



Additional Support Needs

**DECISION OF THE TRIBUNAL**

**Reference**

1. This is a placing request lodged with the Tribunal in April 2020. It is made under section 18(3)(da)(i) of Education (Additional Support for Learning) (Scotland) Act 2004 (**'the 2004 Act'**). The appellant asks the tribunal to require the respondent to place the child in school B.

**Decision**

2. The tribunal confirms the decision of the respondent to refuse the placing request in accordance with section 19(4A)(a) of the 2004 Act. The tribunal does not therefore require the respondent to place the child in school B.

**Process**

3. A hearing took place by video conference over two days.
4. Prior to the hearing three case conferences took place by telephone on 9 July 2020, 4 September 2020 and 23 September 2020. At the case conferences a number of procedural matters were discussed and agreed with directions made to regulate the hearing and the pre-hearing process. A direction was issued for a joint minute of agreement. This was produced (049). Some of the matters covered in this joint minute are reflected in our findings in fact.
5. Prior to the hearing we were provided with a comprehensive bundle of evidence (001-149). Statements were lodged in advance of the hearing and evidence was heard at the hearing from the following witnesses for the appellant:
  - (i) Witness A, Head of Centre at nursery school (066-070)
  - (ii) Witness D, the appellant (061-065)
6. Statements were lodged in advance of the hearing and evidence heard at the hearing from the following witnesses for the respondent:
  - (i) Witness B, Head Teacher of school B (140 and 144-146)
  - (ii) Witness C, Deputy Head Teacher of school C (141-143 and 147- 149)
7. Following the conclusion of the hearing, written submissions were directed, with an opportunity for each party to comment on the submissions of the other. Before reaching our decision we considered the oral and written evidence contained within the bundle and written submissions.

## Findings in Fact

### *The child*

8. The child is five years old. The appellant is the child's father. The child lives with the appellant, her mother and her two siblings.
9. The child attended a mainstream nursery school for three years until 12<sup>th</sup> March 2020 when the nursery closed due to Covid-19. The nursery is attached to a mainstream primary school which the child currently attends. The nursery has a roll of eighty five children. It has two large playrooms and a smaller playroom. It has two outdoor play areas. The nursery does not have a sensory room. The child attended five mornings per week.
10. The child has Hypermetropia and a convergent squint. The child wears glasses with strong lenses and an eye patch. The child needs to be closely supervised to ensure she wears her eye patch which she removes if not closely supervised.
11. The child has difficulty with her motor skills. The child presents as unsteady on her feet and struggles with spatial awareness. There are concerns about her gait and she will rock her body when walking. She was able to access all three nursery rooms and the outdoor play areas because she was very familiar with the layout of the nursery which supported her moving around the nursery. The child struggled to navigate the nursery environment safely when there were obstacles in her way. Therefore the child requires a high level of adult supervision to move around her environment safely.
12. The child has a diagnosis of Global Developmental Delay. She has significant delay across all domains of development. The child is significantly behind her peers developmentally.
13. The child has an Individualised Education Programme which was last reviewed in October 2019. At nursery the child received regular target reviews using her Individualised Education Plan and although the child made some academic and developmental progress she has difficulty in retaining information and previously learned skills. The child is significantly behind her peers academically.
14. The child's speech and language development is significantly delayed. The child benefits from a total communication approach. The child mainly communicates using body language or facial expressions. She can use some signing and use some single words but this is not consistent. She struggles to follow instructions due to her speech and language delay. Communication challenges mean the child can become frustrated and often expresses her frustrations through her behaviour. At times she will cry, hit out and throw things.
15. The child can become overwhelmed with levels of noise and the number of children. At times in nursery the child would become overwhelmed within the larger playroom due to levels of noise and the number of children. When distressed the child required one to one support outside of the room.
16. The child requires adult support in order to maintain hygiene and attend to personal care. She requires prompting and reminding about basic routines and can easily be

distracted. She requires close adult support to work on skills with routines such as hand washing.

