



Determination

Case reference:	ADA3971
Objector:	A parent
Admission authority:	The governing board of The Archer Academy, Finchley, London Borough of Barnet
Date of decision:	25 November 2022

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 2023 determined by the governing board of The Archer Academy, Finchley.

I have also considered the arrangements in accordance with section 88I(5) and find there are 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 a parent (the objector), about the admission arrangements (the arrangements) for The Archer Academy (the school) for September 2023.
2. The school is located in the London Borough of Barnet. The local authority is Barnet Council (the LA). The LA is a party to this objection. Other parties to the objection are the objector and the school.

3. Broadly, the objection is to matters arising from the oversubscription criterion in which priority is given to those living in postcodes N2, N3 and NW11.

Jurisdiction

4. The school is governed by a single academy trust (the trust, also referred to as the governing board). The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. A derogation in paragraph 2A of the amendment of Annex B to the funding agreement (2016) agreed with the Secretary of State permits the school to give priority admission to children whose parents have permitted Founders status. The arrangements were determined by the governing board, which is the admission authority for the school, on that basis, on 10 January 2022.

5. The objector submitted her objection to the determined arrangements on 15 May 2022. The objector has asked to have her identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me. 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.

6. I have also used my power under section 88I of the Act to consider the arrangements as a whole, because they have come to my attention by way of the objection, to determine whether they conform to the requirements relating to admissions and if not in what ways they do not so conform. When I considered the arrangements, I identified some matters which appeared not to meet the requirements. I set out my findings in that regard towards the end of the determination in the section headed 'Other Matters'.

Procedure

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

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

- a. a copy of the minutes of the meeting of the governing board of the school, dated 10 January 2022, at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 15 May 2022 along with supporting documents, and further documents and information submitted thereafter (including a copy of the document entitled 'Summary Report of the 2015 Index of Multiple Deprivation' (specifically relating to Barnet));

- d. responses from the school and LA along with supporting documents and information;
- e. determinations ADA3204, ADA3205, ADA3206, ADA3207 and ADA3208 (the 2016 determination) and ADA3426, ADA3427 and ADA3428 (the 2018 determination);
- f. information available on the websites of:
 - i. the school (including the school's "Further Information" document providing general information about its arrangements);
 - ii. the LA;
 - iii. Camden, Haringey and Islington (school admissions pages);
 - iv. the Department for Education (DfE) (including the 'Get Information About Schools' (GIAS) website); and
 - v. the IoD 2019 (indices of deprivation in 2019) Interactive Dashboard website from the former Ministry of Housing, Communities and Local Government; and
 - vi. the Map Developers' draw a circle tool website.

The Objection

9. The objector is primarily concerned with oversubscription criterion 5. I summarise the oversubscription criteria below, but oversubscription criterion 5 provides as follows:

"5. Children living in postcode areas N2, N3 and NW11 (described as the 'priority catchment area'), in the following proportions:

- N2 – 45 per cent
- N3 – 35 per cent
- NW11 – 20 per cent"

The arrangements state: "Any fraction of places that remain when dividing places to each postcode will be allocated to applicants in the N2 postcode. Places will be offered to those children who live closest to the school, based on measuring distance in a straight line from the front gate of the Lower School Stanley Road campus to the address of the child's home."

The objector considers that criterion 5 is not fair or reasonable in the following ways:

- 9.1. because the school has used the "pattern of parental preference" to determine the division of places under the three postcodes (N2, N3 and NW11);

- 9.2. that this results in children from socio-economically deprived areas in N2 being unfairly disadvantaged; and
- 9.3. since the allocation of places by percentages within each of the three postcode areas (rather than by feeder schools) was introduced, the increase in the numbers admitted under this criterion mean more siblings of those pupils will be admitted under oversubscription criterion 3 which gives priority to siblings of children already at the school.

10. As a consequence, the objector claims that the arrangements do not comply with the following paragraphs of the Code:

- 12: “The purpose of the Code is to ensure that all school places for maintained schools and Academies (excluding maintained special schools and special academies) are allocated and offered in an open and fair way. The Code has the force of law, and where the words ‘must’ or ‘must not’ are used, these represent a mandatory requirement”.
- 14: “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. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”
- 1.8 (part): “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”
- 1.9c: “It is for admission authorities to formulate their admission arrangements, but they **must** not:

[...]

c) give extra priority to children whose parents rank preferred schools in a particular order, including ‘first preference first’ arrangements;”

11. The objector refers in the objection to the arrangements not being ‘reasonable’ or ‘fair’ in the context of those aspects that are covered by the objection. Turning to look at being ‘reasonable’ first, the Code uses the term but does not define it. An everyday definition is of having sound judgement; being sensible and rational. It is the requirement of public bodies, including admission authorities, that they must act reasonably in adopting any policy or making any decision. ‘Fairness’ is also used in the Code but is likewise not defined. Fairness can be described as a ‘protean concept’, in that it cannot be defined in universal terms, but its requirements will depend on the circumstances of the particular case at issue. In relation to admission arrangements, fairness is mostly focussed on the effect of the arrangements on any relevant group. I stress that all oversubscription criteria create advantage for some applicants and disadvantage to others; indeed, that is their purpose. In relation to admission arrangements, fairness is often best evaluated by

undertaking a balancing exercise, weighing the advantage said to accrue to children who would be offered places (or afforded a high priority for places) at the school in consequence of the arrangements, against any disadvantage caused to any other relevant group of children who would not be offered places (or would not be afforded a high priority for places). Unfairness can be found when the disadvantage is considered to outweigh the advantage. In the context of the objection, the assessment is of the disadvantage to those residents in socio-economically deprived areas of N2.

