



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4639

Objector: A member of the public

Admission Authority: Northern Lights Learning Trust for Benedict Biscop Church of England Academy, Sunderland

Date of advice: 21 September 2026

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by Northern Lights Learning Trust for Benedict Biscop Church of England Academy, for 2027/28.

I have also considered the arrangements under section 88I(5) and find that they do not comply with 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 this 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 member of the public (the Objector), about the admission arrangements for September 2027/28 (the Arrangements) for Benedict Biscop Church of England Academy (the School).
2. The School is a primary academy for children aged 3 to 11 years. It is located in Moorside, Sunderland. This is close to the 'South Sunderland Growth Area' which is a major development providing approximately three thousand new homes between 2020 and 2032.
3. The local authority for the area in which the School is located is Sunderland City Council (the Local Authority, the LA).

4. The LA is a party to this objection. Other parties to the objection are:
- The Objector;
 - Northern Lights Learning Trust (the Admission Authority, the Trust);
 - Benedict Biscop Church of England Academy (the School); and
 - The Diocese of Durham (the Diocese).
5. The objection is to the School's oversubscription criteria. Specifically, it is to the criterion that gives priority for a place in Reception to all children attending the School's Nursery.
6. I thank all parties for the way in which they presented their views and for their prompt responses to my requests for further information.

Jurisdiction

7. 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 School are in accordance with admissions law as it applies to foundation and voluntary aided schools.
8. These Arrangements were determined under section 88C of the Act by the Trust, which is the Admission Authority for the School on 10 October 2025.
9. The Objector submitted her objection to the determined arrangements on 11 May 2026.
10. 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.
11. The Objector referred to 'past decisions of the Schools Adjudicator' in relation to similar concerns. I note that previous determinations by other schools adjudicators may be relevant and informative. However, they do not set precedents, and I have, therefore, considered the Arrangements in accordance with the requirements set out in legislation and the Code and in the light of the facts and circumstances as they are now.
12. The Objector made a suggestion as to how the arrangements for 2027/28 for the School could be changed to make them, in her view, compliant with the Code. As an adjudicator, my role is not to give advice. My jurisdiction is for the Arrangements determined and to decide whether they comply with all relevant legal requirements. It is not open to me to determine how the Arrangements should be. If I uphold this objection, it is the for the

Admission Authority to address any non-compliance issues within the required timeframe. I cannot, therefore, advise on the suggestions made.

13. I have also used my power under section 88I of the Act to consider the Arrangements as a whole and to determine whether or not they conform with the requirements relating to admissions and, if not, in what ways they do not so conform. I will refer to these as 'other matters' and they are covered in the section of the determination under the title of that name.

Procedure

14. In considering this matter I have had regard to all relevant legislation and the Code.

15. The information I have considered in reaching my decision includes:

- the objection dated 11 May 2026 and supporting documents;
- a copy of the minutes of the meeting of the Admission Authority at which the Arrangements were determined;
- the determined Arrangements for 2027/28;
- responses from the Objector, the LA, the Trust and the Diocese to the objection and to my requests for further information;
- confirmation of when consultation on the arrangements last took place;
- the guidance on admissions provided to the School by the Diocese;
- Department for Education (DfE) guidance documents:
 - Free school admissions: common issues mainstream admissions December 2014 (v4)
 - Free school admissions guidance mainstream admissions December 2014 (v3) (to be referred to collectively as the DfE guidance);
- maps, including Google Maps, and those showing the location of the School; and
- information available on the websites of gov.uk (including the 'Get Information About Schools' (GIAS) and Ofsted websites), the LA, the Trust and the School.

16. I have been provided with a substantial amount of information by the parties. I have referred only to that which has a bearing on my determination. I have not included personal information provided by the Objector.

Background

17. According to GIAS, the school is a co-educational, non-selective academy converter with a Church of England religious character.

18. The School was last inspected by Ofsted in October 2024. Ofsted judged the School to be outstanding in all areas including its early years provision (Nursery and Reception).

19. The published admission number (PAN) of the School for 2027/28 is 45.

20. The Arrangements set out that children with education, health and care (EHC) plans will be admitted first. Then, in times when oversubscribed, children will be prioritised according to the oversubscription criteria. These can be summarised as follows:

1. Looked-after and previously looked after children (LAC);
2. Siblings - Children who have an older sibling attending the school, at the time of their application.
3. Feeder School [sic] - Children who attend the Nursery of the same academy in the previous academic year to that of their application.
4. Other children - Priority will be offered on the basis of distance from the centre of the home to the main entrance of the school with priority being given to those living closest to the school.