17. The child has no sense of risk or danger and will try and climb onto equipment both indoors and out. She enjoys the sensation of falling back and does this regularly. She does not understand the danger in seeking this stimulation. Therefore the child requires a high level of adult supervision to keep her safe in class, in the wider school and within the community.
18. The child has sensory needs. The child's sensory needs mean she requires a lot of movement and opportunities to be outside to keep regulated. In nursery she benefited from access to an enclosed outdoor play area. She requires regular movement breaks and opportunities to be outside.
19. The child can only focus for a limited time. She is unable to join small groups for sustained periods of time. She was supported in one to one worktime sessions for ten minutes three times a week. Her ability to engage in these sessions fluctuated and she often did not manage the full ten minutes.
20. The child's interactions with peers are limited. The child can find it difficult to take turns which makes it difficult for her to play with or engage in sustained interactions with her peers or take part in group activities. The child has limited awareness of personal space. Therefore she needs adult support to ensure positive peer interactions.
21. At nursery the child required one to one support most of the time. At times two to one support was needed for example during personal care and at times to ensure the child's safety during active sessions outside. Even when one to one support was not required the child still required a high level of adult supervision. The child's needs have not reduced since completing nursery. Therefore the child will continue to require a high level of adult support and supervision at primary school and will at times require one to one support.

### *School B*

22. The appellant made a placing request for school B, a special school run by the respondent. This request was refused by the respondent on 03 March 2020.
23. School B has a roll of sixty eight pupils. All the pupils within school B have a learning disability or global development delay. The majority of children also have a diagnosis of autistic spectrum disorder. The pupils all have severe and complex additional support needs. The child's needs are similar to those of other pupils within the school.
24. The primary one class has one teacher and three pupil support assistants. The pupil support assistants have to leave the room to attend to children's personal care needs and to accompany children who require time out with class. There are times, due to staff absences, when the pupil support assistants are moved from the primary 1 class to support other classes in the school. If the child was placed into school B she would be placed into the primary one class. The child would be the eighth child in the primary one class. The current staffing resources would remain unchanged as neither an additional teacher nor an additional pupil support assistant would be employed.

25. There are nine classes in school B. There are six classes of seven pupils, one of eight and two of nine pupils. The classes with nine pupils have one teacher and three pupil support assistants. Some of the classes with seven pupils have one teacher and two pupil support assistants. The other classes with seven pupils and the class with eight pupils have one teacher and three pupil support assistants. The child would be placed within the primary one class. The classrooms within school B are all of a similar size. The primary one classroom has within it a tent and large sensory balls. The classrooms with nine pupils do not have a tent but one has two children with larger adapted special chairs which the primary one class does not have. There would therefore be space available within the primary one class to accommodate the child.
26. Apart from the primary one class all the pupils in school B are organized into classes according to their communication level and ability rather than simply by age. The children in the primary one class all have language and communication difficulties in addition to global developmental delay or learning disability. In the classes with eight or nine pupils the children are more independent and have greater communicative ability than the pupils within the primary one class. The pupils in classes of eight or nine are able to work in small groups as social partners. This is not possible in the primary one class due to the level of need that the children have.
27. The children in primary one in school B have sensory issues including sensitivity to noise. If there is too much noise children within the class can have a reaction and become distressed, causing harm to themselves and others. This impacts negatively on their ability to learn. The addition of an eighth child to the classroom will increase the noise within the classroom.
28. The children in primary one struggle within a class of six. Some of the children spend periods of time outside of class because they find the classroom environment overstimulating. An additional child will make the room more busy and impact negatively on the sensory experience of the other children in the class.
29. The child requires a high level of adult support and supervision including one to one support which will impact on the time available for staff to support other children in the class. One to one support is important for pupil's engagement with learning and to ensure pupil's progress. A reduction in one to one support will negatively impact the educational progress of children within the class.
30. School B has secure outside play areas specifically designated to particular classes. These can be accessed directly from the classroom. The use of these areas is timetabled and the doors to the outside are kept locked when they are not in use
31. The staff at school B are trained in SCERTS (social communication and emotional regulation assessment and intervention), Sign-Along, and Playboxes which is a joint attention intervention. They are also experienced in using PECS communication system. They have support from a Speech and Language Therapist each week. The child's communication needs can therefore be supported within the school.