Background

12. The school is a secondary co-educational, non-selective academy for 11 to 16 year olds located in East Finchley, Barnet. Ofsted rated the school as 'Outstanding' in 2019. According to the Government's 'Get Information About Schools' (GIAS) website, the number of pupils at the school is 804, out of a capacity of 810. The PAN for the school is 162. The school says it is 'significantly oversubscribed'.

13. The school opened as a free school in September 2013. The application to establish the school said it was to address: "[...] a significant lack of secondary school provision in East Finchley, West Finchley, Hampstead Garden Suburb and surrounding communities in N2, N3 and NW11." The school takes its name from a statue on East Finchley underground station.

14. The school is located on two campuses in East Finchley. One campus is for Years 7, 8 and 9 in Eagans Close (the Stanley Road campus). The campus for Years 10 and 11 is in Beaumont Close. The campuses are less than one kilometre apart. Both campuses are within the N2 postcode district.

15. The school has been subject to adjudication previously, through the 2016 and 2018 determinations. These determinations are referred to at points in this determination. However, I make clear that the previous determinations do not set a precedent and that I have considered the arrangements on their merits against the requirements set out in legislation and the Code and in the light of the circumstances now and not as they were in 2016 or 2018.

16. In the arrangements, after the admission of children with Education, Health and Care Plans (EHCPs), places are prioritised according to the oversubscription criteria, summarised as follows:

1. Looked after and previously looked after children.
2. Founders' children.
3. Siblings of children at the school.
4. Children of staff at the school.
5. Children living in postcode areas N2, N3 and NW11 (described as the 'priority catchment area'), in the following proportions:

- N2 – 45 per cent
- N3 – 35 per cent
- NW11 – 20 per cent

Any fraction of places that remain when dividing places to each postcode will be allocated to applicants in the N2 postcode. Places will be offered to those children who live closest to the school, based on measuring distance in a straight line from the front gate of the Lower School Stanley Road campus to the address of the child's home.

6. Distance from the school.

17. For information, the school provided data showing the numbers of children offered a place under each of the criterion on National Offer Day (NOD) in March in each of the years between 2019 and 2022. I have put this data into Table 1.

Table 1: Number of places allocated on NOD in March in each of the years between 2019 to 2022

Category	Number of places allocated on NOD			
	2019	2020	2021	2022
PAN	162	162	162	162
Pupils with an EHCP	3	10	10	9
Oversubscription Criterion 1	3	1	1	3
Oversubscription Criterion 2	1	1	1	0
Oversubscription Criterion 3	58	44	51	71
Oversubscription Criterion 4	1	1	1	1
Oversubscription Criterion 5 (N2 Priority Postcode)	44	48	45	36
Oversubscription Criterion 5 (N3 Priority Postcode)	33	36	34	27
Oversubscription Criterion 5 (NW11 Priority Postcode)	19	21	19	15
Oversubscription Criterion 6	0	0	0	0
Totals	162	162	162	162

Consideration of Case

18. The objector provided the following context to her objection to oversubscription criterion 5:

“The Archer Academy, located in the heart of East Finchley, N2 was originally established in 2013 due to the significant lack and need for a co-ed, non-denominational secondary school in the area. East Finchley was always seen as a particular black area as well as West Finchley and the Hampstead Garden Suburbs. When the school became oversubscribed, to continue serving the three postcodes (N2, NW11 & N3) they introduced a feeder school policy and allocated 40 of 150 places to schools in N3 (10 places) and NW11 (30 places). Following several objections and two determinations, the School were forced to drop the feeder school policy and instead introduced % distance allocation to the three postcodes. But this too is unfair, as it is based on parental choice, please see the attached document “Further Information” in which they clearly state they have used the “pattern of parental preference” to determine the division of places.

The 2018 Adjudicator [sic] ruled the chosen feeder schools to be unfair due to their location adjacent to Christ[‘s] College Finchley, a non-denominational school that had recently evolved from a single sex boys school to co-ed. As such, the same unfair and unreasonableness applies to the allocation of % places to N3 and NW11, these children have a co-ed, non-denominational school. From September 2023, Christ[‘s] College Finchley will be a fully co-ed school, non-denominational school.”

19. Before looking at three specific parts to the objection, I need to make two preliminary points. First, the adjudicator did indeed rule that the then feeder provisions were unfair. However, the 2018 determination does not in fact say that this was on the basis of “their location adjacent to Christ’s College Finchley”. Rather, the adjudicator said at paragraph 48 of his determination:

“While there are other mixed, comprehensive, non-denominational schools within a reasonable distance of all three post codes I am of the view that there is a need for schools of this type to serve the area and that Christ’s College starting to take girls as well as boys does not undermine the principle of Archer giving priority to children living in all of the three post codes.”

He also said:

“Having considered the current circumstances and the data provided by the school I find that the way places are allocated to children attending named feeder schools in these arrangements is unfair and in breach of paragraph 14 of the Code. I note that it is also ineffective in ensuring children from N3 and NW11 have a fair opportunity of being offered a place at the school which is one of the school’s stated aims.”

As I have already emphasised, the 2018 determination does not create a precedent, but I think it nonetheless important to note that its characterisation by the objector does not in this respect accord with what it actually said.