21. The School is typically oversubscribed, with more parents selecting the School as their first preference for a Reception place for their child than there are places available. The numbers are increasing year-on-year, i.e. in 2024 there were 56 first preferences, 58 in 2025 and 62 in 2026.

22. The School's Nursery also has 45 places. These places are 'typically filled each September'.

23. The School's website makes it clear that if a child is allocated a place in the Nursery, this does not guarantee that the child will subsequently be admitted to Reception. The website states that all families must apply for a Reception place.

Consideration of Case

24. I will now set out my consideration of the matters raised by the Objector. I will conclude each section with a statement as to whether or not I uphold that particular aspect of the objection, preceded by my reasons for that conclusion. Where I state that I uphold an aspect of the objection, that does not necessarily imply that I fully endorse the reasoning expressed by the Objector, nor that the Objector has necessarily correctly interpreted which Code provision applies. Rather, it means that I have found that the particular aspect of the Arrangements drawn to my attention by the Objector does not conform with a requirement of the Code identified by me and is in breach of the Code for the reasons I have given.

25. The objection is in relation to oversubscription criterion 3. In the Arrangements this is described as ‘Feeder School - Children who attend the Nursery of the same academy in the previous academic year to that of their application.’ Technically, the Nursery is not a feeder school as defined in paragraph 1.15 of the Code (see below) as the children are already on roll at the School but I understand what the School means by this description and the way in which the Admission Authority are making it clear that a further application is required for a place in Reception. The effect of criterion 3 is to give a higher priority for a Reception place to any child who attends the School’s Nursery than to any other child who lives locally, who does not have an EHC plan and to whom criteria 1 and 2 do not apply.

26. The objection has three main elements:

- i. Oversubscription criterion 3 is not in line with the Code which ‘does not permit [admission arrangements to include a] blanket priority for all nursery attendees’;
- ii. As the Nursery operates on school term dates, families who require year round childcare, are “significantly disadvantaged and effectively excluded from equal access to Reception places”; and
- iii. Families moving into the area are unable to access a place at the Nursery, and this is impacting on their chances of securing a place in Reception at the School.

27. Inherent in each of these elements is whether the impact of criterion 3 results in unfairness to a particular group of children.

28. I have identified the following paragraphs of the Code which are relevant:

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 Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child. Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.

1.9 (in part) it is for admission authorities to formulate their admission arrangements, but they **must not**:

a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements;

e) give priority to children on the basis of any practical or financial support parents may give to the school or any associated organisation, including any religious authority. The exception to this is where parents pay optional nursery fees to the school or school-run nursery, for additional hours on top of their 15-hour funded early education, where children from the school nursery class or school-run nursery are given priority for admission to Reception.

1.15 Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.

1.42 Admission authorities may give priority in their oversubscription criteria to children eligible for the early years pupil premium, the pupil premium, or the service premium who:

a) are in a nursery class which is part of the school; or

b) attend a nursery that is established and run by the school. The nursery **must** be named in the admission arrangements and its selection **must** be transparent and made on reasonable grounds.

29. The DfE guidance published in 2014 is directed at those setting up free schools. However, the principles have some relevance generally, so I referred the guidance to the parties for comment. The guidance entitled 'Free schools: common issues' says:

"Prioritising children in a school's nursery for admission

26. It is possible to give priority in reception to children attending a nursery but you need to be aware that where the nursery and the reception class have the same, or a similar, number of places, and the majority of children tend to transfer from the nursery to the school, this could breach the Admissions Code, as attendance of the nursery would be a pre-condition of admission to the school. This is set out in paragraph 1.9 a) of the Code.

27. You should also ensure that giving such a priority is fair to local parents who choose not to send their children to nursery. As a rule of thumb, such arrangements are likely to be unfair – and be vulnerable to an objection to the Schools Adjudicator – if very few or no places are available to other parents once those attending the nursery have been admitted to reception. If a majority of places are available to parents who have not sent their children to the nursery, the arrangements are likely to be less vulnerable to objection. Anyone can object to a school's admission arrangements and so it is important that you understand local parents' views on giving priority to nursery children before adopting it as an oversubscription criterion, and keep the policy under review...

