

# The grammar school debate continues

Ane Vernon assesses the possible implications of a judicial review of the decision to open a 'satellite' site of a Kent grammar school



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**D**espite the longstanding ban on new grammar schools, Weald of Kent, a grammar school in Tonbridge, is set to open a satellite school in Sevenoaks in 2017. Although the decision has been overwhelmingly supported by local parents, it has prompted condemnation from Labour's shadow education secretary and pressure group Comprehensive Future, which has announced it is taking legal advice regarding a possible judicial review claim.

What is the historical and political background for such uproar, and what implications are in store for the British education sector?

## Grammar school ban

The modern grammar school concept dates back to the Education Act 1944, which made secondary education free and created the so-called 'tripartite system'. The system divided secondary education

into grammar schools, which focused on academic studies; secondary modern schools, which concentrated on vocational skills; and technical schools, of which only a few were ever established.

The main concerns about the tripartite system were that secondary modern schools were giving a second-rate education and that children were segregated at far too young an age as a result of the dreaded 11-plus exams.

The grammar school system remains a focus point in political argument about class division, with critics accusing grammar schools of promoting the privileges of the middle classes against an equality of opportunity for all.

The ban on new grammar schools was established through the Schools Standards and Framework Act 1998. However, existing laws do allow for schools to expand the number of students and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 contain a provision allowing 'satellite schools' of an existing school, provided that Department for Education guidelines are considered.

These guidelines state that the level of integration between the satellite school and the sponsor school will determine whether it is a satellite school (or 'split site' school) or a new school.

## Legal framework

The situation on the ground in Sevenoaks lends itself to testing the limits of this legal framework. Kent County Council has retained the grammar school system, and despite Kent's having more grammar schools than any other county, Sevenoaks – a major town – has none. Kent's population is increasing, piling pressure on its existing schools. These local undercurrents prompted Education Secretary Nicky Morgan to insist: 'I don't want to fight the battles of selective and non-selective... This is one particular application with one particular set of circumstances.'

The administration of the school had already come under scrutiny. Michael Gove turned down a proposal by Weald in 2013, partly because the satellite site would be co-educational in contrast to the girls-only existing site. The new proposal has acceded to that criticism and will continue to only admit girls. This is given as proof of sufficient integration by supporters, but has been pounced on as window dressing by opponents.

An application for judicial review of the decision will not air the battles of selective and non-selective education in general: any court case will be concerned with a careful analysis of the facts and circumstances, as well as the application of the Department for Education guidelines.

Certainly, the legal framework exists for a school to expand into a satellite site. The flashpoint for any judicial review will be whether the new site in Sevenoaks actually constitutes a satellite site within the meaning of the guidelines. These stress that proposers need to ensure the new provision of a satellite site is 'genuinely a change to an existing school and not a new school', taking into account factors such as the use of the new site, the sharing of facilities and resources, admission arrangements, the movement of pupils between sites, school activities, and whether staff have employment contracts to work on both sites.

All these factors are intended to determine the level of integration between the two sites: the more integration, the more likely the change can be considered as an expansion.

Since each case turns on its own facts, the Weald of Kent case is unlikely to cause a ripple effect of grammar school expansion throughout the country. Still, a positive outcome is likely to cause many existing schools to consider their positions and whether expansion to a new site is a realistic option.

The political waves following Weald's expansion are indicative of the highly charged political questions that have surrounded grammar schools since their modern form inception in the 1940s. SJ