### *School C*

32. School C encompasses fourteen mainstream classes, two nurseries (one on-site and one off-campus) and four Language and Communication classes (LCC). The LCC are

a specialist provision. The child was offered a place in the LCC in school C in September 2020. The child would be placed within the primary one class in the LCC in school C.

33. The LCC is situated in a corridor on the ground floor, separate from the mainstream classes at school B. The children in the LCC do not integrate with the mainstream classes unless it is safe for them to do so. Access to the LCC is through a separate entrance and not through the mainstream entrance of the school.
34. The primary one class contains workstations for each child in the class. The classroom is a total communication environment. The primary one classroom is a secure classroom with high handles. The primary one class has a kitchen area. There are measures in place to ensure the safety of the children in the classroom. The kitchen area does not present a risk to the child.
35. The class which the child would join is a cohort of primary one age pupils who present with complex developmental issues and are also diagnosed with co-existing learning disability. The class currently supports four pupils. These children have a similar developmental and academic profile to the child.
36. There is a high staff to pupil ratio within the four LCC classrooms in school C. Each class has a maximum pupil capacity of six. Each class has a teacher, a nurse/nurse and a pupil support assistant. School C are able to provide the child with an appropriate level of support and supervision at all times.
37. School C has a soft play area, a large gym and a music room which is available for use by the primary one children in the LCC. The soft play area is used by other LCC classes and pupils from the mainstream school infrequently. The primary one class have access to this whenever required.
38. There is no sensory room within school C. The primary one classroom itself contains sensory equipment that will support the child's sensory needs. The classroom contains sensory equipment including swiss balls, tactile equipment, a fenced off area with cushions. The soft play area is adjacent to the classroom and can be accessed directly from there. There is a CALM space which can be used by the primary one pupils. Therefore the child's sensory needs can be met in school C.
39. The staff at school C are trained in SCERTS (social communication and emotional regulation assessment and intervention), Sign-Along, and Playboxes which is a joint attention intervention. They are also experienced in using PECS communication system. They have support from a Speech and Language Therapist each week. The child's communication needs can therefore be supported within the school.
40. School C does not have a secure outdoor play area designated to the LCC. The children from the primary one class have exclusive use of the on-site outdoor nursery play area at certain times of the day. This is a secure outdoor play area which contains appropriate play equipment. A secure outdoor play area designated to the LCC is being developed. The use of the outdoor play area will be timetabled to avoid periods where large numbers of children are outside. Access to the nursery play area and the planned LCC play area is by way of a two minute walk. The child will be provided with adult support to access the outdoor play area. The nursery outdoor play area and the

planned LCC play area will be accessible to the child when required. Therefore the child's need for outdoor play can be appropriately met by school C.

41. As well as a teacher, there is a nursery nurse trained in child development within the primary one class. The child's developmental needs can therefore be met within school C.

### **Reasons for the Decision**

42. There was no dispute between the parties on the question of whether the child has additional support needs, as defined in section 1 of the 2004 Act. Given our findings, it is clear to us that this is the case.

43. The grounds of refusal relied upon by the respondent, refusing the placing request and maintained before the tribunal are contained in schedule 2 of the 2004 Act and in particular are:

- a) paragraph 3(1)(a)(i), "placing the child in the specified school would make it necessary for the Education Authority to take an additional teacher into employment"; and
- b) paragraph 3(1)(a)(v) "placing the child in the specified school would be likely to be seriously detrimental to the educational well-being of pupils attending the school".

44. In the circumstances where we find one or more of the grounds of refusal to be established we must then consider whether notwithstanding this it is appropriate in all the circumstances to place the child in school B.

45. The onus of establishing a ground of refusal lies with the respondent. The appropriate assessment point is at the time of the hearing.