28. Fee-paying nurseries cannot be named as a feeder institution, as this would contravene paragraph 1.9 e) of the Code which prohibits giving priority for admission on the basis of any financial support that parents give the school or an associated organisation. It is possible to give priority to those paying fees for their child's nursery provision only where any fee is for additional provision above the 'free' 15-hour funded early education offer;

29. Within any priority given to nursery children schools may prioritise those children attending the nursery who are eligible for the early years pupil premium, the pupil premium or the service premium above other children attending the nursery (paragraph 1.39B of the Code¹)."

30. The DfE guidance entitled 'Free schools admissions guidance' says something similar, namely:

"24.4. Children in a nursery which is part of the school or established and run by the school may be given priority for admission to reception. However, this is not without qualification.

24.4.1 Such priority must be fair in the local context. Schools should ensure those choosing not to send their children to the nursery do not find it harder to obtain a reception place than those attending the nursery. In this context, whether nursery priority is fair will depend on the location of the school, the availability of reception

¹ In the current version of the School Admissions Code (September 2021) this is set out in paragraph 1.42.

places in the area and the number of places offered without any reference to whether the child has attended the nursery (14 and 1.8 of the Code).

24.4.2 Those paying fees for their child's nursery provision may not be prioritised except where any fee is for additional provision above the 'free' 15-hour funded early education offer (1.9(e) of the Code).

24.4.1 (sic) When prioritising children in a nursery (in the circumstances set out in 24.4) schools may prioritise those children attending the nursery who are eligible for the early years pupil premium, the pupil premium or the service premium above other children attending the nursery (paragraph 1.39B of the Code¹)."

31. I accept that there is, or may be, some lack of consistency between the advice for new free schools and the Code and that the DfE has not provided separate advice for maintained schools and academies. I note that, were there to be a direct conflict, the Code provisions would prevail. The DfE guidance does, however, provide helpful information in understanding what the DfE considers to be good practice when a school chooses to give priority to children attending its nursery as an oversubscription criterion for admission to Reception. Additionally, as with all non-statutory guidance, schools are not required to follow the advice, but it is a relevant consideration for schools to take into account and which they would generally be expected to express a reason for deciding not to follow.

32. All admission arrangements create advantage for some applicants and disadvantage to others; indeed, their purpose is to give higher priority to some applicants than to others. Oversubscription criteria must be included in admission arrangements to make clear how admission will be prioritised when the number of applications is greater than the number of places available in the relevant age group². In situations of oversubscription, there will be applicants who are not admitted, but to be in breach of the Code, any disadvantage must also be unfair.

33. 'Fairness' is a term used in the Code but not defined. Fairness cannot be defined in universal terms as its requirements depend on the circumstances. Fairness is focused on the effect of the arrangements on any relevant group. This must be considered in context. It may be the case that the justification for the adoption of a particular set of oversubscription criteria could override any unfairness. Where the available evidence does not establish disadvantage, there cannot be any unfairness. This also means that oversubscription can be fair, but over time, if the School's situation changes, they may become unfair.

² This is the age group at which pupils are or will normally be admitted to the school e.g. Reception, Year 7 and Year 12 where the school admits external applicants to the sixth form (Section 142 of the School Standards and Framework Act 1998).

34. Similarly, the Code uses the term 'reasonable' 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.

35. To determine whether the effect of oversubscription criterion 3 is reasonable or not, I will apply what I will refer to as the 'reasonableness test'. This is a two-stage objective test in which the first stage is the consideration of the rationale for adopting that which is the focus of the objection. The second is the effect of its practical operation.

36. Before I consider each of the elements of the objection, I will address concerns regarding the consultation process that took place ahead of the 2027/28 Arrangements being determined. This is because it was unclear to me whether the process followed met the requirements set out in paragraphs 1.45-1.48 of the Code.

37. The Trust worked with the LA to undertake a consultation on the proposed Arrangements for 2027/28. The Trust told me:

"The consultation was undertaken by the Local Authority on behalf of the Academy as part of its wider admissions consultation process. The policy consulted on listed the oversubscription with no changes from prior years. The only amendment to the policy was how the distance was measured with the purpose to ensure it was not misleading."

