

DETERMINATION

Case reference: VAR/000535

Admission Authorities: The London Borough of Lambeth

Date of decision: 4 October 2011

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements for September 2012 for Norwood School, Lambeth.

The referral

1. The London Borough of Lambeth (“the Borough”) has, in its capacity as the admission authority for Norwood School (“the School”), a community school, referred a variation to the Adjudicator about the admission arrangements (“the Arrangements”) determined for that school for admissions in September 2012. The request was for the introduction of banding and of provision for the admission of up to 10% of pupils in accordance with aptitude.

Jurisdiction

2. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations.

3. I am satisfied that the proposed variation is within my jurisdiction.

Procedure

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

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

the Borough’s email of 7th September 2011, variation request form, supporting documentation, and further information in response to my enquiries;

evidence of the relevant bodies having been notified about the proposed variations;

the Borough's booklet for parents, 'Secondary Schools in Lambeth 2012/13'; and

explanatory notes from the School (including minutes from two governors' meetings) forwarded by the Borough on 28th September 2011.

Consideration of Factors

6. The standard variation request form includes the question, 'What major change in circumstances (a serious and unexpected event affecting the provision of education in the school) has led to your request for a variation?', reflecting section 88E of the Act (quoted above) and the further description provided in paragraph 4.25 of the Code. In its response to this question, the Borough outlined the effect on the School of its 'very large proportion of children with challenging behaviour', the intention that banding would ensure 'a balanced and comprehensive intake', and the further intention that admitting up to 10% of children a year with particular aptitude for the visual and performing arts (the School's specialism) would contribute to an overall improvement in standards. In response to my query as to how this met the requirements for a variation application, the Borough responded by referring to:

a continual concern which has been getting more challenging for the school year by year and the unexpected element is based on the uncertainty of the forthcoming roll, where the school do not have any knowledge of children needs who [*sic*] are applying for the school and have no way of planning support for vulnerable pupils.

It is not clear to me why these factors were not taken into account in time for the original determination of the Arrangements, particularly as there is evidence of previous correspondence between the School and the Borough on the subject. It remains unclear to me what constitutes the required 'major change in circumstances' for a variation request to be made, particularly in the light of the Code's recommendation that the change in circumstances should take the form of 'a serious and unexpected *event* [my italics] affecting the provision of education at the school'.

7. Nevertheless, since the referral has been made, and since I have jurisdiction to consider it, I will continue to do so.

8. There is no doubt that banding can have a beneficial effect on encouraging a balanced intake of pupils into a school. Banding is described in the Glossary and paragraphs 2.83-2.92 of the Code, including paragraph 2.89 regarding banding when partial selection by aptitude is also in place. There is no doubt that partial selection by aptitude is also permitted by the Code, as reflected and defined in paragraphs 2.78-2.82, 2.89 and 2.93.

9. I have evidence that the Borough has notified all the required parties of the proposed variations. However, I have concerns about the extent of consultation with parents and prospective parents that has taken place, and the readiness of the Borough and the School to implement the changes for admissions in September 2012. I have noted the following factors.

a. Although the draft new Arrangements, as sent to the relevant parties, describe the intention to admit a proportion of children by aptitude, they do not include an actual criterion with that effect, and do not reflect the requirement of paragraph 2.89 of the Code that selection by aptitude should only occur within the bands of children that have been settled.

b. The Borough's booklet for parents refers (on pages 45-47) to possible changes with regard to the School, mentions an intention that partial selection should begin in September 2013 (not 2012, as currently proposed), but does not mention banding.

c. Contrary to the Borough's assertion (with its provision of a website link), I have not been able to find any reference to the proposed changes in the School's prospectus. Neither have I been able to find any reference in the 'admissions' section of the School's general website.

d. I have not been referred to any specific standard tests that might be used as the verbal reasoning, numeracy and non-verbal tests that the School has said it would use for banding, and, more important, I have not been supplied with details of the tests that might be used for assessing aptitude. I have not been referred to any information which would enable me to conclude that the Borough has complied with sections 2.91 to 2.93 of the Code.

e. Although reference has been made in the proposed varied Arrangements to a Supplementary Information Form, no draft has been sent to me, as would be necessary before I approved the variations, since any such form would form part of the Arrangements.

f. Although the Borough and the School have spoken of parental support for the proposed variations, the School has referred me to the Borough for evidence, and the Borough has referred to the work done by the School's marketing company and the two parent governors, but have said that there is no written record of parental responses. The Borough has said that it has placed a public notice in a local newspaper, but has not sent a copy. In any case, I believe it would be unwise to rely upon such a notice alone, since such notices, in my experience, are often not seen by those for whom they would be of interest. Despite my question about consultation with prospective parents, I have not been provided with any evidence of communication with feeder primary schools asking them to draw the proposed changes to the attention of parents, and am not aware of any meetings for parents or prospective parents that have been called to explain the proposed variations and their implications. Although there is no legal requirement for consultation to be undertaken in relation to proposed variations, it would not, in my view,

be right to make changes to the arrangements of the sort proposed by this variation referral without taking into account the views of interested parties.

g. The minutes of governors' meetings on 31st January and 4th April 2011 that I have been sent are brief to the point of causing me to question the depth of consideration by the governors that has taken place. The latter minute includes, 'For future years the school would develop suitable tests that reflected the school's specialisms', which seems to support the intention reflected in the Borough's booklet for parents that testing for aptitude would not be introduced before the period leading to 2013 admissions.

10. The School is to be congratulated on what it describes as its outstanding improvement, being the most improved school nationally for 5 A-C GCSEs between 2007 and 2010, one of the top 5 schools nationally for 5 A-C GCSE results including English and Maths, one of the top 10 schools for added value between Key Stages 2 and 4, and the second most improved school in the London region for 5 A-C GCSEs including English and Maths. On that basis, the School is managing admirably what it believes is a disproportionately high number of challenging pupils. I do not want to minimise the difficulties that the School may well be overcoming in that direction, but, on this basis, it is difficult to understand the urgency of varying the Arrangements so late in the current admissions cycle. I have not been presented with any evidence as to the effect there might be on other schools of reducing the number of pupils attending the School with challenging behaviour as a result of introducing banding, and I suggest that the Borough might consider conducting such an exercise before changing the admission arrangements for the School. It is important, before any tests are introduced in the future, particularly tests for aptitude, that they meet the rigorous standards laid down by the Code (and are likely to be provided in a new Code), and that their nature is known to parents.

Conclusion

11. I am not persuaded that there is sufficient urgency attached to the proposed variations for the entitlement of parents, particularly prospective parents, to understand and respond to the proposed changes to be reduced by my approving the variations. It is highly regrettable that the variation requests have been made at this stage, so that it was not possible for my decision to be known before the end of the round of Open Days advertised in Borough's booklet.

12. For all the reasons of uncertainty over consultation with parents and prospective parents given above and over the Schools' preparedness to implement the proposed changes, I am not approving the variations. The Borough will be able to include changes, if it sees fit, in the draft admission arrangements for 2013 admissions which will be subject to the usual process of consultation. It is important that, if such radical changes are proposed, the Borough and the School should ensure that, as part of that consultation, prospective parents are fully appraised of the changes and their implications, in order to reduce the chance of formal objections being made.

Determination

13. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements for September 2012 for Norwood School, Lambeth.

Dated: 4 October 2011

Signed:

Schools Adjudicator: Canon Richard Lindley