20. I want also to make the following points about the use of the three postcode areas (N2, N3 and NW11), which collectively delimit the catchment area of the school:

20.1. Admission authorities of schools which are oversubscribed are able to give higher priority to some applicants, provided this is in accordance with the Code, and the adoption of catchment areas as a means of doing this is perfectly lawful provided the catchment area is clearly defined and reasonable and provided its use does not make the arrangements unfair overall. Paragraph 14 of the Code requires, amongst other things, that arrangements must be clear and fair. Paragraph 1.8 requires that oversubscription criteria are reasonable, and paragraph 1.14 requires that catchment areas must be reasonable and clearly defined. I find that the catchment area is clearly defined through the use of the three postcode areas; parents will know immediately from their own postcodes whether their address is within the catchment. I concur with the adjudicator of the 2018 determination on this issue, who stated:

“The use of post codes to define catchment areas is common practice. Parents will know whether or not they live in a particular post code without needing to refer to a map, a list of roads or other means of defining a catchment area such as historical parish boundaries. In this case, the reason for the selection of the postcodes is clear and is for a rational reason: to provide a school, with certain characteristics, in an area which those who established the school considered the area to need. I consider that the use of post codes does clearly define a catchment area and it is reasonable to use the three post codes of N2, N3 and NW11 which are set out in the arrangements as being the catchment area because that is the area which the school was established to serve. I find that the catchment area complies with paragraph 1.14 of the Code.”

20.2. In respect of the objector’s concern about the proximity of the boundary of the catchment to Christ’s College Finchley, I note first that Christ’s College Finchley does not have a catchment area; rather, it gives priority in terms of where children live on the basis of home to school distance. I find nothing in the Code which explicitly states that the boundary of one school’s catchment area cannot be close / next to another school. Indeed, there are many cases of shared catchments and of schools being located close to the edge of their catchment areas and of areas where schools are clustered in one part of the borough, town or city concerned rather than spread (as it were) evenly throughout the relevant area.

21. With regard to the latter point, in later correspondence the objector made the following additional points:

“Children in N3 and NW11 do have other alternatives of secondary school, Compton, Whitefields and Hendon as well as now Christ[’s] College which [sits on the border] of both and is closer than the Archer Academy. The only other option for N2 children was Bishop Douglas a catholic faith school and more recently Christ’s College although their catchment has dramatically shrunk for 2022 intake with parts of N2 having no secondary option despite living very close to the Archer Academy.”

22. According to GIAS there are actually 30 secondary schools within three miles of the school, situated in four London boroughs. I have put those schools into Table 2 below to demonstrate the choice of schools available to parents in the area.

Table 2: Schools within three miles of the school’s postcode

School name	Distance from the school’s postcode	London borough	Type of school
Bishop Douglass School, Finchley	0.47	Barnet	Mixed and non-selective boys’ academy with a Roman Catholic religious character
Fortismere School	0.75	Haringey	Mixed and non-selective academy
Christ’s College, Finchley	0.81	Barnet	Mixed and non-selective academy
The Henrietta Barnett School	1.14	Barnet	Selective girls’ academy
The Compton School	1.28	Barnet	Mixed and non-selective academy
Wren Academy Finchley	1.47	Barnet	Mixed and non-selective academy with a Church of England religious character
Alexandra Park School	1.54	Haringey	Mixed and non-selective academy
Highgate Wood Secondary School	1.66	Haringey	Mixed and non-selective community school
St Michael’s Catholic Grammar School	1.67	Barnet	Selective voluntary aided girls’ school with a Roman Catholic religious character
Friern Barnet School	1.8	Barnet	Mixed and non-selective community school
St Aloysius RC College	1.96	Islington	Non-selective voluntary aided boys’ school with a Roman Catholic religious character
Hasmonean High School for Boys	2.01	Barnet	Non-selective Jewish boys’ academy
Heartlands High School	2.14	Barnet	Mixed and non-selective academy
Hendon School	2.16	Barnet	Mixed and non-selective academy
Greig City Academy	2.2	Haringey	Mixed and non-selective academy with a Church of England religious character

School name	Distance from the school's postcode	London borough	Type of school
Finchley Catholic High School	2.24	Barnet	Non-selective voluntary aided boys' school with a Roman Catholic religious character
La Sainte Union Catholic Secondary School	2.32	Camden	Non-selective voluntary aided girls' school with a Roman Catholic religious character
City of London Academy, Highgate Hill	2.33	Islington	Mixed and non-selective free school
William Ellis School	2.38	Camden	Non-selective voluntary aided boys' school
Hornsey School for Girls	2.39	Haringey	Non-selective community girls' school
Parliament Hill School	2.41	Camden	Non-selective community girls' school
St Andrew the Apostle Greek Orthodox School	2.48	Barnet	Greek Orthodox mixed and non-selective free school
Broomfield School	2.48	Enfield	Mixed and non-selective foundation school
St Mary's and St John's CofE School	2.48	Barnet	Mixed and non-selective voluntary aided school with a Church of England religious character
Whitefield School	2.5	Barnet	Mixed and non-selective academy
Acland Burghley School	2.62	Camden	Mixed and non-selective community school
St Thomas More Catholic School	2.72	Haringey	Mixed and non-selective academy with a Roman Catholic religious character
Arts and Media School, Islington	2.81	Islington	Mixed and non-selective foundation school
Hasmonean High School for Girls	2.92	Barnet	Non-selective Jewish girls' academy
Hampstead School	2.96	Barnet	Mixed and non-selective community school

23. The objector has emphasised that children in some parts of N3 and NW11 live close to and may gain access to Christ's College Finchley. That is true, but it is also true that so do children in some parts of N2 (in which Christ's College is located). In the context of what is shown on Table 2, I determine that the specific point made by the objector, about the proximity of the school's catchment area to Christ's College Finchley, does not merit any further attention (though Christ's College Finchley is mentioned later for other reasons) and that the point made about the lack of school choice for those living in N2 does not accord with the situation locally.