38. The LA confirmed that it had published the proposed arrangements on its website as part of its consultation process and that no feedback was received. It also said:

"We also issued to all Sunderland schools and own admissions authorities (including all LA maintained schools) and neighbouring authorities. Trusts are expected to make their parents aware (as per 1.47 A). We'd also issue on request information that covers wider than just the schools if an admissions authority tells us who that is as per 1.47B. Again though. If they have direct access we'd expect them to do that themselves."

39. In its response to this point, the Trust confirmed that the oversubscription criteria had not changed since a consultation undertaken in Autumn 2022 for admission arrangements applicable from 2024/25 onwards. For the changes to the 2027/28 arrangements it considered that:

"The most effective means of reaching a wider audience, including parents of children between the ages of two and eighteen and other interested persons within the relevant area, was for the Local Authority to conduct this on the school's behalf."

The Trust also said that:

“The consultation undertaken in Autumn 2022 covered the admission arrangements for all primary academies within the Trust and was publicised through:

- Distribution to admission authorities within the relevant local authority areas and neighbouring local authority areas;
- Publication on the Trust's website;
- Notification through school newsletters and other school communication channels.

The Trust considered that these measures provided an opportunity for parents of children aged 2-18 and other interested parties to view and respond to the proposed arrangements in line with the admissions code.

As there have been no changes to the oversubscription criteria since that consultation, the Trust's position is that the consultation undertaken remains within the seven-year period referred to in the School Admissions Code.”

40. When changes are proposed to admission arrangements, all admission authorities must consult on the admission arrangements that will apply for admission applications the following school year (paragraph 1.45 of the Code). This would include a change such as how distance is measured. Any consultation must follow the requirements set out in paragraphs 1.45-1.48 of the Code.

41. The Code specifically requires parents of children between the ages of two and eighteen to be consulted (para 1.47a). From the information provided, I find it unlikely that the Trust met this requirement of the Code in the consultation in relation to the 2027/28 arrangements or, indeed, the previous consultation held in 2022. This is because the methods of communication outlined above would be most likely to reach parents who already have a connection to the School. Parents of young children in the local area who do not have a child at the School are unlikely to be aware of its communications or to look specifically at the Trust's website. Although not mandatory, good practice suggests that a wider number of parents can be reached by placing information about the consultation in local newspapers, doctor's surgeries, libraries, local supermarkets, and through the use of social media. I find it likely that many of the families moving into the area due to the new housing developments will have been unaware of the consultation as information was shared mainly with those who already had links to the School. I, therefore, find that the statutory process was not followed in full.

42. It is not possible to know whether this lack of consultation made a material difference to the outcome of the consultation. However, I note here that I only have jurisdiction to consider whether the School followed the statutory process when consulting on its proposed arrangements for 2027/28. I do not have jurisdiction to consider whether the statutory process itself should or should not be different. Furthermore, I have no power to require the Admission Authority to re-run the consultation or to revert to previous arrangements.

43. From the School's website, I can see that the School's admission arrangements have contained the same oversubscription criteria since at least 2020. In its response to me, the Trust stated that, prior to the 2027/28 Arrangements being adopted, it had received no parental feedback regarding giving priority to children attending the Nursery.

Oversubscription criterion 3 is not in line with the Code which 'does not permit [admission arrangements to include a] blanket priority for all nursery attendees'

44. In relation to criterion 3, the Objector stated:

"The School Admissions Code permits nursery based priority only where it is limited to disadvantaged children [Early Years Pupil Premium / Pupil Premium / Service Premium³] (EYPP/PP/Service Premium). The Code does not permit blanket priority for all nursery attendees. The Department for Education and past decisions of the Schools Adjudicator have made clear that wider nursery link arrangements are unfair and unlawful."

45. It is clear from the Arrangements that once children with an EHC plan, looked after children and those with siblings already attending the School have been admitted, children attending the School's Nursery have a higher priority for a Reception place than all other children living locally. The Objector is concerned that "children who are neither siblings nor nursery attendees have very limited realistic prospects of obtaining a Reception place at the school."

