It is apparent that the nearest school (Cirencester Deer Park) is the one most likely to be affected. It has approximately 1023 pupils on roll and also offers an outstanding quality of education. Any significant reduction in intake, should it occur, would undoubtedly affect its financial viability with the possibility of negative consequences including its ability to retain staff, maintain its curriculum offer and ultimately affect the quality of education available to a significant number of pupils. Caution must therefore be exercised when considering the timing of any future increase to the PAN of Kingshill School.

23. The second aspect of the objection relates to the fact that the School would have no option but to admit up to its new PAN drawing pupils in from some distance. This would reduce its ongoing ability to admit in year pupils who might move into the catchment area.

24. The Council states that within the current PAN of 165, places have been offered to children who live over 10 miles from the school and that in its view any further increase in capacity for 2012 would merely create additional places for children living some distance from the School. Data indicate that in the last school year (2010/11) and for the next (2011/12) that 2 statements for children with special educational needs had named the School. Places were offered according to the oversubscription criteria (OC) as follows, with figures for 2010/11 included in brackets for reference and comparison.

- OC 1. There were no applications on behalf of children in public care, **(0)**
- OC 2. 42 places were offered to in-catchment siblings **(37)**
- OC 3. 64 to in-catchment applicants **(69)**
- OC 4. 23 places were offered to out-catchment siblings **(21)**
- OC 5. There were no applicants qualifying as medical exceptions **(0)**
- OC 6. The final 34 places were offered to 'other children with the strongest geographical claim' **(40)**

25. The Council's view is that if the School increases the number of places too early, its

overall capacity would exceed even the most optimistic projections of future demand from within the School's own catchment area. However the School contends that there is a lack of planning by the Council for pupils who may move into the housing development. The governing body quite sensibly wants to plan ahead, aware of the potential need to expand at some point in the future. It has fully assessed requirements to meet the needs of 7 forms of entry both in terms of curriculum development and building work to provide the necessary specialist provision. It is confident that it could accommodate an additional form of entry until 2014 without having to add provision.

26. The School and Council have worked successfully together to meet in-year demand across the year groups by using the spare capacity it currently has. However whilst at present the School has flexibility of capacity which enables it to admit pupils in-year to all 5 year groups, an increase of one form of entry would certainly curtail this ability and be detrimental to local children whose families might move into the new housing during the year.
27. It is evident that in the absence of sufficient numbers of pupils from new housing to fill it, the School would have no option but to accept more applications from outside its own catchment area. In doing so some of the spare capacity that the School has used in the past to admit in-year pupils to all year groups would not be available.
28. The third strand of the objection concerns the possibility that a trend of admissions from outside the catchment area could develop if the School adds capacity in 2012, and thus create a future demand for places that it would not be able to meet, in the event that the number of in-catchment applications increased. The Council's contends that this would affect its ability to meet parental preferences and could add to transport costs.
29. Schools must meet parental preferences to the maximum extent possible and I fully appreciate the quite proper concern of the governing body to be well prepared to ensure – should the need arise – that it has sufficient capacity to meet the demand from within the catchment. The Council remains concerned however that due to the slow rate of build and occupation of the new housing, there is a clear risk that additional places created too soon would merely be filled from out-catchment pupils. It is possible in these circumstances that such a trend could add to transport costs for siblings and that parents living outside the catchment, who in the past had expected to have a first preference for the school met, might thus be unsuccessful in future years, if the School were to fill with pupils from housing within its catchment area.
30. The final aspect of the objection relates to concerns that the Council states have been raised by other secondary schools about the lack of consultation.
31. The Council provided appropriate advice to the School in June 2010 about the procedure to change its PAN. Regulations require that admission authorities consult on all aspects of arrangements for a minimum period of 8 weeks and consult the local and neighbouring local authorities and admission authorities within the relevant area or adjoining areas.
32. The governing body held a public meeting in January 2011 during the required 8 weeks consultation period, between 8 December 2010 and 16 February 2011. During this time the School wrote individually to the Council, to parents of children in Years 5 and 6 and to local primary and secondary schools in both Gloucestershire and Wiltshire. However, due to an oversight the neighbouring local authority, Wiltshire, was not formally consulted, as required by the Code (paragraphs 1.26 and 1.27).
33. In relation to the specific objection that local secondary schools were not fully consulted

there is abundant documentary evidence provided by the School of its consultation about a change to its admission arrangements. There were objections from 2 local secondary schools which are detailed above and the School has been meticulous in responding to all correspondence with local schools about the issue of increasing its PAN for 2012.

Conclusions

34. Given the future *potential* for an increase in pupil numbers from 2 housing developments it is commendable that the governing body of this popular school wishes to be fully prepared and has undertaken appropriate curriculum planning and scoping of premises development. One would expect no less from an outstanding school.
35. Although there is a presumption towards expanding popular schools it is evident that in Cirencester and the wider district, parents have the good fortune to be able to express preferences for not one but several outstanding schools. Secondary rolls are projected to fall over the next 4 years and other local schools are taking action to reduce their capacity. It is entirely possible that any 'pupil product' from housing will merely go some way to lessening the decline in overall numbers in all local schools, including Kingshill and therefore caution must be exercised by the admission authority for the School.
36. The Code is clear that admissions authorities must take account of known facts when making and changing Arrangements. In this case it is known that pupil projections, excluding housing product, show a significant reduction over the coming four years; that there has been very slow progress in the rate of house building over the past 18 months; that the 16 secondary age pupils generated from housing to date have already been accommodated in local schools and that there is availability of capacity in other outstanding local schools.
37. One should not discount the fact that this is a time of national austerity measures and in this context must question the wisdom of making what would appear to be a significant but unnecessary capital investment. The School currently has spare capacity which it uses to admit in-year applicants and it would be important therefore not to move quite so precipitately to use this capacity to create a seventh form of entry which is not actually required yet, and in the process by committing its spare accommodation, limit its ability to admit new in-catchment pupils across the year groups.
38. So the key issue here in my view is one of the timing of the increase to the PAN by the governing body and this will be critical to its effectiveness in meeting the needs of families moving into the catchment and in avoiding unnecessary detriment to other local secondary schools. It may be some years before the School needs to increase the PAN and it is possible, if Council forecasts are accurate that no increase would be required at any point in the future.
39. In my view the Council and the School should continue to closely monitor the situation and to review pupil projections to take account of the rate of house building and the secondary pupil product generated. In the event that this is larger than currently anticipated, it would be entirely possible for the School to raise its PAN as part of its determination of arrangements in future years when there is more certainty about the

need for additional places.

40. For these reasons I have concluded that the objection to the increased PAN should be upheld.

Recommendation

41. In response to the Secretary of State's request for advice under section 25 of the School Standards and Framework Act 1998, I recommend that the Secretary of State uphold the objections to the admission arrangements of Cirencester Kingshill School.

Dated: 9 August 2011

Signed:

Schools Adjudicator: Carol Parsons