



Additional Support Needs

**DECISION OF THE TRIBUNAL**

FTS/HEC/AR/23/0002

**Witness List:**

**Witnesses for Appellant:**

Appellant

**Witnesses for Respondent:**

Additional Support Needs Manager (witness A)

Development Officer for Early Years and Additional Support Needs (witness B)

Head Teacher at school B (witness C)

**Reference**

1. This is a placing request lodged with the Tribunal in January 2023. 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. We confirm the decision of the respondent to refuse the placing request, in accordance with section 19(4A)(a) of the 2004 Act. We therefore do not require the respondent to place the child at school B.

**Process**

3. A hearing took place by video conference over three days in October 2023.
4. Prior to the hearing the reference was case managed over an extended period by case management calls. A particular feature was the provision of assistance to the appellant on process and legal points at all stages of the case due to the appellant being an

unrepresented party. This was in line with the duty to provide such assistance under rule 2 of the First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366) (**the rules**), in particular rule 2(1)(c). The responsible body's representative assisted appropriately in engaging with that duty (see rule 2(1) which refers to the duty on the parties). Another particular feature was the assistance of an interpreter provided to the appellant. In addition all witness statements, written submissions and documentation from the tribunal were translated for the appellant as requested by her.

5. During the case management calls 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 that the child's views were to be ascertained by an independent advocate. A non-instructed advocacy report is produced in this regard T046-T50. At various stages of the process the appellant referred to the non-instructed advocacy report including in her submissions. It is noted that the main points gathered by the non-instructed advocacy were the appellant's views and were not conclusions reached by the independent advocate.
6. Prior to the hearing we were provided with a comprehensive bundle of documents T001-T001- T058, A001- A043, R001-R063. Statements were lodged in advance of the hearing and evidence was heard at the hearing from the following witnesses for the respondent:
  - (a) Witness A, Additional Support Needs Manager for the respondent (R025- R033; R058- R061)
  - (b) Witness B, Development Officer for Early Years and Additional Support Needs for the respondent (R034 – R043; R053- R056)
  - (c) Witness C, Head Teacher at school B (R022-R024; R057)
7. We also heard evidence from the appellant which supplemented her written statement (A043).
8. Before reaching our decision we considered the oral and written evidence contained within the bundle and written submissions. We also heard additional oral submissions from the appellant and the respondent on the final day of the hearing.

## **Findings in Fact**

9. The child is 3 years old. The appellant is the child's mother.
10. The child attends a mainstream nursery school (**school A**). The child started to attend in January 2023. Prior to starting at school A the environment was visited by an occupational health therapist and a physiotherapist who assessed that no adaptations were required to enable the child to attend.
11. The appellant made a placing request for school B, a special school managed by the respondent. The respondent refused the placing request in November 2022.

### *The child's additional support needs*

12. The child has a syndrome which impacts on her hearing, sight, balance, dexterity and co-ordination. The child has significant visual impairment and bilateral moderate hearing loss. This impacts the child's language development. The child wears hearing aids and glasses. The child is unable to walk unaided. The child needs to be fed by adults. She is unable to hold cups or cutlery and eats only blended foods or small pieces of food to mitigate against choking hazards. The child requires one to one support at all times to keep her safe and to ensure she is included in day to day activities. The child is able to convey her basic needs and early emotions by using gestures, facial expressions and single words. **[Part of this paragraph has been removed by the Chamber President for reasons of privacy under rule 55(3)(b) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366). Similar removals have taken place in paragraphs 16, 33, 48 and 49]**
13. The child receives input from a number of specialists. The child has appointments with a physiotherapist and speech and language therapist twice a year. At these appointments the appellant is provided with advice and guidance which she implements at home and in other environments. The child receives direct 1:1 physiotherapy input arranged by the appellant in Poland over three months in the summer period each year.