46. As set out earlier, paragraph 1.42 of the Code explicitly states that schools may give priority in their oversubscription criteria to children eligible for EYPP, PP or Service Premium. These are specific groups of children and, if selected as an oversubscription criterion, must be clearly defined. The Code is less specific on whether a school can give

³ The early years pupil premium is additional funding paid to support disadvantaged children receiving government-funded early education, as per Section 7 of the Childcare Act 2006. The pupil premium is additional funding paid annually to schools under Section 14 of the Education Act 2002 for the purposes of supporting the attainment of disadvantaged children. The service premium is additional funding paid annually to schools under Section 14 of the Education Act 2002 for the purposes of supporting the pastoral needs of the children of Armed Services personnel.

priority for admission to Reception to any child on the basis that the child attends the School's Nursery. However, it does not prohibit this. Therefore, as a matter of general statutory interpretation, as the Code does not explicitly prevent it, it is allowable for an admission authority to prioritise nursery attendance in its oversubscription criteria so long as that is done within the framework of the Code's general requirements and within the public law principles of reasonableness and fairness. As described above, what is considered reasonable and fair will be context specific.

47. This stance is supported by the DfE guidance, quoted above, which states that "children in a nursery which is part of the school or established and run by the school may be given priority for admission to reception. However, this is not without qualification." Specifically, it is important to consider the local context in order to determine the impact of such a criterion.

48. The Trust confirmed that the School operates mixed-age classes in its Early Years provision. The School's website explains its rationale for this approach:

"We have a 90-place mixed Nursery and Reception open plan provision. Older pupils are able to act as positive role models for our younger pupils, both academically and socially. This helps younger and new pupils settle quicker into the provision, ultimately maximising learning time."

49. I note here that research consistently shows that high-quality early childhood education provides significant benefits for children and their families. However, while there is nothing in the Code to prevent admission authorities from encouraging children to attend nursery, compulsory schooling does not start until the term after a child's fifth birthday.

50. As set out above, there is nothing in the Code that prohibits an admission authority from giving priority for a Reception place to children attending its school nursery. I, therefore, do not agree with the Objector that the Arrangements are unlawful as a result of criterion 3. I find the oversubscription criteria are, of themselves, reasonable and that the Arrangements meet the first stage of the 'reasonableness test'. I will now consider the effect of the application of the oversubscription criteria.

51. The numbers of children admitted to the School under each of the oversubscription criteria in 2024 and 2025 and forecast to be admitted in 2026 are set out in Table 1. The table also shows how far away from the School the farthest child admitted lives.

Table 1: The number of children admitted to the School under each of the oversubscription criteria in recent years and distance farthest child lives (data provided by the LA on 9 July 2026)

	2024	2025	2026*
EHC plan	0	0	0
Criterion 1 (LAC)	3	1	1
Criterion 2 (Siblings)	16	18	20
Criterion 3 (Nursery)	26	27	22
Criterion 4 (Distance)	0	0	2
Number Admitted	45	46	45
Final distance (miles) in criterion 3	2.67	2.005	0.799
Final distance (miles) in the criterion 4	n/a	n/a	0.482

* Forecast to be admitted

52. The distance that the farthest child admitted under criterion 3 lives from the School has decreased over the last three years. However, children who attend the Nursery are being admitted from a greater distance (up to 0.799 miles) compared to children who are admitted under criterion 4 (up to 0.482 miles). The LA identified that, in 2026, there were nine children who lived closer to the School but did not attend its Nursery than the final child admitted under criterion 3. The nine children, with distances from home to school ranging between 0.54 miles and 0.78 miles, were not offered a place at the School. While I cannot be certain, it is likely that some, if not all, of these nine children would have been offered a place at the School if criterion 3 had not been in place.

53. With regard to providing places for local children and serving its local community, the Trust stated:

“To ensure admissions into reception under criteria 3 are handled fairly the admissions authority apply the nursery admissions policy robustly before admission into the nursery and distance is the only criteria after Looked after children and siblings meaning the nursery children are primarily from the immediate area.

To further ensure the school could support the community it serves and not disadvantage any social or racial group, the school removed faith places from the oversubscription criteria a number of years ago despite being a Church of England school.

The school has a history of being oversubscribed with appeals for reception every year. Governors discussed ... that it was likely some nursery children would not be successful in securing a reception place due to other oversubscription criteria.”

