



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3565

Objector: The governing board of Sheringham Primary School

Admission authority: The London Borough of Newham for Little Ilford School and all other community secondary schools in the Borough

Date of decision: 13 June 2019

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 for September 2020 determined by the London Borough of Newham for Little Ilford School and all other community secondary schools in the Borough.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by the governing board of Sheringham Primary School (the objector) about the admission arrangements (the arrangements) for Little Ilford School and all other community secondary schools in the Borough of Newham (the local authority) for September 2020. The objection is that the practice of giving children priority for places at these schools on the basis of the distance of the school from their homes is unfair to pupils at Sheringham Primary School.

2. The objector named Little Ilford School in the objection and subsequently said that the objection applied to all secondary schools in the Borough of Newham. In my view the wording of the objection could be construed to include all of the four secondary schools for which the local authority is the admission authority, but not the 17 which have other admission authorities.

3. The parties to this objection are, therefore, the local authority, the objector and the governing board of Little Ilford School because that school was named in the objection.

Jurisdiction

4. The objector submitted the objection to these arrangements on 14 February 2019. At that time the local authority had published the arrangements on its website, but had not formally determined them as section 88C of the Act requires it to do every year. Following correspondence on this matter, the local authority formally determined the arrangements on 29 April 2019. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

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

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

- a) the objector's form of objection dated 14 February 2019 and subsequent correspondence;
- b) the admission arrangements;
- c) evidence that the local authority determined the arrangements;
- d) the local authority's response to the objection and supporting documents;
- e) the response to the objection from Little Ilford School; and
- f) maps of the area identifying relevant schools, including those found on the Mayor of London Schools Atlas;

The Objection

7. The objector said that Little Ilford School was the closest secondary school for children who attend Sheringham Primary, but because priority for places at community secondary schools in the Borough is based on shortest walking distance between home and school other children had greater priority for places at Little Ilford. This resulted in some children from Sheringham Primary having to walk as far as two miles past Little Ilford

School to other schools while others had four mile bus rides to alternative schools. The objector said this “*created an inequality around school places for our community*”. Paragraph 14 of the Code requires that admission arrangements are fair.

Other Matters

8. Having considered the arrangements as a whole I noted that some of the dates set out in the determined arrangements appeared to apply to earlier years. Paragraph 14 of the Code requires that admission arrangements are clear. The fourth oversubscription criterion concerned children of staff at the school; this appeared not to comply with paragraph 1.39 of the Code. I therefore decided to exercise my power under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

Background

9. The Borough of Newham is in the east of London: the river Thames forms the southern boundary and it adjoins the boroughs of Tower Hamlets, Hackney, Waltham Forest, Redbridge and Barking and Dagenham on the other sides. The oversubscription criteria for all four community secondary schools in Newham are the same and can be summarised as follows.

1. Looked after and previously looked after children.
2. Children whose special needs require them to attend the school.
3. Children who will have a sibling attending the school.
4. Children of members of staff employed at the school.
5. Service children.
6. Other children.

10. Terms used in the oversubscription criteria are defined in the arrangements and within each of the above criteria priority is given to children who live the shortest walking distance from the school with random allocation being used as a final tie breaker.

Consideration of Case

11. Paragraph 14 of the Code says “*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*” The objector has argued that giving priority for children on the basis of the shortest walking distance from home to school “*created inequality around school places for our community.*”

12. The objector said that Sherringham Primary is located in the northeast of Newham and that Little Ilford was the closest secondary school. They said “*I believe they [Sherringham children] are not in the catchment area of this school nor any Newham secondary.*” (Emphasis in the original). They continued to say “*Being in the corner of the borough, they need to walk past Little Ilford to get to their nearest [alternative] schools, Plashet at 1.6 miles and Langdon at 2 miles away.*” The objector referred to previous years when children had been placed at Rokeby or Eastlea schools which were “*almost 4 miles away at the opposite end of the borough and required multiple bus rides*”.

13. In response to the objection the local authority said “*The Local Authority is fully aware of the historic and ongoing challenges for pupils in Manor Park [where Sherringham Primary School is located] accessing places in Little Ilford School. Due to the location of Sherringham Primary School in relation to other primary schools in Manor Park and Little Ilford School their pupils are not always able to access secondary places in the school.*

We have reviewed our admission arrangements each year in an attempt to address localised issues. However, we have been unable to find a solution that is not to the detriment of others. For example, adding a catchment area would not help as the population is so dense as a result of the area having high levels of multi occupancy.”

14. The local authority said that Little Ilford School had recently been expanded, and negotiations were underway about further expansion, however, site constraints may mean this is not possible. No comment on the objection was received from Little Ilford.

15. Children who are able to get places at Little Ilford and the other community secondary schools in Newham can do so because they live nearer to those schools than the children who attend Sherringham Primary. For those children being offered places at those schools it may be their nearest school too. It is not always possible for a school to have the capacity to accommodate all children for whom it is their nearest school and there is no requirement in the Code for children to be able to attend their nearest school. The Code does require fairness and so I have considered the range of state-funded secondary schools available to children who live near Sherringham Primary in order to seek to establish whether the arrangements are fair or are unfair to children living near to Sherringham Primary.