### *School A*

14. The school operates morning and afternoon sessions. The child attends the morning session between 9am and 12pm. There is a maximum of 32 children attending the school at this time. During this time the school is staffed by two early years officer, eight early years practitioners, one pupil support worker and one advanced pupil support worker. There are three other pupils who attend the morning session with additional support needs. One of the pupils also has a hearing and visual impairment.
15. The team around the child includes a health visitor, speech and language therapist, occupational therapist and a one-to-one advanced pupil support worker. The school benefit from advice from the respondent's hearing impairment team, Agency A and the Additional Support Needs Early Years Development worker. The specialists involved with the child are invited to regular child planning meetings.
16. The staff supporting the child in school A have knowledge about the child's syndrome gained through reading the child's health reports and information shared by the appellant and health professionals. The specialists involved with the child share information and strategies with the staff working with the child and attend child planning meetings. The staff in school A are supported by a range of professionals. They also benefit from a programme of continuing professional learning to upskill themselves.
17. The child's full time advanced pupil support worker is responsible for greeting her in the morning, supporting her transition to and from different areas in school A, supporting her to access the curriculum, encouraging interactions with peers and supporting the child in decision making. The child's advanced pupil support worker follows the child's personal care routine for toileting and supports with snack and lunch times. The child has a trusting relationship with her advanced pupil support worker. The advanced pupil support worker is a very familiar adult to the child. There are no activities within the

school which the child cannot engage with through the support of her advanced pupil support worker.

18. A number of pupils at the same age and stage as the child are allocated a full-time advanced pupil support worker within mainstream school settings by the respondent.
19. The child's occupational health therapist, physiotherapist and speech and language therapist support the child indirectly by providing strategies to staff within school A. The occupational health therapist has provided advice on seat positioning and environment for snack and lunchtime and the provision of a walker and advice regarding its use. A speech and language therapist completed an eating, drinking and swallowing profile for the child and has provided advice and guidance to staff supporting the child in school A on the use of objects of reference and on-body signing.
20. Staff in school A are implementing the advice being provided from the specialists involved with the child. Staff supporting the child in school A are supporting the child's use of her walking frame. The child is free to explore the school environment unhindered and is able to direct her advanced pupil support worker to where she wishes to go. All staff within the school have completed manual handling training to ensure they are confident in moving and handling the child if a consistent support person is absent or on holiday.
21. Since attending school A the child's mobility has improved. She now uses a walking frame. The walkways within the school are kept clear and the child is able to move freely around the nursery. There have been no accidents or injuries as a result of the child using the walking frame. There is sufficient space for the child to use her walking frame within the nursery.
22. The child has feeding equipment to support snack and lunch and the development of self-feeding skills; a specialist chair to use during feeding times; a food profile which is followed to ensure food is appropriately prepared to avoid choking hazards. School A have made adjustments to the child's lunchtime routine to support the child's engagement with eating and her tolerance for sitting at the table. The school are meeting the child's needs in relation to her diet.
23. School A have implemented communication strategies including the use of objects of reference, on-body signing, song signifiers, and opportunities to interact in quiet environments within the school as well as the busier environments. All of these strategies were introduced following advice to school A from the speech and language therapist for the child. This ensures an inclusive communication environment for the child. Since starting at school A the child's communication skills have developed. She is beginning to communicate with adults by vocalised gestures and pulling their hands. The child engages with resources in school A such as the water tray, light table and the Promethean board and is able to self-select these.
24. The child is provided with opportunities to mix and socialise with other children in the school. The child is beginning to form relationships with her peers who interact and play with her. The child plays alongside other children. The child is progressing in peer interactions with the child showing more awareness of other children in school A and engaging in brief interactions and playing alongside other children. The child benefits from the peer and social interactions with the children in school A.

25. As part of the child's learning experience at school A there are opportunities to spend time in smaller groups of children as well as in the main playroom. School A have spaces for the child to have quiet time. There is a sensory room, a garden and a quiet reading corner. The child benefits from access to a sensory room within school A. The sensory room offers the child visual and auditory stimulation. The staff are proactive and the child has planned time in these spaces. The child has two short sessions in the sensory room each day. The staff are also reactive. The child's timetable is flexible and free-flowing; she can direct staff to where she wants to go and can access the sensory room at all times.
26. The child spends time in both quieter and busier areas of the school. She is not distressed or upset by the noisier or busier areas of the school.