54. However, I also acknowledge the Objector’s concern that:

“Children admitted under this criterion [criterion 3] may later generate sibling priority applications, meaning the impact of criterion 3 can continue beyond the initial nursery cohort and influence future admissions. I am concerned that this cumulative effect may make it increasingly difficult for newly arrived local families to obtain a Reception place.”

55. I note that the number of children admitted under criterion 2 (siblings) has increased year on year and in 2026 accounts for around 45 per cent of children being offered a place in Reception. The Trust has confirmed that for admission in September 2026, 43 children previously attended the School’s Nursery. This means that 96 per cent of the School’s Reception places have been taken up by children who have previously been on roll at the School’s Nursery. In 2024 and 2025, all children admitted to Reception were admitted under criteria 1-3. The practical effect is that Reception is populated almost exclusively by children who attended the School’s Nursery. I, therefore, agree with the Objector that children who are neither siblings nor nursery attendees have very limited prospects of obtaining a Reception place at the school.

56. The Trust states that this is acceptable because, for admission to the Nursery, the distance a child lives from the School is the only criteria used, after looked after children and siblings, so that the children admitted to the Nursery are primarily local. However, as outlined above, some children who live closer to the School than some of the children attending the Nursery would not be admitted under the current oversubscription criteria. In addition, the great majority of places in Reception are, in effect, being allocated a year earlier than is legally required as a place in the Nursery is a significant determining factor in whether a child will be admitted to the School’s Reception.

57. The DfE guidance indicates that where nursery and reception classes have the same number of places, and the great majority of children transfer from the nursery to the school, attendance at the Nursery is, in reality, a pre-condition of admission to the School.

58. The DfE guidance also sets out that “arrangements are likely to be unfair ... if very few or no places are available to other parents once those attending the nursery have been admitted to reception.”

59. From the School’s website, applications for a place in the Nursery open in the September before admission, i.e. for a Nursery place in September 2026, applications were accepted from September 2025. The Nursery arrangements state that applications must be

made by the determined closing date. I have been unable to locate such a date on the School's website, although it does state that an offer will be made by the School "during the Autumn term (late October/early November)". Children may, therefore, be prioritised for a Nursery place based on the date their application is received by the School. From information provided by the Objector, I understand that most, if not all, nursery places are typically filled several months ahead of the start of the relevant academic year.

60. Nursery admission arrangements are not covered by the Code and are not within my jurisdiction. However, with the current oversubscription criteria, it appears to me that for a parent to have a realistic chance of securing a Reception place for their child in September 2027, they would have had to apply for a Nursery place in the autumn term of 2025. This is before the admission arrangements for 2027/28 were determined. As arrangements are determined annually, parents are in a position of having to guess what the arrangements for the following year may be.

61. In summary, I find that:

- to stand a realistic chance of being admitted to Reception, a child is most likely to be a sibling of a child already attending the School and/or attend the School's Nursery;
- applications for a place in the Nursery are accepted from the September prior to starting Nursery. As a result, parents are, in effect, required to apply for a place at the School over 12 months ahead of the requirements set out in the Code; and
- based on applications up to and including 2026/27, it is likely that for admission in September 2027, children who do not attend the Nursery but live closer to the School than some Nursery attendees will not be admitted as the majority of Reception places will be filled as a result of criterion 3.

62. In conclusion, I find that the effect of the application of the oversubscription criterion 3 is unreasonable and unfair to any child who has been unable to secure a place in the School's Nursery. This is in breach of paragraphs 14 and 1.8 of the Code. I also find that as attendance at the Nursery is, in effect, a pre-condition of admission to Reception that the Arrangements are in breach of paragraph 1.9a) of the Code. **I, therefore, uphold this aspect of the objection.**

63. While it is for admission authorities to formulate their admission arrangements, Paragraph 1.9e of the Code states that they must not: "give priority to children on the basis of any practical or financial support parents may give to the school.... The exception to this is where parents pay optional nursey fees to the school or school run nursery, for additional hours on top of their 15-hour funded early education, where children from the school nursery

class or school-run nursery are given priority for admission to Reception.” There is no suggestion by any party that the Admission Authority is in breach of this requirement.

64. It is clear to me that, over time, the context in which the School finds itself has changed and, indeed, continues to change. Change is inevitable and is one of the reasons why admission arrangements must be re-determined every year to allow admission authorities to consider whether the arrangements are still appropriate and fit for purpose. The School’s Arrangements have not changed over time and, have not, therefore, taken these changes into consideration.