46. We have concluded that the ground of refusal set out at paragraph 3(1)(a)(v) of schedule 2 of the 2004 Act exists as at the date of the hearing and that it is not appropriate in all the circumstances to place the child in school B. This led us to the decision to confirm the refusal of the placing request. It is not appropriate to narrate all of the aspects of the evidence in this decision. However, we considered all the evidence placed before us, both written and oral. Our reasons for the decision follow.

### **The first placing request refusal ground (2004 Act, Schedule 2 paragraph 3(1)(a)(i)): necessary for an additional teacher to be taken into employment.**

47. The appellant disputed that this ground of refusal was established by the respondent. The respondent argued that the maximum number of children within the primary one class should be seven. The child would be an eighth pupil. They argued that the health and safety of pupils within the class would be negatively impacted by an additional child within the class and therefore it was necessary to take into employment an additional teacher. The appellant argued that an additional teacher would not be required

48. Witness B gave evidence regarding the number of children within the primary one class and the likely impact if an additional child was added to the class. This evidence is discussed at paragraphs 50 - 56. Her evidence was that a maximum of seven children could be accommodated within the primary one class and that this was a

compromise with six being the ideal class size due to the level of language and communication difficulties that the children have. In her written statement witness B gave evidence that an additional class would have to be created and an additional teacher employed but that she was unable to create a further classroom due to a lack of space within the school and that no other rooms could be repurposed. At the hearing she was asked how she would accommodate the child if placed at school B. Witness B gave evidence that she would be accommodated within the current primary one class. She was also asked if another teacher would be employed to accommodate the child in the class. She gave evidence that this would not be the case and that the child would be accommodated within the existing primary one class with the current resources, namely one teacher and three pupil support assistants.

49. Having examined the ground of refusal and the evidence relating to it we do not consider that the ground of refusal set out at paragraph 3(1)(a)(i) of schedule 2 of the 2004 Act exists as at the date of the hearing as witness B clearly stated that the child if placed within school B would be accommodated in the existing primary one class without the necessity for an additional teacher to be employed. Given the reason for our decision we did not consider that the submissions made by parties in relation to case law required to be addressed.

**The second placing request refusal ground (2004 Act, Schedule 2 paragraph 3(1)(a)(v): likely to be seriously detrimental to the educational well-being of pupils attending the school**

50. The appellant disputed that this ground of refusal was established by the respondent. The respondent argued that placing the child in the school would result in the primary one classroom becoming busier and overcrowded which would result in serious detriment to the educational well-being of the pupils within the class. Further that the addition of the child in the school would place increased demands on staff time and would result in a reduction in one to one support provided to children within the class which would also result in serious detriment to the educational well-being of the pupils within the class.

51. Witness B gave evidence regarding the impact of adding an additional child to the primary one class. She gave evidence that adding an additional child to the primary one class would make the room busier with less space available for the children. She gave evidence that all of the primary one children have sensory needs. She gave evidence that restricted space can cause sensory overload in children with sensory needs. She gave evidence that even within a class of six some of the children within the primary one class struggle with the classroom environment and experience sensory overload resulting in them having to spend time outside of class. She gave evidence that many of the children in the class are sensitive to noise and if there is too much noise they can harm themselves and others. She described that they can become agitated which impacts on their ability to learn. She described that within the primary one classroom there was sensory equipment including a tent for quiet space. She described this as being in constant use by children and explained that due to the language and communication difficulties the children would be unable to ask for the tent when they needed it therefore it would not be appropriate to remove this to create more space. We considered that adding an additional child to the primary one class would directly impact on the noise within the classroom and restrict the space within the class for the other children. Given the sensory needs of the children within the

primary one classes we considered that adding an additional child would result in the children within the class being unable to cope within the primary one class environment.