16. The Department for Education Database “Get Information About Schools” (GIAS) identifies 17 secondary schools in Newham; of these, eight are within two miles of the postcode for Sherringham Primary School. GIAS also identifies seven secondary schools in the Borough of Redbridge and three in the Borough of Barking and Dagenham which are also within two miles of that postcode. Two miles is an appropriate distance to consider because these are straight line distances which will be less than the walking routes which are taken into consideration when assessing entitlement to free home to school transport. Free transport becomes available for children of secondary school age when the walking distance exceeds three miles.

17. Parents are not restricted from applying for schools within the borough in which they live and admission authorities must not discriminate relation to admission to schools simply because a child resides outside the local authority area in which the school is situated. My considerations are therefore not limited to schools in Newham.

18. It is possible to establish the time it takes to get to schools by walking and public transport from the Mayor of London Schools Atlas. This is an interactive tool that shows how many schools of different types are within different travelling times from any postcode. This identifies three state-funded secondary schools within 30 minutes walk from the postcode for Sheringham Primary School and eight within a 40 minute walk. Travelling by public transport brings nine schools with 30 minutes and 32 within 40 minutes travelling time; children can travel for free on buses in London. If cycling is taken into account there are 63 secondary schools within 30 minutes of Sheringham Primary; however, I accept that parents may have reservations about this form of transport.

19. The objector pointed out that GIAS uses straight line distances which do not reflect local geographical constraints which include a main railway line, the A406 North Circular Road and the River Rodwell. It is for such reasons that I consulted the Mayor of London Schools Atlas and did not rely solely on straight line distances. The objector said that bus timetables can be unreliable and allowances must be built in so that children can arrive on time for school and so journey times will be longer.

20. The objector also pointed out that some of the schools identified by GIAS and the Schools Atlas are single sex schools, or schools with a religious character which may not be acceptable options for some parents. The objector also said that some of the schools identified were oversubscribed and children living near Sheringham Primary School would not live close enough to them to be offered a place. The objector identified 14 children who in a previous year could not be offered a place at any of the six schools listed as preferences by their parents. These pupils were placed by the local authority at schools four miles away. It may be that these parents did not list closer schools to which they might have been admitted had they included them among their six preferences.

21. If children living near Sheringham Primary had priority for places at Little Ilford ahead of children who lived closer to that school, then those children displaced from Little Ilford would need to travel to other schools. I have therefore looked at alternative school options for children who live near Little Ilford. The Mayor of London Schools Atlas identifies exactly the same number of schools within a 30 or 40 minute walking distance from the Little Ilford post code as it does from the Sheringham Primary post code. However, the number of schools within 30 minutes of Little Ilford by public transport is three compared to nine from Sheringham Primary and at 40 minutes, public transport brings 20 schools within range of Little Ilford compared to 32 for Sheringham Primary. It would appear that, although the sites are about half a mile apart, children living close to Sheringham Primary have more options than those living close to Little Ilford.

22. While I understand that it will be more convenient for families if children can attend the school closest to their homes, giving priority to children living near Sheringham Primary

School would mean that children living even closer to Little Ilford School would not obtain places. This might be justified if journeys to other secondary schools from near Sheringham Primary School were excessively longer than alternative options for children living near Little Ilford, however, this is not the case and there are many alternative secondary schools within reasonable travelling distance for children of secondary school age in the area. I can see no grounds to uphold the objection.

Other Matters

23. When I drew the local authority's attention to what appeared to be incorrect dates in the arrangements it acknowledged the errors and undertook to correct them.

24. The fourth oversubscription criterion gives priority to "*Children whose parent/carer (with legal parental responsibility) are directly employed by the school*". On page 10 of the arrangements expands on this saying "*A child whose parent/carer (with legal parental responsibility) is directly employed by the school meaning not contracted via a third party. For normal admissions: primary to secondary transfer and reception starting in September of the new academy year the parent/carer must have been in the school's employ or have a contract to start in the schools employ on the national closing date 31 October for the application to be considered an on time 'Staff Child'. Where the start date or employment commences after the national closing day the applicant must submit proof of employment for verification by the headteacher/principal to Newham Pupil Services for application to be considered as a staff child.*"

25. Both schools which are parties to this case wrote to me to say that they considered this criterion to play an important role in recruiting staff. However, paragraph 1.9 of the Code prohibits giving priority for admission on the basis of parents' occupational status other than in accordance with paragraphs 1.39 to 1.39B of the Code. Paragraph 1.39 says "*Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances: a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or b) the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.*"

26. The local authority has acknowledged that the fourth criterion does not meet the requirements of paragraph 1.39 of the Code. It would seem to be a simple matter to redraft that criterion so that it both meets the requirements of the Code and supports recruitment of staff. This determination requires that this is done.

Summary of Findings

27. For the reasons above I do not uphold this objection. I also find that the arrangements do not conform with the Code in the ways set out above.

Determination

28. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2020 determined by the London Borough of Newham for Little Ilford School and all other community secondary schools in the Borough.

29. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

30. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 13 June 2019

Signed:

Schools Adjudicator: Phil Whiffing