



Office of
the Schools
Adjudicator

Determination

Statutory Proposal

Case reference: STP660

Proposer: Blackburn with Darwen Borough Council for the Newfield School

Referred by: The proposer

Date of decision: 17 April 2025

Determination

Under the powers conferred on me by the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 made under section 21 of The Education and Inspections Act 2006, I have considered the proposal for prescribed alterations to be made to:

- a) increase the capacity of Newfield School from 190 to 255, creating 65 new places for pupils with Special Educational Needs and Disabilities; and
- b) change the age range of the School from 2-19 years to 4-19 years.

I approve the proposal.

The proposal

1. On 13 September 2024, the Blackburn with Darwen Borough Council (BWDBC or the Proposer) for the Newfield School in Blackburn (NS or the School) published a statutory notice conveying the following proposal for two prescribed alterations:

“Blackburn with Darwen Borough Council [is] undertaking a statutory consultation to expand Newfield school, make an increase in the published admission number (PAN) by 60, and change the age range from 2 - 19 to 4 - 19.

Newfield School: Shadsworth Road, Blackburn, Lancashire, BB1 2HR.”

2. I will refer to the two parts of the proposal (the prescribed alterations) in this determination as Proposal A (increase the capacity of Newfield School from 190 to 255, creating 65 new places for pupils with Special Educational Needs and Disabilities (SEND)) and Proposal B (change the age range of the School from 2-19 years to 4-19 years).
3. In terms of the plan for implementation for the proposal, the Proposer told me that:

“(a) As soon as the decision is formally made approving this proposal (hopefully by April 2025), work will start on the physical expansion with the 65 new places planned to be available from Sept 2026. To support an intermediate position and reduce some existing pressures, some temporary classroom facilities have been installed at Newfield for the time being.

(b) From Sept 2025 there will be no nursery aged pupils on roll at Newfield. Once the decision to change the age range has formally been made, no other action will be required in respect of this change.”

Jurisdiction

4. The proposal was published under regulation 5(2)(a) of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the Regulations) made under section 21 of The Education and Inspections Act 2006 (the Act).
5. The proposal was referred to the Office of the Schools Adjudicator (OSA or the adjudicator), by the Proposer for the School, under paragraph 5(4) of Schedule 3 to the Regulations and section 21 of the Act.
6. Relevant to a consideration of this case is the statutory guidance entitled: ‘Making significant changes (‘prescribed alterations’) to maintained schools: Statutory guidance for proposers and decision makers (January 2023)’ (the Guidance).
7. In terms of Proposal A, the Guidance sets out that:

“The School Admissions Code [the Code] does not apply to special schools. For a special school, the ‘number of pupils’ means the maximum number of pupils the school is set up to provide for (which is not necessarily the same as the number of pupils actually attending the school).

Governing bodies and local authorities may seek to increase the number of places by following the prescribed alterations’ statutory process if the increase is by:

 - 10%; or
 - 20 pupils (or 5 pupils if the school is a boarding-only school),

(whichever is the smaller number)”.

8. In terms of Proposal B, the Guidance states:

“Where the proposed alteration is a permanent one that is anticipated to be in place for more than 2 years:

- Local authorities can propose a change of age range of one year or more for community special schools by following the prescribed alterations' statutory process.
- [...]”

9. The Local Authority is both the Proposer and the decision-maker in the case of prescribed alterations to a community special school. There was a delay in relation to the making of a decision on the proposal which meant that no decision was made within the required statutory timeframe. In these circumstances, the proposal must be referred to the adjudicator under paragraph 5(4) of Schedule 3 to the Regulations.

10. Paragraph 6(1) of Schedule 3 to the Regulations provides that:

“Where proposals have been referred to the adjudicator for determination pursuant to paragraphs 5(4) the adjudicator may—

(a) reject the proposals;

(b) approve the proposals without modifications; or

(c) approve the proposals with such modifications as the adjudicator thinks desirable, having consulted the governing body and the local authority (unless they proposed the modifications).”

Consequently, I am satisfied that I have jurisdiction under this provision to determine the proposal. The Guidance provides that my role is to consider the proposal afresh.