### *School B*

27. School B has two pupils currently attending with three members of staff. There would be no additional staff allocated to the child if she attended school B.
28. The pupils in school B require a high level of physical intervention and a high level of medical care on a daily basis. The children are wheelchair users and require full personal care. Both pupils require gastrostomy feeding. The pupils require a high level of support for feeding. The child does not have the same level of medical need as the children at school B.
29. The children are non-verbal. The children would not be able to engage socially with the child. There is limited opportunity to provide social or verbal interaction through a peer group at school B. The interactions between the children are based on interactions with adults. The child would not have peers within school B with whom to develop these social interactions or modelling and scaffolding of language to improve her communication.
30. The children at school B are unable to indicate their needs or make choices. The education provided at school B is more structured than a mainstream school. There is less free flow and free play. School B has a sensory room. This is available to children through timetabled sessions and access is not guaranteed at other times.
31. The learning experience in school B is disrupted when a child requires their medical needs to be met. This includes the need for suctioning, hoisting and to be made comfortable. This occurs on a daily basis. The medical needs of the children in school B take priority over learning.
32. Some of the children in school B and within the wider school campus receive support from physiotherapy and speech and language therapy. Advice on supports for children within school B and the wider school campus is provided by specialists, such as physiotherapists, occupational therapists and speech and language therapists, to school staff. There are no specific therapists attached to school B or the wider school campus. Attendance at school B would not result in the child receiving direct one to one therapy.

33. There are no pupils within school B with the same syndrome as the child. The school has no recent experience of supporting pupils with that syndrome. Staff at school B do not currently have up to date knowledge and experience of this syndrome.

### **Reasons for the Decision**

34. 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.

35. The respondent relies on two grounds for refusing the placing request which will be dealt with in turn, namely:

- (a) placing the child in the school would breach the requirement in section 15(1) of the Standards in Scotland's Schools etc. Act 2000 (**2000 Act**) (Schedule 2, paragraph 3(1)(g) of the 2004 Act) usually referred to as the presumption of mainstream education; and
- (b) the education normally provided at the specified school is not suited to the age, ability or aptitude of the child (Schedule 2, paragraph 3(1)(b) of the 2004 Act).

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

37. If the respondent is able to satisfy us that a ground of refusal exists at the date of the hearing we must consider whether it is appropriate in all the circumstances of the case to confirm the decision. This is referred to as stage 2 of the legal test.

38. Given our findings at paragraph 41 to 55 we have concluded that the ground of refusal set out in paragraph 3(1)(g) of schedule 2 of the 2004 Act does exist as at the date of the hearing. Further given our findings at paragraphs 56 to 59 we have concluded that the ground of refusal set out at paragraph 3(1)(b) of schedule 2 of the 2004 Act does exist at the date of the hearing. We also considered for the reasons set out paragraph 60 to 64 that it was appropriate in all the circumstances of the case to confirm the decision of the respondent. 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)(g)): presumption of mainstream education***

39. This ground of refusal applies if placing the child in school B would breach the presumption of mainstream education in s15(1) of the 2000 Act. The presumption of mainstream education applies unless one of the exceptions in s15(3) of the 2000 Act applies, which it is assumed will arise only exceptionally. These are:

- (a) that to provide education for the child in a school other than a special school would not be suited to the child's ability or aptitude;
- (b) that to provide education for the child in a school other than a special school would be incompatible with the provision of efficient education for the children with whom the child would be educated; and

- (c) that to provide education for the child in a school other than a special school would result in unreasonable public expenditure being incurred which would not ordinarily be incurred

40. If any of the three exceptions in s15 (3) of the 2000 Act apply, the presumption of mainstream education does not apply and the related ground of refusal does not exist. Therefore we must be satisfied that none of the exceptions apply to conclude that the ground of refusal exists. We deal with each in turn.

#### *S15 (3)(a) – would not be suited to the child’s ability or aptitude*

41. In essence, this means that the respondent must show that education in the mainstream school is suitable for the child. The respondent argued that school A was suited to the child’s ability and aptitude. The appellant argued that the child’s needs were not met within the school A and that this was demonstrated by there being no progress in relation to the child’s development. The appellant argued that there were a number of factors which made school A not suited to the child’s ability or aptitude. These factors are dealt with in turn below together with the other factors we considered.

#### *Sensory Environment at school A*

42. The appellant argued that the child would benefit from a quieter, less busy environment than that at school A. As part of the child’s learning experience at school A there are opportunities to spend time in smaller groups of children as well as in the main playroom. The child also benefits from access to a sensory room within school A, both on a planned and unplanned basis. Witness B gave evidence that she did not consider the sensory environment of school A to be unsuitable in relation to the noise and busyness of the school. She gave evidence that staff within the school will direct the child to quieter areas of the playroom when they believe she is becoming overwhelmed but often the child will seek to return to the busy areas of the playroom. The appellant although arguing that the child would benefit from a quieter, less busy environment was of the view that the child was happy attending the nursery. We concluded that there was no evidence available to us that the noise levels or level of busyness within school A distress or upset the child and were satisfied on the basis of the evidence of witness B that the sensory environment of school A, with the flexibility offered and access to the sensory room and other quieter parts of school A, was meeting the child’s needs.