24. I note here the school's general response to the objection:

"In setting the arrangements Trust members are mindful of the need to do so in accordance with the Code and to ensure that places are allocated in an 'open and fair way' (School Admissions Code, 12), that they are 'fair, clear and objective' (the Code, 14).

We receive, on average, over 950 applications for a place at the school each year. Inevitably this means the majority of applicants will be disappointed not to secure a place."

25. The objector has, as I have explained, cited a number of Code provisions. I have considered all of these, but want to say something here about how I have dealt with the questions of reasonableness and fairness. The test of reasonableness is an objective one. It will be necessary to consider the rationale for the proportion of places allocated to the three postcode areas making up the catchment area (part 1 of the test) and the effect of its practical operation (part 2). Part 1 of the test is covered by my consideration of the first part of the objection (pattern of parental preference) and part 2 by the second and third parts of the objection (unfairness to children in socio-economically deprived areas in N2 and the effect on the number of siblings admitted under oversubscription criterion 3). Turning to fairness, the objector's concern is that the group of children treated unfairly are children living in N2 and, in particular, those from socio-economically deprived areas in N2. I accordingly deal with the fairness of the arrangements under the heading "Unfairness to children in socio-economically deprived areas of N2".

Pattern of parental preference

26. About this matter, the objector asserted that the introduction of the percentage allocation to the three postcodes making up the catchment area is unreasonable and unfair, as the percentages are based on 'parental choice', in contravention of paragraph 1.9 c) of the Code. The objector stated that the school's "Further Information" document, "clearly state[s] they have used the "pattern of parental preference" to determine the division of places".

27. I have looked at this document. I note that, in this regard, the document states:

"To determine a fair and proportionate allocation of places between the three priority postcodes the Trust looked at a range of data and contextual factors, and heeded feedback from the adjudicator.

Ultimately it was decided that the fairest way of doing this was to divide the places in a way that reflected the pattern of parental preference from the three postcodes. Whilst there are naturally fluctuations in these figures from year to year, the places were allocated based on the average numbers of applicants from each of the priority postcodes (N2, N3 and NW11) from the previous three years."

28. The school stated in this document that it has used the average number of applicants to calculate the proportion of places that has been allocated to each of the three postcodes. It has done so 'in order to reflect the pattern of parental preferences'. I interpret this to mean anyone who has applied (where, simply, parents have indicated they would like their child(ren) to go to the school), and not that any account was taken of the level of preference expressed by those applicants (out of the six allowed in London). The school has not said in this document or anywhere in its arrangements that it is prioritising places according to the level of preference expressed by the parent(s) at the point of allocating places.

29. In any event, if the school had taken into account numbers of previous levels of parental preference in order to calculate the proportion of places it should allocate to the three postcodes, that would not have breached paragraph 1.9 c). Paragraph 1.9 c) requires that admission arrangements must not give priority according to the order in which preferences have actually been expressed by parents when applying for places. So, a school could not, say, give a higher priority to applicants whose other preferences were for single sex schools or schools with a religious character. As it happens, it would be difficult for any school to do this in practice as schools are given no information about other preferences expressed or whether the preference for their school is a first or lower preference. Moreover, that is not what Archer is doing; it is using previously expressed levels of preferences to decide what proportion of places should be prioritised for each of the three postcodes it served. As I will point out later in this determination, the school cannot accommodate every child who applies to the school. Using data arising from the pattern of previous application numbers in such a way seems to me to be a rational and legitimate – and therefore reasonable – method of working out the starting point for the fair allocation of places under oversubscription criterion 5. This therefore meets part 1 of the reasonableness test.

30. My view is that the objector has misinterpreted the school's explanation of how it has devised the proportion of places for allocated to N2, N3 and NW11 postcodes under oversubscription criterion 5 and has therefore concluded that there is a breach of the Code (by way of paragraph 1.9 c)) where there is not one. So far as the principle of allocating priority for places at all across the three postcodes is concerned, this clearly remains important to the school. It is the basis on which the school was established. I do not consider that continuing this approach is rendered unreasonable by the fact that Christ's College Finchley is now a mixed school. To put it another way, the fact that there are now more school places available in the area at a different mixed school that can be reached by a number of children who could also reach Archer does not make it unreasonable for Archer to continue with its three postcode approach. In reaching this conclusion I also take account of the fact that a higher percentage of available places are prioritised for those in N2 and that this means that over time it is likely that a higher proportion of N2 siblings will gain places under the sibling criterion. I find that the way the school has determined the proportion of places available to applicants from N2, N3 and NW11 is reasonable and does not breach paragraph 1.9 c) of the Code. I do not uphold this part of the objection. Whether

it is fair to give priority to children who live in N3 and NW11 as well as to those who live in N2 I consider under my next heading.

Unfairness to children in socio-economically deprived areas in N2

31. The second part of the objection is stated by the objector such that it follows on from the argument made about the first. In respect of the first part of the objection, I have found that the school is not allocating places in its admission process according to parental preference as asserted by the objector. I have found that the school has reasonably used previous data to delimit the proportion that should reasonably be allocated to each of the three postcodes that make up the school's catchment area. I turn now to the question of fairness.