11. The parties to this case are the Proposer and the School.

Procedure

12. In considering this matter I have had regard to all relevant legislation and statutory guidance.

13. The documents I have considered in reaching my decision include all of those provided by the Proposer with the referral, including:

- a) documents relating to the pre-publication consultation;
- b) the statutory notice and the full proposal;
- c) responses submitted by stakeholders during the consultation periods;

- d) the proposer's responses to and analysis of the submissions by stakeholders;
- e) admissions data for the school for 2022, 2023, 2024 and 2025;
- f) the BWDBC Cabinet report, dated 9 January 2025, in which funding issues related to the proposal were discussed and decided;
- g) responses to my requests for further information from the parties;
- h) information taken from the websites of the School, BWDBC and the Department for Education (DfE) (including the 'Get Information About Schools' (GIAS) website); and
- i) the Guidance.

14. I would like to take the opportunity to thank the Proposer for the prompt response to my request for further information.

Background

15. According to the DfE's GIAS website, the School is community special school for 2 to 19 year olds. It has a capacity for 190 children (although I note the School's admission document available on its website states it has places for 180 children) with the following categories of special need: VI - Visual Impairment; ASD - Autistic Spectrum Disorder; MSI - Multi-Sensory Impairment; MLD - Moderate Learning Difficulty; SLD - Severe Learning Difficulty; and PMLD - Profound and Multiple Learning Difficulty.

16. Its website provides the following description of the School:

"Our school is at the heart of the local community providing education, experiences and opportunities for children aged 4-19.

We consider ourselves one big happy Newfield Family. We believe what makes us unique is the expert way in which we create a needs-led provision matched to each pupil's key learning needs.

We pride ourselves on providing a set of learning experiences across a child's time with us which places the needs and the abilities of the learners at the heart of provision and planning. It is based on outcomes we want the pupils to achieve at each key stage of their learning journey.

We allow our children to lead the learning at each key step of their journey, and our common principle throughout is to think about how we can help them achieve the maximum independence and meaningful skills for life beyond the classroom across each stage of their learning journey and in preparation for adulthood.

We achieve this by applying the principle of never doing anything for a child that they can, could or should do for themselves.

Every day our pupils amaze us with what they achieve, and we ensure we set our expectations high for all of them. To us there is no such phrase as 'I can't' - we just say 'You can't yet... so let's find a way together'. As a result of this attitude our students make progress beyond expectations.

We believe the key to our success lies in the fantastic knowledge, passion and commitment of the experienced staff team. Nothing happens in isolation and everyone's contribution is valued. Our knowledge of each pupil's needs and focus on developing learning shines through all we do.

This team approach extends to our families and other agencies, so we can agree on the most effective ways to support our pupils to reach their potential. In its truest sense we work using a team around the child and family approach."

17. The Proposer set out the reasons for the proposed prescribed alterations in its consultation documentation as:

"Currently Newfield School operates as a 2- to 19-year-old intake nursery, primary, secondary and sixth form school for children with special educational needs and disabilities (SEND). This means that the school admits children from nursery age through to sixth form age.

Evidence of Demand: Blackburn with Darwen has had a shortfall of places in resourced provisions, special schools, and pupil referral units for school age pupils. Currently, approximately 100 Blackburn with Darwen students are placed out of the Local Authority's area. [...]

Population: The school continues to allocate all class places each September and is continuously over net capacity. Locally and nationally the number of students with an Education Health Care Plan (EHCP) is on the rise.

Newfield does not currently have any nursery aged pupils on roll. There is sufficient childcare and early educational provision across the borough for children aged 0-5 years old. Early educational childcare providers in consultation with parents and carers are able to support children with Special Educational Needs and Disabilities (SEND). The Local Authority's family information service is able to offer advice, guidance and a brokerage service to support parents and carers in finding suitable childcare to meet their child's needs."

18. As a community school, the local authority can act both as proposer and decision-maker for both Proposal A and Proposal B as set out in the section of the Guidance entitled 'Changes to special schools and special educational needs (SEN) provision' (in particular the sub-sections entitled 'Change in number of pupils in a special school' and 'Change of age range at special schools'). For this type of proposal, the 'Statutory process: prescribed alterations' section of the Guidance applies, which sets out that that decisions must be made within two months. This did not happen for the following reason:

“The reason for this request is that unfortunately a delay occurred in relation to the appropriate decision maker(s) considering this proposal, and as a result the Local Authority failed to make the decision on the proposal before the 2 month deadline as required under the Statutory Proposal process as set out in the Department for Education’s statutory guidance.