43. Although witness B did not work directly with the child she had observed the child on two occasions and had discussed the child with staff within school A prior to the hearing. In so far as her evidence differed to that of the appellant’s in relation to the sensory environment and whether this met the child’s needs we preferred her evidence. She had significant experience as an educator with particular expertise in working with children with autism as a result we considered that she was well placed to provide a view on the appropriateness of the sensory environment at school A. Her evidence was also consistent with the presentation of the child as happy and content attending school A. The appellant did not have the same experience or knowledge on which to base her opinion from.

#### *Physical Environment in school A*

44. The appellant argued that there was insufficient space for the child to move around the school in her walker. She gave evidence that there was not enough space for the child to move freely with her walker and that her ability to use the walking frame was impacted by the number of children in the school. Witness A and B gave evidence that walkways within the school were kept clear as a requirement for health and safety and fire safety and that there has been no accidents or injuries as a result of the child using the walking frame. Witness B gave evidence of having observed the child to be adept at re-positioning the walking frame. While the appellant has visited the school and therefore has observed the environment we preferred the evidence of witness A and B. Their evidence was consistent with the absence of any falls or injuries being recorded. We were satisfied that had there been any concern regarding the physical accommodation of the school this would have been raised prior to her commencing there. At the time of the child starting school an occupational health therapist and a physiotherapist had visited the school and assessed that no adaptations were required to enable the child to attend. The occupational health therapist arranged for the child to have access to a walking frame and did not raise concerns regarding the physical space within the school. As a result we were satisfied that there was sufficient space for the child to move around the school with her walking frame.

#### *Specialist input at school A*

45. Witness B gave evidence that specialists such as the child's occupational health therapist, physiotherapist and speech and language therapist supported the child indirectly by providing strategies to staff within school A. She provided examples of advice which had been provided including advice on seat positioning and environment for snack and lunchtime and the provision of a walker and advice regarding its use. In relation to speech and language therapy witness B gave examples of their input which included completing an eating, drinking and swallowing profile for the child and providing advice and guidance on the use of objects of reference and on-body signing.

46. Whilst the appellant was of the view that the child should receive direct one to one input from specialists we heard evidence from witness B that direct work with children was not common in nurseries due to the young age of the children but that direct interventions can be undertaken where the therapist considers it to be appropriate. We heard evidence from witness C that the position was the same in school B. We did not hear any evidence that the specialists working with the child considered direct one to one intervention necessary or appropriate. Further the indirect approach of the specialists inputting into school A aligns with the evidence the appellant gave in relation to the contact she has with the physiotherapist. She described visiting the physiotherapist twice a year and that they provide exercises to be used by the appellant. The appellant described similar arrangements with the speech and language therapist. The specialists involved with the child are invited to regular child planning meetings and the staff in school A are implementing the advice being provided from the specialists involved with the child. In the absence of any evidence from any of the specialists involved with the child, that the child needed direct one to one intervention and in light of the evidence of witness B that it is not unusual for specialists to work indirectly with children at this age and stage, we were satisfied that given the relevant professionals were invited to child planning meetings and were providing advice to school A which was being implemented that the child's needs could and would be sufficiently met at school A.



47. The appellant argued the approach would be different in school B, this view appeared to be based on the fact that the appointments she has with the specialists involved with the child take place within the wider campus of school B. However, the evidence from witness C was clear that the approach would not be different. Given her role within school B, and her direct knowledge of the working arrangements of specialists allocated to children within the school, we preferred her evidence.

#### *Knowledge of staff at school A*

48. The appellant argued that school A lacked knowledge of the child's syndrome. Witnesses A and B both disagreed that staff at school A lacked knowledge of this syndrome. Both witnesses conceded that staff within school A did not have any medical or health expertise and would not be fully knowledgeable about the syndrome but that staff within school A had sufficient knowledge about the child's needs. They both gave evidence that staff within school A had obtained information about the syndrome through reading the child's health reports and information shared by the appellant and health professionals. In addition to this witness A gave evidence that the specialists involved with the child are invited to attend child planning meetings and share information and strategies with staff at school A to support the child. Witness A also gave evidence about the support offered to all schools the respondent has responsibility for and the programme of learning to upskill staff. Witness B shared details of specific training and input staff working with the child had received. This includes manual handling training and support from a visual impairment teacher.