32. In correspondence, the objector made the following further wider points about children from socio-economically deprived areas in N2 being unfairly disadvantaged, so it is those children that I particularly focus on. The objector said:

32.1. "The Archer Academy since the introduction of % allocation postcode has for N2 only reached out to circa 0.23 [miles] which is extremely unfair and unreasonable given the community gave up community land for the school to be built. Also there are a number of large high rise flats within that tiny catchment which are well known to be rented by desperate parents who then move when they have accepted an Archer Academy place. Unlike the N3 and NW11 catchments which are wealthy and expensive houses"; and

32.2. "[...] the areas of East Finchley which are outside of the Archer Academy N2 0.29 [sic] miles catchment under the postcode policy fall within the most deprived areas. Strawberry Vale particularly highlighted although the Grange Estate and Font were also singled out in previous editions. The areas of Finchley Church End (N3) and Garden Suburbs (NW11) which benefit from the postcode policy have no deprived areas.

[...] The Archer Academy ordinary [sic] mission was to serve the 3 postcodes due to a lack of a non-denominational co-ed school school [sic] within those postcodes, Christ[']s College Finchley alleviated that for NW11 & N3 but the Archer Academy continues to grant them 55% of the places plus their siblings despite this resulting in them only serving 0.29 miles of the community it sits within the heart of."

33. I make the following observations about the objector's arguments, along with some additional points:

33.1. I note that the objector states that the furthest distance of the last child accepted into the school is 0.23 miles in one part of the objection and 0.29 miles in another (see above). I have taken – from the datasheets provided by the objector from the LA's website – the distance from the school of the last child offered a place at NOD in March 2019 and then on NOD in every year up

to and including 2022 (I will refer to this in this determination as the ‘furthest distance’, though it is also known as the ‘cut-off’ distance or ‘last child admitted’ distance), and put this into Table 3.

Table 3: Furthest distance (in miles) from the school of the last child offered a place at NOD in March from N2

Years	Furthest distance (miles)
2019	0.303
2020	0.322
2021	0.248
2022	0.219
Average	0.273

- 33.2. As I have set out above and as is common ground, the school was set up to cater not just for those from N2, but also for those from N3 and NW11. Given the proportion of places allocated to those in N3 and NW11 was based on an analysis by the school of the number of previous applications from each of the postcode areas, there is clearly evidence of previous demand from parents from N3 and NW11 as well as from N2. I have already found that determining the proportions on the basis of that demand is reasonable.
- 33.3. The claims by the objector in the objection and in following correspondence that ‘desperate parents moving into blocks of flats in the area just to get a place at the school and then moving away’ and ‘families are moving away from the area as they cannot get a place’ are unsubstantiated insofar as the objector has provided no evidence to show that parents are taking these drastic actions or, if they are doing so, that they would be doing so because of the school’s arrangements. Additionally, neither the LA nor the school have chosen to comment on these points or provide their own evidence of parents taking these actions, despite being given the opportunity to do so. I note in any event that the arrangements cover how the school would deal with the issue of finding out that a fraudulent address had been used to secure a place for a child or children at the school. This can be found on page 2 of the arrangements under the section headed ‘Verification of information’. This is permitted by paragraph 2.14 of the Code.
- 33.4. The school told me that it receives, on average, 950 applications for 162 places each year (only 17 per cent of those that apply can be allocated a place). The school cannot accommodate the child(ren) of every parent that applies and it could never have been the school’s intention to take every child from any one or all of the three postcodes making up its catchment area when it was set up.

33.5. Because the objector has focussed on the disadvantage to children from N2 under oversubscription criterion 5, the analysis will only assess the disadvantage to those who would only be admitted from N2 under that criterion. It is important not to forget, however, that criterion 5 is not the only one of the criteria under which children from N2 can be admitted to the school.

34. The objector provided a copy of the ‘Summary Report of the 2015 Index of Multiple Deprivation’ for Barnet. It is from that report that the objector made her observations about the socio-economic deprivation of Strawberry Vale (N2) and the affluence of Finchley Church End (N3) and Garden Suburbs (NW11) (quoted above). I have used IoD 2019 data, in terms of the levels of deprivation in N2, N3 and NW11, to look at the basis of levels of deprivation and affluence in the three postcodes and to further understand the objector’s assertions.

35. Tables 4 to 6 show the Lower-Layer Super Output Areas (LSOAs – standard statistical geographical areas of England designed to be of a similar population size, with an average of approximately 1,500 residents or 650 households) in N2, N3 and NW11 respectively, organised by deciles (deciles are calculated by ranking the 32,844 LSOAs in England from most deprived to least deprived and dividing them into 10 equal groups, where ‘1’ is the 10 per cent most deprived and ‘10’ is the 10 per cent least deprived). It should be noted that postcode areas do not necessarily follow borough boundaries.

Table 4: LSOAs (whole or part) in the N2 postcode area organised by decile

Decile	LSOAs	Total
1	-	0
2	-	0
3	<u>027A, 027C</u>	2
4	<i>017D, 022D, 029F</i>	3
5	<i>030C</i>	1
6	<u>029C</u>	1
7	-	0
8	001E, 030A, 030B, 033A, 033B	5
9	<i>017B, 017C, 027B, 029A, 029B, 029D, 029E, 033D, 033E, 033F</i>	10
10	-	0
Total =		22

The school is located in the underlined LSOA (029A). All are in Barnet, except for those in Haringey (in italics) and one in Camden (in bold).

Table 5: LSOAs (whole or part) in the N3 postcode area organised by decile

Decile	LSOAs	Total
1	-	0
2	-	0
3	<u>027A, 027C</u>	2
4	<u>029F</u>	1
5	-	0
6	<u>019C, 028E, 035C, 034B</u>	4

Decile	LSOAs	Total
7	020E, 023A, 023B, 023C, 023D, 028A	6
8	019D, 027D, 027F, 028B, 037F	5
9	020D, 020C, 025B, 028C, 028D, 033E, 035A	7
10	-	0
Total =		25

Table 6: LSOAs (whole or part) in the NW11 postcode area organised by decile

Decile	LSOAs	Total
1	039B	1
2	-	0
3	039A, 040A, 040C, 041A	4
4	-	0
5	037D, 038C, 038D	3
6	035C, 037A, 037C, 037E, 040B, 041C	6
7	037B, 038A	2
8	033B, 035D, 035F, 037F, 038B, 038E	6
9	002E , 033C, 033F, 035A, 035B	5
10	-	0
Total =		27

All are in Barnet, except for one in Camden (in bold).