52. Witness B gave evidence that if the child were admitted to school B this would result in increased demands on staff time and less one to one support in the class. Witness B gave evidence that there was one teacher and three pupil support assistants within the primary one class. She gave evidence that in addition to their breaks staff have to leave the room to attend to children's personal care needs and to accompany children who require time out with class. She gave evidence that the addition of an eighth child in primary one would lead to them receiving less one to one support which is important for pupil's engagement and learning. Witness B gave evidence that a reduction in one to one adult support would mean that children would make less progress in the targets they achieved. Witness B was asked whether this impact could be mitigated through the addition of a fourth pupil support assistant. Her evidence was that she requests additional staff every year and is always denied this request but that in any event this would not be appropriate as it would result in additional staff within the room, making it feel more crowded which would in turn further impact on the children's sensory needs.
53. We considered the specific needs of the child and the impact that this would have on the other children. Witness A gave evidence that within a nursery setting the child required one to one support the majority of the time. Witness A described that the child has no risk awareness and will try and climb onto equipment both indoors and out, whether safe and appropriate or not. She enjoys the sensation of falling back and does this regularly. She does not understand the danger in seeking this stimulation. Although witness B gave evidence that within a special school setting children who needed one to one support in nursery are likely to need less one to one support the child will still require a high level of supervision and is likely to require one to one support regularly due to her level of need and lack of risk awareness. Further, the child will require to be taken out of the classroom at times both for personal care or if she becomes distressed. This would result in the class having one teacher and two pupil support assistants with seven children. Given that children already regularly require to be taken out with the classroom due to sensory overload it is likely that other children may require to be taken out at the same time as the child resulting in a further depletion to the pupil to staff ratio's. This would have a significantly negative effect on the other children in the classroom.
54. The appellant submitted that there were some classes in school B with eight or nine children and therefore the authority had not established that the primary one classroom would be overcrowded. The appellant submitted that the space within school B can accommodate eight students, three support workers and a teacher alongside the equipment in the class. Witness B gave evidence that a number of classes in school B had eight or nine pupils. However, witness B gave evidence that the children within these classes are more independent, have greater communicative ability and can work in small groups as social partners. The needs and abilities of the children within the primary one class are different to these other children. The appellant submitted that there had been eight children within the primary class previously. Witness B gave evidence that there had been eight children within the class when she arrived but that the needs of the children in that class were far less complex than those of the children in the current primary one class. We therefore did not consider that the primary one class could be compared to the larger classes in school B.



55. The appellant gave evidence about his knowledge of the child's needs and his observations of school B. He had visited in or around June 2019 and had been able to visit each of the classes on that occasion. He considered that four adults within the primary one class would be able to cope and that the classroom was big enough to accommodate this many people. In so far as there was a difference of opinion between witness B and the appellant we preferred the evidence of witness B. Witness B has been the Head Teacher at school B since February 2020 and had been the Acting Head Teacher of the school for three years prior to that. She has an in-depth understanding of the school including the size and composition of the classes. She also demonstrated an in-depth understanding of the children within the primary one class. Her evidence was highly credible as to the impact upon granting the placing request on the pupils with whom the child would be educated. The appellant had only visited school B on one occasion in or around June 2019. He did not have the benefit of witness B's in-depth understanding of the children within the current primary one class and their needs and cannot speak to the impact that adding an additional child to that class will have.
56. Having examined this ground of refusal and the evidence relating to it we reject the appellant's submissions. We consider that that placing the child in the school would result in the primary one classroom becoming more busy and overcrowded and that the addition of the child in the primary one classroom would place increased demands on staff time which would result in a reduction in one to one support provided to other children within the class. We consider that the impact is such that it is likely that adding the child to school B would be seriously detrimental to the educational well-being of the other children within the primary one class. Therefore we consider that the ground of refusal set out at paragraph 3(1)(a)(v) of schedule 2 of the 2004 Act exists as at the date of the hearing