As the Nursery operates on school term dates, families who require year round childcare, are “significantly disadvantaged and effectively excluded from equal access to Reception places”

65. The Objector raises concerns that because the Nursery “operates on school term dates and is closed during half terms and holidays” that families who require year round childcare, for example, working parents who are new to the area and do not have a network of families and friends for support, are “significantly disadvantaged and effectively excluded from equal access to Reception places”. The Objector stated:

“The effect of this arrangement is to confer priority on families with greater financial flexibility, contrary to the principles of fairness and equity that underpin the School Admissions Code.”

66. In response to these points, the Trust said:

“The Trust has not identified evidence demonstrating that the admission arrangements disadvantage working families or any particular socio-economic group.

The school provides childcare outside of the school day from 07.45-18.00 to support our working parents. The wraparound care is available for all children from Nursery to Y6.

Furthermore, admissions arrangements for nursery do not take into account the number of hours a child will be entitled to receive or the number of hours the parents require from the school allowing flexibility for families to also use their free entitlement to childcare in school holiday closure periods from an alternative provider. We support our families and signpost to providers who can provide additional care in school holidays particularly from the partnerships we have as the Early Years Hub for the region.”

67. In general terms, there is no requirement for a parent to send their child to nursery and where a parent does choose to do so, their choice of provision is likely to be influenced

by a wide range of circumstances. A placement in a school-based nursery may be unsuitable for a number of reasons including work commitments which do not coincide with the hours on offer, school holidays or drop off /pick up times.

68. It is very common for nursery classes within schools to operate on a term-time only basis and there is no requirement for a school to provide year-round nursery places. I note that the School offers provision that extends beyond the school day and provides support to help families secure childcare in school holiday periods. I do not, therefore, find that there is a lack of fairness or equity or that families are disadvantaged solely because the Nursery operates on school term dates. **I do not uphold this aspect of the objection.**

69. I do accept, however, that for families requiring year-round childcare that they may need to choose a non-school-based provider to meet their requirements and that this may then impact on the priority their application is given when applying for a Reception place for the reasons set out in relation to the first part of the objection which I have upheld.

Families moving into the area are unable to access a place at the Nursery, and this is impacting on their chances of securing a place in Reception at the School

70. The objection refers to the “significant new housing developments surrounding Benedict Biscop CE Academy”. The Objector raises concerns that families moving into the area are unable to access a place at the Nursery, and subsequently this is impacting on their chances of securing a place in Reception at the School. The Objector stated:

“As a result, the feeder nursery priority disproportionately disadvantages children from newly arrived local families, despite them living within the school’s natural catchment area. This undermines the principle of fair access set out in the School Admissions Code, particularly where demand is driven by planned housing growth approved by the local authority. Admission arrangements should not operate in a way that systemically excludes children simply because their families arrived in the community later as part of council approved development.”

71. The School is located in a developing urban area. From GIAS, I can see that there are six schools, including the School, admitting children to Reception located within a two-mile⁴ walk of the Objector’s home.

72. The LA has a duty to ensure that there are sufficient school places for the children in its area. To help fulfil this duty the LA uses planning areas which are geographical areas each containing a number of schools. The LA provided information about the number of

⁴ A child under the age of eight is eligible for free travel to their nearest suitable school if it is more than two miles from their home (Travel to school for children of compulsory school age May 2026)

children admitted or forecast to be admitted to YR in the planning area that includes the School.

Table 2: The number of children admitted or forecast to be admitted to the planning area that includes the School (data provided by the LA on 9 July 2026)

	PAN	Actual 2024/25	Actual 2025/26	Offers 2026/27	Projected 2027/28	Projected 2028/29
Benedict Biscop Academy	45	45	45	45	43	46
Mill Hill Primary School	60	60	60	60	55	60
Farringdon Primary Academy	60	39	50	42	42	42
East Herrington Academy	60	60	58	60	58	56
Total	225	204	213	207	198	204

73. Table 2 shows that the total number of children admitted to schools in the planning area fluctuates a little from year to year but there is no particular increase in numbers. There appear to be sufficient places for the children forecast to require a Reception place in September 2027 and beyond, however, the LA also told me that:

“The above [Table 2] does not account for projected impact of new housing. That is calculated on a total planning area basis. Pupil yield is based on the DfE average pupil per new home rate of 0.36 pupils per dwelling...