49. We considered what was essential was that the staff at school A working with the child have sufficient knowledge of the child's needs arising from her syndrome diagnosis and the strategies which were needed to support the child. We were satisfied on the basis of the evidence of witness A and B that staff working with the child at school A did have a sufficient level of knowledge about the child's needs and were implementing the strategies which were recommended by specialists involved with the child. We preferred their evidence to that of the appellant's given their direct knowledge of the support and upskilling in place for staff within school A and the advice and consultation process with specialists. Further there was no evidence that the approach outlined above would be any different in a specialist school.

#### *Communication Environment at school A*

50. Within the report from speech and language therapy at R061 the speech and language therapist describes the child as benefiting from 'very familiar adults interpreting her expressive communication' and an 'inclusive communication environment where adults use several strategies to support her understanding and create opportunities for [the child] to learn and use her expressive communication'. The appellant argued that school A cannot provide this for the child. However we heard evidence from witness B that school A was providing an 'inclusive communication environment' for the child. There was evidence from witness B that school A have implemented strategies advised by speech and language therapy. This includes the use of objects of reference, on-body signing, song signifiers, and opportunities to interact in quiet environments within the school as well as the busier environments, all of which were advised by the speech and language therapist for the child. We also heard evidence about the team supporting the child which includes an advanced pupil support worker who provides direct one to one support for the child and is very familiar with the child and her

expressive communication. In so far as there was a difference in the evidence of the appellant we preferred the evidence of witness B due to witness B's direct knowledge of the communication strategies being used to support the child gained through her observations of the child and discussions with staff at school A combined with her experience of supporting children within this type of setting. In addition her evidence was consistent with the written report by the speech and language therapist at R061. We were satisfied on the basis of the evidence available to us that the child's communication needs were being met within school A.

#### *Social interaction at school A*

51. We heard evidence from witness A and B that the child benefits from the social environment provided at school A and that this provides her with opportunities for social interaction and communication. Other children within the school include her by talking and playing with her. Witness A gave evidence that these interactions are important for the child's social and communication development and that although the child has a greater level of need than the other children she is benefiting from the environment. Witness B described the child as progressing in peer interactions with the child showing more awareness of other children in school A and engaging in brief interactions and playing alongside other children. Witness B described the child as not looking for adult interaction as much as she had previously and preferring the company of other children. We did not hear any contrary evidence in relation to this. We were satisfied on the basis of the evidence of witness A and B that the social environment of the school was appropriate for the child and that she was deriving benefit from this.

52. Taking all of these factors together we considered that school A is suited to the child's ability and aptitude on the basis that the child's needs could and would be met at school A with the supports in place. This was reaffirmed by our view on the child's progress. In our view the appellant viewed 'progress' too narrowly. Her main concern was with regards to her view that the child required direct intervention from specialists such as physiotherapy and this appeared to influence her view that there had been 'no progress'. We preferred the views expressed by witness A and B in relation to the child's progress. Their assessment was much more holistic assessment and was informed by their expertise in education. It is clear to us that the child has made some progress across a range of areas including communication, social interaction, using her walker and more generally in respect to how settled the child is within school A. For all of these reasons we concluded that the exception did not arise in the circumstances presented to us.

#### *S15(3)(b) – would be incompatible with the provision of efficient education for the children with whom the child would be educated*

53. The respondent argued that the placement of the child at school A is not incompatible with the provision of efficient education for the children that she is educated with. The appellant did not challenge this. We accepted the evidence of witness B that the child's placement at school A has no negative impact on the other children's education. The child is accepted by the other children at school A who enjoy interacting with her. We were satisfied on that basis that providing education for the child in school A is not incompatible with the provision of efficient education for the children with whom the child would be educated.