I confirm that there is no disagreement within the local authority with regards to this proposal and that if we were still able to do so, the relevant local authority decision maker would definitely make the decision to proceed with this proposal and make the proposed changes. However, as Blackburn with Darwen Borough Council is not able to do this now, we respectfully request that the Schools Adjudicator makes the necessary decision on this proposal to enable us to proceed with these prescribed alterations.”

19. I will largely deal with my consideration of Proposal A and Proposal B together through this determination, save for where they need to be dealt with separately (in terms of the data provided in support of each, for example).

Consideration of factors

20. After recording details of the pre-publication consultation by the Proposer, I will start by considering whether the Proposer followed the correct statutory processes (in respect of prescribed alterations) as set out in the Guidance. If it is found that the statutory process has been followed, then I will go on to consider the Proposer’s arguments for the prescribed alterations having regard to the factors set out in the Guidance: education standards and diversity of provision; equal opportunities; community cohesion; travel and accessibility; and funding.

The pre-publication consultation

21. Before covering the statutory processes, I record here that the Proposer carried out a pre-publication consultation prior to the statutory process. Concerning pre-publication consultations, the Guidance states:

“Although there is no longer a statutory ‘pre-publication’ consultation period for prescribed alteration changes, there is a strong expectation that governing bodies and local authorities will consult interested parties in developing their proposal prior to publication, to take into account all relevant considerations”.

22. To be clear, the Proposer was not obliged to conduct a pre-publication consultation, though it recognised and acted upon the ‘strong expectation’ for it to do so. The pre-publication consultation was carried out by the Proposer in the summer term 2024.

23. The Proposer told me that the following stakeholders were consulted during both the pre-publication consultation and Representation period:

- Parents and carers of children already attending the school.
- School staff.
- Trade unions.
- School governors.
- Early Years Providers in Blackburn with Darwen.
- Primary, infant, junior and secondary schools (including any associated Academy Trusts) in Blackburn with Darwen.
- Councillors and MPs.
- Resourced provisions, SEN Units, special schools and pupil referral units.
- Blackburn Church of England Diocese and Salford Roman Catholic Diocese.
- Relevant local authority departments.
- Any local authority that has commissioned a place within the school.

24. The pre-publication consultation document was distributed in the following ways:

- The School sent out the information out to parents, carers, staff and governors in its newsletter in w/c 25th March 2024.
- An online response questionnaire (Microsoft Forms) was active until 9 July 2024.

25. The pre-publication consultation materials provided the following information in respect of the potential proposal:

“We are delighted to inform you of some exciting changes that will be happening at Newfield School over the next few years.

Blackburn with Darwen Borough Council have allocated us £2.3 million to expand our provision for specialist places, to support the forecasted demand across the borough.

There is an ongoing demand for places at Newfield to access our specialist provision. This would also allow students who are currently educated out of the borough to receive education within their local community.

The initial plans for Newfield School are to extend the main building at each end of the existing school to provide six purpose built additional teaching spaces.

This will also allow us to take in more students from the age of 4 where the current demand is especially high.

The expansion of Newfield School will not have any negative impact on current pupils and staff. The number of staff will increase, to accommodate the additional pupil numbers and school will be actively recruiting high quality staff in the future months.

The expansion will also serve to enhance the existing resources and ensure that spaces are much better aligned with the needs of each group of student.

Blackburn with Darwen Borough Council as the admissions authority for Newfield school are keen to hear parent, carers, and other interested stakeholder's views on the proposal before it goes to statutory consultation."

26. During the pre-publication consultation period, the Proposer did not provide any opportunities for direct engagement as it "was not aware of any desire from staff or parents for a meeting at [that] time". Of course, there was no obligation for the Proposer to offer this opportunity, although it would be good practice to do so.