**Appropriateness in all of circumstances (s.19(4A)(a)(ii) of the 2004 Act).**

57. Having concluded that one of the grounds of refusal exists, we need to consider whether it is appropriate in all of the circumstances to confirm the decision to refuse the appellant's placing request, or whether we should overturn the decision and place the child in school B.
58. In considering this question, we must take account of all of the circumstances including those which are relevant to the consideration of the grounds of refusal, as well as any other circumstances which are not. Considering the evidence as a whole, we are satisfied that the refusal of the placing request should be confirmed. Much of our reasoning for this is detailed above in paragraphs (50-56). However, we also considered the fact that the child has been offered a place at the LCC in school C. Both the appellant and respondent in their written submissions compared the overall suitability of each school in relation to the child's needs. The appellant submits that school B is the most appropriate school for the child. The appellant accepts that school C offers the same access to trained teachers and academic curriculum but submits that the access to the outdoors and the environment within school B is more appropriate for the child than that in school C. The respondent submits that school C can meet the child's needs and that there is no substantive benefit to the child in respect of the differences between the two schools. Further they submit that if there is any benefit it is too insignificant to justify serious detriment to the educational welfare of other children.

59. Witness C described school C and the LCC. He described the LCC as being separate from the mainstream classes at school B. Witness C also described the classroom for the primary one class. The appellant set out in their written submissions a concern that the classroom itself which contains a kitchen area presented a risk to the child. However in evidence witness C described the measures in place to ensure the safety of the children in the classroom. The appellant set out in their written submissions a concern regarding the child's progress through the school. The appellant submitted that in future years the child may be required to move rooms within the school, and as one of the LCC classroom is upstairs this could be detrimental to the child's safety. Witness C was clear in his evidence that any changes would be fully risk assessed. The appellant also submitted in their written submissions that having the child in a classroom which is next to a mainstream nursery may be overwhelming to the child. There was no evidence led to suggest this would be unsuitable for the child. Witness A described the child having attended a mainstream nursery for the past three years. The nursery was registered to have up to 85 children and no evidence was led to suggest that the child struggled with the proximity of this number of children.
60. Witness C gave evidence that school C can provide adequate education for the child, directed to the development of her personality, talents and mental and physical abilities. He gave evidence that the child is at a similar developmental stage as the children within the primary one cohort within the LCC at school C. Both Witness B and Witness C gave evidence that the educational provision within school B and school C was the same. Both provided details of the learning methods used in both schools. Both schools have a total communication environment. In addition both schools have a speech and language therapist in the school each week and access to occupational therapy services as required. The appellant accepted in his evidence that school B and school C could offer a similar experience to the child in teaching experience and academic learning and that the child would make progress if she attended school C. The appellant's preference for school B was based on a perception that the facilities there would be better suited to the child in particular the outdoor space directly adjoining the classroom and a sensory room.
61. Witness C gave evidence regarding the facilities within school C. The facilities available to the children within the primary one class at school C include a soft play room, a large gym and a music room. Witness C explained that although there was no sensory room in school C there was a CALM space which although not currently used by the primary ones could be used by the primary one pupils if necessary. Further that the classroom itself contained sensory equipment. The appellant in his evidence stated that the facilities at school C are much smaller with a 'tiny' soft play room and no direct access to the outdoors from the classroom. The appellant submitted that the soft play area was small and available for use by mainstream students in some instances and so may cause distraction and over stimulation should other classes and groups be using it at various points throughout the day. Witness C described the classroom in proximity to the soft play room. He gave evidence that there is a door leading directly from the classroom to the soft play room and another door from the corridor into the soft play room. He gave evidence that currently the soft play room is only available to the children in the primary one class but out with Covid-19 it would be used by the other LCC classes and sometimes children from the mainstream part of the school however that this was 'very occasionally and by negotiation'. There was no evidence led that this would cause distraction and over stimulation to children in the primary one class or the

child. In relation to the size of the soft play room witness C gave evidence that the soft play room was 'quite big compared to others you see in schools'.

