

DETERMINATION

Case reference: ADA/002206

Objector: An eligible parent

Admission Authority: London Borough of Merton

Date of decision: 1 September 2011

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 determined by Merton Council, for Wimbledon Chase Primary School, a community primary school.

The referral

1. An eligible parent (“the objector”) has referred an objection to the Office of the Schools Adjudicator about the admission arrangements (“the arrangements”) for Wimbledon Chase Primary School (“the School”), a community primary school. The objection relates to the Admissions Priority Areas which are considered to be in breach of the School Admissions Code (“the Code”) requirement for fair and equal access to educational opportunity.

Jurisdiction

2. The arrangements were determined under section 88C of the School Standards and Framework Act 1998 (“the Act”) by Merton Council (“the Council”), which is the admission authority for the School. The eligible parent submitted the objection to these determined arrangements on 31 July 2011. I am satisfied that this objection has been properly referred in accordance with section 88H (2) of the Act and that I have jurisdiction to consider the arrangements under the Act.

Procedure

3. In coming to my conclusions, I have had full regard to the relevant legislation and guidance.
4. The documents I have considered in reaching my decision include:
 - the objection from an eligible parent dated 31 July,
 - the response from Merton Council

- A copy of the determined arrangements for Merton Council's Community, Voluntary Controlled Secondary & Primary Schools for 2012/13
- Parents booklet 'Starting Nursery or Primary School in 2011' including local maps Consultation document on the Primary School Expansion Strategy 2011- 13
- Website documentation on proposals to expand Dundonald Primary School

The Objection

5. An eligible parent has objected to the admission arrangements determined by the Council on the grounds that they are in breach of the Code by failing to meet the requirement for admission authorities to ensure that arrangements enable fair and equal access to educational opportunity.

Background

6. The London Borough of Merton is experiencing a major increase in demand for primary school places fuelled by a 30% increase in the birth rate over the past six years. The objector resides in an area within a few hundred metres of several primary schools. It is her view that due to the general increase in demand and the resulting reduction in catchment area distances, families residing in a particular road, Graham Road, SW19 are unlikely to obtain a place at any one of the local schools.
7. During the period from September 2008 to September 2010, nine schools increased their intake and each admitted an additional reception class. Three of these schools are local to the objector, namely Wimbledon Chase, Hollymount and Joseph Hood Primary Schools.
8. A consultation considered options for an admissions priority area ("APA") for Wimbledon Chase Primary School to take account of its recent expansion, in order to deal with the issue of finding accessible places for families living in the area of Wimbledon/West Wimbledon to the north of the main railway line, whilst protecting other schools to the south where rolls could actually fall if there were 30 additional places locally. The Council determined that the most effective means of addressing this concern was to define an APA for the School from 2009/10, giving priority to residents in this area before those outside it.
9. The intention of the Council was that residents within the defined APA would live within 1.5 km walking distance and that the School would be the nearest one in which to obtain a place (with the exception of the area around Dundonald School, which has a very small area from within which residents can obtain a place).

Consideration of Factors

10. The Objector has not referred to specific aspect of the Code in her objection, but is clear that in her view the Council's admission arrangements are unfair so I have identified those of its provisions which may be relevant. Code 1.70 states

*“Local authorities are required to carry out their functions with a view to ensuring fair access to educational opportunity and this duty applies to a wide range of education functions. Local authorities **must** consider, for example, whether their admission or transport policies, their extended services provision or local funding formulae are in line with the principle of fair access to educational opportunity.”*

11. The oversubscription criterion for Merton community primary schools (after looked after children, priority on medical or social grounds and siblings) is that places are allocated in a straight line distance from each school. The exception to this general rule relates to Wimbledon Chase Primary School where an APA was agreed after consultation, at the time of its expansion in 2008.

12. The Council oversubscription criteria are as follows:

1. *Children in public care*
2. *Children with an exceptional and professionally supported medical or social need for a place in a particular school.*
3. *Those children who have a brother or sister (sibling) registered at the school who will be attending the school at the time of their admission.*
4. *All other pupils in order of nearness to the school **

[* Wimbledon Chase Primary School

- 4. *Children living inside the admissions priority area in order of nearness of home to the school by straight line distance.”]***

5. *Children living outside of the priority area in order of nearness of home to the school by straight line distance.*

13. The Council contends that it is planning as effectively as possible and that appropriate decisions need to be made at relatively short notice due to ever increasing numbers . The legal process for permanently expanding schools takes time and firm decisions on the schools that will take additional classes in 2012 have not yet been made. It is seeking to address the particular issue relating to families living in the Graham Road area by expanding Dundonald School, which is the nearest primary school.

14. However although there has been strong local support to expand the

school decisions are complicated by its location and the site of the proposed expansion, which would use the footprint of a building that is within a local park boundary. In the event that it is not possible to expand Dundonald School in time for entry in September 2012, the Council states that it would seek to provide a further 30 places at another alternative school and strive to ensure that the provision was 'as local as possible.'

15. It would not wish to alter the admission policy and the APA for the School after 3 years of successful operation because any change would merely lead to a lack of places in other parts of the borough. Having analysed the situation the Council states that it is doubtful whether changing the policy of having a defined APA and reverting to a distance based approach would actually help residents of Graham Road because it would result in an increase of admissions from areas to the south and west of the school.
16. I have considered whether the arrangements are unfair in the way prohibited by the Code. All arrangements are bound to discriminate to some extent between children— that is inevitable when a school is oversubscribed and decisions have to be made as to which children should be offered places.
17. I have sympathy with the objector in the position in which she believes herself and other residents to have been placed by the pressure for primary school places in the area of Merton where they reside. Although the Code recognises the validity of catchment or priority areas it does not permit admissions authorities to give parents an absolute guarantee of a place in a particular school.
18. The uncertainty for the objector is compounded by the general pressure locally for school places which results in there being no certain knowledge as to where alternative places will be provided. However it is evident that the Council is actively engaged in local consultations with a range of stakeholders including prospective parents.
19. The Council continues to monitor and review primary school capacity based on increasing birth rates and application patterns. A number of schools will provide additional reception classes in September 2012, however, these schools have not yet been agreed and therefore the council was not able to include them in their determined arrangements. A number of local schools have provided an additional 30 places for 2011/12 and are likely to do so again in 2012/13, although this will be dependent on the outcome of consultations related to the permanent expansion of the schools.
20. The fact that changing circumstances has led to the absence of certainty for the objector about admission to a particular school does not mean that the Council has failed in its duty to ensure fair access to

educational opportunity. Nonetheless, I do accept that changing circumstances have produced a situation of enhanced uncertainty for parents. The Council believes that in setting this policy and in determining the current arrangements it has fully adhered to the requirements of the Code and I would agree with this view.

21. I have concluded that the arrangements made by the Council are consistent with the requirements of the Code and, in particular, meet all of its mandatory requirements.

Determination

22. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Merton Council, for Wimbledon Chase Primary School, a community primary school.

Date: 1 September 2011

Signed:

Adjudicator: Carol Parsons