27. The Proposer confirmed that there were no replies in response to the pre-publication consultation.

The statutory process

28. The Guidance sets out five stages to the statutory process when making prescribed alterations, in the following order: publication; representation (formal consultation); decision; referral; and implementation. The process is now in the referral phase (in that the Proposer has referred the proposal to the adjudicator for a decision). I will consider stages 1 and 2 below and then go on to complete the statutory process under stage 3, during which I will consider the Proposer's arguments in respect of the proposed prescribed alterations.

Stage 1 - Publication

29. This stage involves the publication of a statutory notice, bringing to the attention of stakeholders the intention of a proposer to start the process of consulting on a proposal. Paragraph 1 of Schedule 3 of the Regulations sets out expectations in respect of the contents of the statutory notice and where that notice must be published.

30. The Guidance states that:

"A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change."

31. It also sets out the minimum that any proposal would be expected to contain (in Annex A of the Guidance).

32. The full proposal must be published on a website along with a statement setting out details of how stakeholders can engage within the representation period. The proposer told me that the statutory notice was placed on both the Proposer's and School's websites in line with the Guidance between 13 September and 11 October 2024.

33. The Proposer provided me with a copy of the confirmation of the booking / payment for the advertisement of the statutory notice with the Lancashire Telegraph on 13 September 2024 and a copy of a brief notice, including the website address, was placed in that publication.

34. I am satisfied that the Proposer met the requirements in terms of the publication of the statutory notice and details of the proposal.

Stage 2 – Representation (formal consultation)

35. About this stage, the Guidance states as follows:

“The representation period must last for 4 weeks from the date of the publication. During this period, any person or organisation can submit comments on the proposal to the local authority to be taken into account by the decision maker. It is also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.”

36. In accordance with paragraph 2 of Schedule 3 to the Regulations, a consultation was carried out from 13 September to 11 October 2024. This was compliant in that it was for the required four weeks. I note that the consultation also took place in term time, thereby ensuring that the consultation did not take place during school holidays. Proposals were invited from stakeholders using an online form (the Proposer told me it provided a new form to the one made available to stakeholders during the pre-publication consultation period).

37. The Proposer told me that notice of the consultation was shared with the following stakeholders: parents / carers; staff members at the School; governors at the School; all infant, junior and primary schools in the LA area; secondary schools in the LA area; special schools and alternative provision schools in the LA area; early years providers in the LA area; trade unions; the Salford Roman Catholic and Blackburn Church of England Diocese; other LAs who currently have children from their areas placed at the School (St Helens, Wigan, Lancashire East, and Lancashire South); councillors / MPs; and other relevant LA departments.

38. In terms of the consultation meetings held, the Proposer told me:

“No public meetings were held during the consultation period as the Local Authority wasn’t aware that there was any interest from parents or other consultees in such a meeting, although we believe staff had the opportunity for discussions in school (to confirm future staffing plans).”

39. The Guidance does not set out any requirements in respect of consultation meetings during the Representation period.

40. The Proposer recorded in its consultation analysis document that it had received a total of 49 replies via the online questionnaire and email. The responses were broken down

into percentages showing support / not having a view either way / not supporting, for each of the two parts of the proposal. The results were:

Proposal A:

- 71 per cent (35 people) of respondents were in support of the proposed increase in capacity by 65 places;
- 2 per cent did not have a view either way; and
- 27 per cent (12 people) did not support this part of the proposal.

Proposal B:

- 52 per cent (25 people) of respondents were in support of the change in age range;
- 25 per cent did not have a view either way; and
- 23 per cent (11 people) did not support this part of the proposal.

41. The Proposer provided a summary of what stakeholders had said in their responses in respect of Proposal A in the consultation analysis document:

“There was a lot of feedback related to this proposal, the most common statement was around supporting the proposal due to the desperate need for SEND places in the borough. It was also thought that the PAN increase will support families and children, it would mean children do not need to be placed out of borough, it would create job opportunities, and it would provide more chance for SEND children to learn and develop with the appropriate support.

There was feedback highlighting issues with the proposal. The most common statements were the strain that it would cause to staff as they are currently struggling, the issues around the recruitment crisis, it was felt that current staff need upskilling and are currently not meeting the children’s needs, and it was felt the building is not fit for purpose.”

42. I note here that the Proposer has referred to the term ‘PAN’ in its materials. This refers to the published admission number. Special schools do not have PANs and admission to such schools is not covered by the Schools Admission Code. Therefore, I have interpreted this to mean the ‘capacity’ of the school as a whole.