62. Witness B gave evidence regarding the facilities within school B. School B has outside areas specifically designated to particular classes. The use of these areas is timetabled but children can access these areas directly from their classroom. Witness C accepted that access to outdoor play was different in school B and school C but that this did not appear to disadvantage the child in any particular way. Witness C gave evidence that there is not currently a secure outside play area for the children in school C. However his evidence was that everything is in place to build a secure, safe outdoor play area in October or November this year. Witness C gave evidence that in the meantime, the children from the primary one class are using the nursery play area which is secure and has appropriate play equipment. Witness C gave evidence that the nursery has curtailed their use so the primary one children can use the outdoor play area exclusively at certain times of day. Witness C gave evidence that this area and the area that was being developed are accessed by way of a two minute walk.
63. The appellant in their submissions argued that such a walk may be deemed significant in the child's case due to her ability to walk and sensory needs and that this was therefore not suitable or appropriate. There was no evidence led to suggest that the child would struggle with this walk to the outdoor area. The appellant was asked about whether he agreed that a two minute walk to access the outdoor play area was a small amount of walking and whether this was still very close to the primary one classroom. The appellant agreed with this and did not express any concern regarding the child's ability to walk this distance to access the outside play area. Witness A described the child accessing all areas of the nursery as she was familiar with the 'map' of the nursery. She described the child requiring support to navigate areas she was unfamiliar with or where there were obstacles. Therefore whilst it is clear that the child requires a high level of adult support to move around her environment there is nothing in the evidence to suggest she would be unable to access the outdoor play area. Witness C gave evidence that there would be close supervision of pupils on the way to the outdoor play area. We were therefore satisfied that the child would be able to access the outdoor play area without difficulty and that the child's safety would be ensured whilst she made the journey there.
64. The appellant expressed concern that the outdoor play area being developed would be in the mainstream playground with other pupils able to access the play area and compared this to school B where only one classroom could access the play area. Witness C gave evidence that there would be a timetabled use of the outdoor play area and that the times in which the primary one's are in the new playground area will be timetabled to avoid periods when mainstream pupils are outside. Witness C was clear in his evidence that if it was unsafe for the child to integrate with mainstream children this would not happen. He described that the default would be that the child would not integrate with mainstream classes. Further he gave evidence that use of the outdoor play area would be timetabled to ensure that any child with a need for outdoor play will be able to access it. We were therefore satisfied that the child would have access to outdoor play as and when she required it.
65. We did not consider that there was any material difference between the educational provision between school B and school C. We considered the appellant's position that school B's facilities would be better suited to the child. However, having regard to the

evidence as a whole. We considered that there was no disadvantage to the child in relation to the facilities available to her in school C as opposed to school B. There appeared to be no disadvantage to the child in not having a sensory room available when there was a soft play room adjacent to the classroom in school C. The child did not have access to a sensory room within the nursery and instead accessed soft play there. Further the classroom itself contains sensory equipment that will support the child's sensory needs. There are other spaces available to the child within school C should she require these including a CALM space. We also did not consider there was a disadvantage to the child in having an outdoor play area adjacent to her classroom. The outdoor play area was a short walk away and despite the differences in access witness C was clear this did not mean that the outdoor play area would be used any less. Given that the child would not be disadvantaged by the differences in access and environment at school C as opposed to school B there was no justification for placing the child within school B when this would likely result in serious detriment to the educational well-being of other children in school B.

66. In so far as there was a difference of opinion between the appellant and Witness C we preferred the evidence of Witness C. Witness C is the Deputy Head Teacher of school C. He demonstrated a detailed knowledge of the school curriculum and additional supports provided within the LCC at school C and demonstrated an in-depth understanding of the children within the LCC primary one class at school C. Witness C had considered the reports within the bundle about the child and displayed a comprehensive awareness of the child's needs giving full and detailed answers when asked about how the child's needs could be met in school C. Witness C was also well placed to comment on the differences between school B and school C. Witness C has seventeen years' experience of working in special education and has provided support and training to various special schools. He worked for three years within the respondent's Additional Support for Learning Service which provides support and training to the respondent's special schools. Through this role he has an understanding and awareness of other special schools including school B. He was therefore able to comment on the differences between school B and school C. Although the appellant had visited both school B and school C the appellant had only visited school B on one occasion in or around June 2019 and had only been able to visit school C on one occasion out with the presence of the pupils who attend the school due to restrictions imposed by Covid-19. This limited the appellant's ability to form a fair and balanced view of the two schools.

67. Taking into account these additional factors in paragraphs 57-66 together with the evidence as a whole, we did not consider it appropriate in all the circumstances to place the child at school B.