There are 129 completions projected for 2026/27 with an estimated total primary yield of 48 pupils across all primary age ranges in the planning area with 84 completions projected for 2028 (with an estimated total primary age yield of 31 pupils across all age ranges).

There are 499 new housing completions projected in the planning area from 2026 onwards. 367 are projected to be complete between 2026 and 2031 with a total pupil with an estimated pupil yield of 136 pupils across all age ranges.

The Local Authority secured ... funding to create 210 additional school places within the South Sunderland Growth Area. 105 of the 315 places at Benedict Biscop Academy were developed using this funding to ensure families moving into new homes would have access to suitable local school places (with a further 105 developed to the East of the South Sunderland Growth Area). A site for a new 1.5FE

primary school has also been allocated at a central point within the development.”

74. The School increased its PAN from 30 to 45 in 2021. This increase is the additional 105 places at the School referred to by the LA. I note that Reception has filled to this increased level in each year since at least 2024. There is, therefore, no further ‘additional’ capacity within the School.

75. As set out above, the DfE average pupil per new home rate is 0.36 pupils per dwelling. While this covers all year groups, there is no doubt that a number of the new houses will be bought by families with young children requiring Nursery or Reception places. As established earlier in this determination, to stand a realistic chance of being admitted to Reception, a child:

- must be a sibling of a child already attending the School and/or attend the School’s Nursery; and
- to secure a Nursery place, parents need to apply early in the academic year prior to requiring the Nursery place.

In practice, therefore, families need to be living in the area for some considerable time before a Reception place is required.

76. I have already found that the impact of oversubscription criterion 3 is unfair on any family that has been unable to secure a place for their child in the School’s Nursery. This criterion, therefore, impacts unreasonably on families moving into the area by reducing their chances of securing a place in Reception at the School. **I uphold this aspect of the objection.**

Other matters

77. Having considered the Arrangements as a whole it appeared to me that there are other matters which do not conform with requirements of the Code and so I brought them to the attention of the Trust. These matters are set out below (paragraphs of the Code are indicated where relevant).

78. The Arrangements do contain some information in relation to the admission of children outside their normal age group. However, they do not set out the factors that the admission authority will take into consideration when considering such an application for admission. Furthermore, the Arrangements do not make it clear that the Trust will make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This is in breach of paragraph 2.19 of the Code which states:

“Admission authorities **must** make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking

account of the parent's views; information about the child's academic, social, and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. They **must** also take into account the views of the head teacher of the school concerned. When informing a parent of their decision on the year group the child should be admitted to, the admission authority must set out clearly the reasons for their decision."

79. In response to this matter, the Trust said:

"Where an application for admission outside of normal age is received the admission authority will consider the application in line with 2.19 of the admissions code to ensure it is in the best interests of the child.

80. This clarification is welcome, but the Trust's approach would not be clear to a parent reading the Arrangements. As a result, the Arrangements are also in breach of paragraph 14 of the Code.

81. The Arrangements do not meet all the requirements of the Code in relation to waiting lists. This is in breach of paragraph 2.15 of the Code which states:

"Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must** not be given to children based on the date their application was received, or their name was added to the list. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol **must** take precedence over those on a waiting list.

82. In its response to this matter, the Trust said:

"The Trust's intention is that waiting lists are operated in accordance with the School Admissions Code and coordinated admission arrangements. The waiting lists are managed by the Local Authority under SLA whilst they are in primary school or until they request to be removed."

83. This clarification is welcome, but the Trust's approach would not be clear to a parent reading the Arrangements. As a result, the Arrangements are also in breach of paragraph 14 of the Code in relation to this matter.

84. I will not discuss these matters further other than to make clear that the Code requires that the Arrangements be amended to address the points set out here. Such amendments are permitted in line with paragraph 3.6 of the Code which states, in part:

“Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements.”

85. The Admission Authority must address these matters, as permitted by paragraph 3.6 of the Code, within two months of this determination.

Determination

86. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by Northern Lights Learning Trust for Benedict Biscop Church of England Academy, for 2027/28.

87. I have also considered the arrangements under section 88I(5) and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

88. 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 this determination.

Dated: 21 September 2026

Signed:

Schools Adjudicator: Catherine Crooks