36. Deciles can be grouped into the least affluent (1 to 5) and most affluent (6 to 10). Making a general observation about levels of deprivation from the data in Tables 4 to 6, I can see that 27.2 per cent of the LSOAs in N2 are categorised as being in the least affluent grouping. In N3, the number of LSOAs categorised as least affluent is only 12 per cent and in NW11, it is the highest at 29.6 per cent. It is certainly the case that there are areas of lower affluence in N2, though it is not, out of the three postcode areas forming the school's catchment, the area with the highest number of least affluent LSOAs within its boundary.

37. Before undertaking any further evaluation of this data, an important point to make is that the boundaries of the LSOAs do not neatly line up with boundaries of the postcode areas. This means that many of the LSOAs included in Tables 4 to 6 are only partly within the postcode areas. For example, the two LSOAs in decile 3 (027A and 027C) and 022D (decile 4) are only marginally in the N2 postcode area, with most of the two decile 3 LSOAs being located in N3 and LSOA 022D being mostly located in a postcode not included in the school's catchment (though still in Barnet). Whilst this is also the case for the LSOAs in the more affluent grouping that are in N2 (and included in Table 4), it remains the case that the vast majority of the area of Finchley covered by the N2 postcode is in fact covered by LSOAs that are categorised as being 'more affluent' (I note that the school is located adjacent to, and therefore will take children from, an LSOA which is of the lowest decile of the most affluent grouping (decile 6)). The proportion of the least affluent population in N2 is, therefore, not as large as it might first appear from Table 4 and is largely confined to its northern boundary with N3. The area of Strawberry Vale (as cited by the objector) is in LSOA 029F (decile 4), again towards the northern boundary of N2. The entirety of 029F is within N2, though it is the smallest area (geographically) out of all of the LSOAs that are

wholly within N2. Being further away from the school than the average of the furthest distances for children offered on NOD in 2019 to 2022 (0.273 miles, as in Table 3) means those from the less affluent areas of N2 have not been admitted under oversubscription criterion 5.

38. However, Tables 4 to 6 illustrate that it is not possible to view the school in isolation within its postcode, as I believe the objector has done in this case. It is clear that N2 and NW11 are not just in Barnet and cross borough boundaries with Camden and Haringey. Whilst the school uses three postcodes to make up its catchment, it does not necessarily follow that parents feel bounded by postcodes when expressing their preferences for school places for their children (or it is highly unlikely to be the most important consideration) and it does not therefore mean that a parent living in N2 will only express a preference for schools in N2. In fact, given there are not enough secondary schools actually in N2 for parents for which to express six preferences, that would not be possible in any event. It is also the case, as I have already stated, that the school does not have enough places to take every child in N2 who might be eligible to apply. Indeed, it does not have to, given the number of schools in close proximity, as Table 2 shows. I take the view, therefore, that there would only be unfair disadvantage to children living in the most deprived areas to the north of the N2 postcode area, if there are no other schools available for parents to express a preference for who have admitted children from that area.

39. To look further at this, I have plotted furthest distance data (in miles) from the local authorities of the schools in Table 2, where distance was relevant to the schools' oversubscription criteria, using the Map Developers' 'draw a circle' website tool. The 'draw a circle' website tool allows a user to input a postcode and a distance from it. The tool then draws a circle, the radius of which is the distance input, onto a Google map. I used this tool to plot the postcodes of each of the schools in Table 2, where data for the furthest distance offered / admitted in 2022 was applicable and available. I have included the relevant schools and data in Table 7. (It is to be noted that the tool plots to the centre of the postcode and the schools are not always located at exactly that point).

Table 7: Data from local authorities on furthest distance for children offered on NOD for, or admitted to the school in, 2022 for schools in Table 2 where this data was applicable and available

School name	School postcode	Distance from the school's postcode	Furthest distance offered / admitted 2022 (miles)
Bishop Douglass School Finchley	N2 0SQ	0.47	4.975
Fortismere School	N10 1NE	0.75	0.4810
Christ's College Finchley	N2 0SE	0.81	1.109
The Compton School	N12 0QG	1.28	1.123
Wren Academy Finchley	N12 9HB	1.47	1.049
Alexandra Park School	N11 2AZ	1.54	0.4580
Highgate Wood Secondary School	N8 8RN	1.66	0.7686
Friern Barnet School	N11 3LS	1.8	all
Heartlands High School	N22 7ST	2.14	1.0529

School name	School postcode	Distance from the school's postcode	Furthest distance offered / admitted 2022 (miles)
Hendon School	NW4 2HP	2.16	all
Finchley Catholic High School	N12 8TA	2.24	6.38
City of London Academy Highgate Hill	N19 3EU	2.33	3.271 (Band 1) 3.172 (Band 4)
William Ellis School	NW5 1RN	2.38	1.22
Parliament Hill School	NW5 1RL	2.41	1.02
St Andrew the Apostle Greek Orthodox School	N11 1NP	2.48	all
Broomfield School	N14 7HY	2.48	all
St Mary's and St John's CofE School	NW4 4QR	2.48	2.232
Whitefield School	NW2 1TR	2.5	all
Acland Burghley School	NW5 1UJ	2.62	0.7
Hampstead School	NW2 3RT	2.96	2.63

40. The results of this exercise are as follows:

40.1. All of N2 is within at least one other school's furthest distance offered for 2022.

40.2. Where in the 'Furthest distance offered / admitted 2022 (miles)' column in Table 7 it is marked as 'all', this means that the relevant local authorities have said that those schools offered places to / admitted all who applied (as they were under their PANs). In this case there are five schools who could admit children from N2 if their parents applied, their applications met the schools' criteria and the school remained under PAN. As the objection is specifically concerned with mixed and non-denominational school provision, I note that four out of those five schools are mixed and non-denominational.