*S15(3)(c) – would result in unreasonable public expenditure being incurred which would not ordinarily be incurred*

54. The respondent argued that the placement of the child at school A does not result in unreasonable public expenditure being incurred which would not ordinarily be incurred. The appellant did not challenge this. We accepted the evidence of witness A that the allocation of a full time advanced pupil support worker is not unusual for children at the age and stage the child is at and a number of pupils receive this level of support. We were satisfied on this basis that providing education for the child in school A does not result in unreasonable public expenditure being incurred which would not ordinarily be incurred.

#### *Overall conclusion*

55. Having examined this ground of refusal and the evidence relating to it, we conclude that the ground of refusal in Schedule 2, paragraph 3(1)(g) of the 2004 Act exists at the date of the hearing.

#### ***The second placing request refusal ground (2004, Schedule 2, paragraph 3(1)(b): the education normally provided at the specified school is not suited to the age, ability or aptitude of the child)***

56. This ground of refusal is established when there is sufficient evidence for us to conclude that the education normally provided at school B is not suited to the age, ability or aptitude of the child. The respondent argued that this ground of refusal exists. The appellant argued that this ground of refusal does not exist. She argued that school B would be the best place for the child to develop. The focus of the discussion of this ground is in relation to ability and aptitude as the children at school B are a similar age to the child.

57. We heard evidence from the appellant, witness A and witness C in relation to this ground of refusal. In so far as the appellant's evidence differed from that of witness A and C we preferred the evidence of witnesses A and C to that of the appellant. The appellant had not ever visited school B and had no direct knowledge of the education normally provided there. Both witness A and C had direct knowledge of the children at school B and the provision of education there. Although witness C did not have direct knowledge of the child this did not have any impact on the evidence she was able to give as the focus of her evidence was on school B and the children there.

58. Witness A and B gave evidence regarding the level of need of the children attending school B. They gave evidence that both children have profound physical medical needs. Witness A gave evidence regarding the distinction between complex and profound needs. She described the child as having 'complex needs' as distinct from 'profound needs'. In her view the child's medical needs were not the same as the children in school B. The respondent argued that this difference in need resulted in the provision at school B not being suited to the child's ability and aptitude. Witness A and C both said that the medical needs of the children would take precedence over the learning experience at school B with interruptions to this necessitated by the children's high level of medical need. Having considered the evidence we concluded that given the medical needs of the other children in school B would by necessity interrupt the learning experience within school B this would limit the child's learning experience such

that we considered that this made the education normally provided at school B not suited to the child's ability and aptitude.

59. In addition to the children's profound medical need the children at school B also have communication differences. Witness A and C gave evidence that both children in school B are 'non-verbal' and do not seek out interaction with peers. We agreed with the respondent that there would be limited opportunities for the child to benefit from social interaction with other children in school B. There is evidence that the child is progressing in her communication and benefiting from opportunities for growth in relation to social and communication development. The children at school B are not at this stage in their social and communication development and the opportunities for growth in social and communication development through interaction with peers would be limited to such an extent that we considered this was an additional reason for us concluding that the education normally provided at school B was not suited to the child's ability and aptitude.

***Stage 2: Appropriateness in all of circumstances (s.19(4A)(a)(ii) of the 2004 Act).***

60. Having concluded that a ground 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.

61. 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 41 to 59. However, we have considered additional factors in coming to this decision.

62. The appellant is of the view that the child would have better access to physiotherapy at school B. However we heard from both witness B and C that the provision of physiotherapy in both school A and school B would be the same and that in both schools an indirect approach to physiotherapy input would be provided. Witness B and C have direct knowledge about the provision of support from specialists in each of the respective schools. The appellant did not have this same knowledge and appeared to be under a misunderstanding. Although the appointments she had with the specialists involved with the child take place within the wider campus of which school B is a part, school B has no additional access to the specialists as a result of this. We were clear on the basis of the evidence of witness B and C that the child would not receive direct physiotherapy input by reason of being placed in school B.

63. The appellant also argued that an advantage of school B was that it is a quieter environment for the child with a higher staff to child ratio. While it is likely to be the case that school B would be a quieter environment as there are only two children within school B we were not satisfied on the basis of the evidence before us that this would necessarily result in a benefit to the child and has to be offset against the disadvantages of attending school B in relation to the development of the child's communication and social interaction. Further the child currently has one to one support from an advanced pupil support worker. Based on the evidence of witness A it this level of support would not be replicated in school B.

64. Taking into account these additional factors in paragraphs 62 and 63 together with the evidence as a whole, we did not consider it appropriate in all the circumstances to place the child at school B.