40.3. Out of the 20 schools in Table 7, the circles plotted by the 'draw a circle' tool for six of those schools encompass the Strawberry Vale area of N2. Out of those six schools, three are mixed and non-denominational (Christ's College Finchley, The Compton School and City of London Academy Highgate Hill).

40.4. Overall, this means that seven schools in Table 7 are likely to have been able to offer places to / admit children from the Strawberry Vale area of N2 for 2022.

41. The objector made the point that in addition to the school not admitting from deprived areas of N2, the catchment area of the school also benefits Finchley Church End (in N3) and Garden Suburbs (in NW11). Finchley Church End is in LSOA 023B and 023D (decile 7) and Garden Suburbs is in LSOA 035D (decile 8). Carrying out the same exercise as for Table 7, using the school's furthest distance offered data for N3 and NW11, I found that the furthest distance does not include LSOAs 023B, 023D or 035D, so no children were admitted under oversubscription criterion 5 from Finchley Church End or Garden Suburbs. I find, therefore, that the objector's assertion that applicants from those areas have benefitted

from the school's arrangements not to be the case. I have put my findings from this exercise into Table 8. Whilst the results for NW11 show that children were offered places from within LSOAs with deciles 8 and 9, the furthest distance circle encompassing areas of N3 includes four LSOAs categorised as 'least affluent'. I notice that the least affluent areas of NW11 are the furthest away from the school on its west-south-western boundary and, like in N2, the least affluent LSOAs are only marginally inside the NW11 postcode area. It is the case, in my view, that the evidence from N3 shows that the school is unlikely to be trying to exclude children from areas of socio-economic deprivation from its intake.

Table 8: LSOAs in each of N3 and NW11 within the furthest distance circle offered places for 2022

	N3	NW11
Number of places offered	27	15
Furthest distance offered (miles)	0.948	0.97
LSOAs encompassed in the circle (with decile in brackets)	027A (3) 027C (3) 029F (4) 027E (5) 028E (6) 032A (7) 027D (8) 027F (8) 033E (9)	033B (8) 033C (9) 033E (9) 033F (9) 035A (9)

42. Earlier, I found that the school's use of previous admission data to determine the proportion of places allocated to the three postcode areas that make up its catchment area to be reasonable. Having now undertaken part 2 of the reasonableness test, I do not see evidence that the practical operation of the arrangements is unreasonable or unfair in the way that the objector asserts. I find that the scale of disadvantage to those in socio-economically deprived areas of N2 is not as the objector asserts, mitigated as it is by the proximity of 30 other secondary schools, 14 of which are mixed and non-denominational. Out of those 14, seven schools include the deprived area of Strawberry Vale in the north of N2 either by virtue of being undersubscribed or because the area falls within the circle drawn of the furthest distance in miles of the last child offered a place on NOD or admitted to the school in September 2022. The distance of the furthest of those schools from the postcode of the school is 2.5 miles (Whitefield School), as shown in Table 7. The school cannot take all of the children who apply from N2 and it has found a method of allocating places that is fair to those in that postcode, as well as to those N3 and NW11, and which sits well within the wider provision of schools within three miles. I am reassured that the LA, from the perspective of its overall co-ordination role across the borough, has not raised any concerns with me that the way the proportion of places allocated to the three postcodes which make up the school's catchment area is affecting its ability to meet its statutory duties in respect of placing children in the schools in its area. Therefore, I conclude that the way the proportion of places are allocated to the three postcodes which make up the school's catchment area meets the reasonableness test. I find, therefore, that the arrangements in this regard conform to those parts of paragraphs 14, 1.8 and 1.14 of the Code which require

the relevant parts of the arrangements to be reasonable and fair. I do not uphold this part of the objection.

The effect on the number of siblings admitted under oversubscription criterion 3

43. In terms of part 1 of the reasonableness test in respect of this part of the objection, I note here the following paragraphs from the 2016 determination, which also dealt with an objection about the school's sibling criterion:

“83. Objectors were unhappy that siblings were given priority no matter where they lived and considered this unfair to children who live near the school in N2. One of the reasons given by the school's founders in the application to open the school was the dis-satisfaction of parents who could not get their children into the same school. This appears to me to be a founding principle of the school alongside the intention to serve all three postcodes. Only in 2013, the year the school opened, did less than 90 percent of the children admitted live in the three postcodes. The number of siblings who might live outside of the three postcodes would, therefore, appear to me to be small.

[...]

85. The school was established with the intention of admitting all siblings, and this does not appear to be limiting the number of local children who are offered places. In the circumstances of this case I do not consider the sibling criterion unfair.”

44. The 2016 determination concerned an objection which was different to the objection that I am considering in that it raised concerns about the number of siblings being admitted from postcodes outside the three making up the school's catchment area. Also, I note here, as stated earlier, that the 2016 determination is not binding on the outcome of this determination. Nevertheless, the school's founding principles have not changed, and they remain as relevant today as they were to the objection in 2016.

45. It is permitted by the Code that a school can have, as an oversubscription criterion, provision for the admission of siblings, providing that the school clearly defines what it means by 'sibling' (paragraph 1.11) and makes clear if they are giving priority to siblings of children at another named state school (paragraph 1.12). The provision under paragraph 1.11 is relevant to the school's arrangements, and those arrangements include a clear definition of what the school means by the term 'sibling' under Note 3. I find that the rationale for including this criterion in the school's arrangements meets part 1 of the reasonableness test. It is therefore both reasonable and procedurally fair (as required under paragraph 1.8 of the Code) that the school include a criterion admitting siblings of children at the school.

46. In respect of part 2 of the reasonableness test, the school provided me with data showing the number of siblings admitted under oversubscription criterion 3 in 2022 broken down by postcode of residence. I have put that data into Table 9.

Table 9: Number of siblings admitted under oversubscription criterion 3 in 2022 by postcode of residence

Postcode of residence	Number of siblings admitted
N2	34
N3	27
NW11	5
N8	2
N10	2
N11	2
Total	72

47. The number admitted from N2 is the largest proportion under this criterion. The second largest intake is from N3. Along with the five siblings admitted from NW11, the total number of siblings admitted from the three postcodes making up the school's catchment area make up 40.7 per cent of the PAN and 91.6 per cent of the intake under criterion 3. This data show that the school continues to act in keeping with its founding principles (as recorded in the 2016 determination above). I find that the arrangements meet part 2 of the reasonableness test.

48. The objector was particularly concerned that the number of siblings admitted from N2 would increasingly be from the 'most affluent' areas (given the assertion that those from the more deprived areas of N2 would not get into the school under oversubscription criterion 5) and that this would further exclude those from more deprived areas of N2. However, as was the case for the second part of the objection, this part of the objection has been stated by the objector such that it follows on from the argument made about the preceding parts. It stands to reason that even if what the objector asserts to be the case is true, the scale of the disadvantage to those from less deprived areas of N2 is mitigated by the fact that parents might not wish to express a preference for their children to go to the school given the number of other options they have to which they can apply for places. In any event, the matter raised by the objector in this respect has been phrased such that it is dependent on the assertion made under the first two being true. I have not upheld the first two parts of the objection and I do not uphold this part of the objection on the same grounds.

49. This is the third determination since 2016 objecting, in some way, to the school's inclusion of the N3 and NW11 postcodes to prioritise places. I make a final point to emphasise my findings in respect of that which has been asserted by the objector about the unfairness to children in N2 of the school's arrangements. I do not find there is any unfairness to children in N2 by virtue of the school giving priority for some places to those who live in N3 or NW11. No evidence has been provided at all by any party, or which has been uncovered through my evaluation of the data, that any child in N2 cannot find a place in a school within a reasonable distance of his or her home.

Other Matters

50. When I considered the arrangements as a whole, it appeared to me that the following matters did not conform with the Code:

- Paragraph 2.29 of the Code states: “Where an admission authority is dealing with multiple in-year admissions and do not have sufficient places for every child who has applied for one, they **must** allocate places on the basis of the oversubscription criteria in their determined admission arrangements only”. Linked to this statement, footnote 61 clarifies that: “The determined admission arrangements that relate to the admission of pupils in the relevant school year.” The school has identified a separate list of oversubscription criteria for in-year admissions which is not permitted by the Code.
- The arrangements refer to an ‘admissions limit’. I am concerned the use of this term is not clear for parents (paragraph 14). In the Code, this is referred to as a Published Admission Number (PAN). The use of the term ‘admissions limit’ is misleading in that the PAN is not technically a limit on admissions. For example, paragraph 1.4 of the Code sets out, amongst other things, circumstances when an admission authority might admit above the PAN.

51. The school has told me that it intends to address these matters which is welcomed. It is required to do so by the Code. I will, therefore, not refer to these matters any further.

Summary of Findings

52. The objector raised a concern that, in respect of oversubscription criteria 5 and 3, the arrangements of the school did not comply with the Code in the following ways: it had based the allocation of places under each of the three postcodes making up its catchment area (N2, N3 and NW11) on ‘parental preference’ data; that this was unfairly disadvantaging children from socio-economically deprived areas of N2; and that because more children from ‘more affluent’ areas of N2 were being admitted this would mean more siblings from ‘more affluent’ areas of N2 would be admitted under oversubscription criterion 3 further compounding the problem for those from socio-economically deprived areas of N2.

53. I have found that the school has not based the proportion of places allocated to each postcode under oversubscription criterion 5 on ‘parental preference’ data. The school has used past application data to determine the fair allocation of places to each postcode. I have found this to be both a reasonable and fair approach, based as it is on the patterns determined from applications from the three areas in previous years. In terms of the unfairness to those in socio-economically deprived areas of N2, I have found that although they do have less opportunity to be admitted to the school given the location of those areas relative to the school and the boundary of N2 the scale of disadvantage is mitigated by the fact that parents of children in those areas have a number of choices of schools in the locality to which they can apply for places. Finally, I have found for the same reason, that, although it is likely to be the case that the number of siblings of children admitted from N2

under oversubscription criterion 3 will be from more affluent areas of the postcode, the scale of disadvantage is also mitigated such that I find that the arrangements are not unreasonable or unfair.

54. I have found other matters in respect of the school's arrangements which I have detailed in the 'Other Matters' section. The school has said it will address them and it must do so in the timescale set out in this determination.

Determination

55. 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 2023 determined by the governing board of The Archer Academy, Barnet.

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

57. 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: 25 November 2022

Signed:

Schools Adjudicator: Dr Robert Cawley