43. In respect of Proposal B, the Proposer summarised responses as follows:

“There were less comments around the change in age range in comparison to the PAN increase. The most common statement was around if the age range is changed then this could increase space and access for more pupils aged 4 – 19. It was also felt that nurseries could accommodate children aged 2-3 and by changing

the age range it would mean that resources can be more concentrated effectively within the school.

Feedback against the proposal was related to the additional pressures this would put on the SEND team and also early years providers. It was felt that children aged 2-3 with high needs are not supported effectively in mainstream nurseries, resources that those children would need like a sensory room are not available and there would be poorer outcomes for those children.”

44. The Proposer also recorded in its consultation analysis document that:

“There were quite a few comments where the proposal was misinterpreted or not read in relation to the school physically expanding to take the additional numbers and there was assumption that these extra children would be added to existing classes. This was noticed during the consultation period and the school were advised to discuss misinterpretations with staff.”

45. The Guidance states:

“Decision makers will need to be satisfied that the appropriate fair and open representation period has been carried out and that the proposer has given full consideration to all the responses received during any pre-publication consultation.”

46. I am satisfied that the formal consultation was conducted appropriately. It lasted for the required period, was held at an appropriate time, and was conducted fairly and openly. Taking into account the pre-publication consultation period, I find that stakeholders with an interest in the outcome were made aware of the statutory proposal and were given sufficient opportunity to comment and ask questions.

Stage 3 - Decision

47. I note here that BWDBC did not discharge its duty to make a decision on the proposal as set out under paragraph 3(1) of Schedule 3 to the Regulations and that decision now falls to the adjudicator. The proposal has been referred to the adjudicator in accordance with paragraph 5(4) of Schedule 3 to the Regulations. I am, therefore, the decision-maker.

48. I find that the Proposer correctly followed the statutory process (in respect of prescribed alterations) as set out in the Regulations and Guidance. I now move on to evaluate the arguments the Proposer makes for, and the effect of, that which is proposed by considering the proposal against the five factors set out in the Guidance.

49. Both parties were provided the opportunity to comment on the five areas covered in this section of the determination. The School chose not to comment, but simply replied:

“I hope it is sufficient to say that we are in full agreement with the proposed alterations to the below for our setting.”

50. The Proposer provided evidence in support of its proposal and I consider that in the relevant sections that follow. It can be assumed that, unless otherwise specified, I have considered that the evidence provided applied to both the proposed prescribed alterations (A and B).

Factors to consider when determining proposals

Education standards and diversity of provision

51. The Guidance states that:

“Decision makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents, raise local standards and narrow attainment gaps.”

52. I pause here to note that the Guidance refers to decision-makers considering the ‘relevant area’. I have not been able to find a definition of this term in the primary legislation, relevant regulations or the Guidance. I have therefore given the term its everyday meaning, namely the area from which the School draws the children on roll. This will have differences as compared to mainstream schools in that the School will likely draw from a wider geographical area (given its SEND specialisms and the fact there are fewer special schools catering for these needs) including from out of the local authority area. I can see from the information provided by the Proposer that the consultation took into account stakeholders from the ‘relevant area’ as I have defined it.

53. Using GIAS, I noted that there are two other state funded special schools in the BWDBC area (with straight line distance in miles from the School in brackets):

- Eden School (2.0) – Education Partnership Trust

This is a special free school, opened in 2014, with a capacity for 60 children (aged 8 to 16) with complex social, emotional and mental health (SEMH) needs. At the time of its last inspection, Ofsted graded the school as ‘Good’. GIAS recorded there being 58 children in the school at the time of the last census.

- Crosshill Special School (2.58) – Oak Learning Partnership

This is a special academy (converter) with capacity for 170 children with MLD. At the time of its last inspection, Ofsted graded the school as ‘Good’. GIAS recorded there being 134 children in the school at the time of the last census.

54. It would not be possible to compare the schools or factor these schools into the provision made in the BWDBC area. This is because the School and Eden School make provision for children with different categories of special need. Whilst the Crosshill Special School makes provision for children with MLD (as does the School) and there are places for children with such needs at that school, the School makes provision for special needs which are not catered for in the other schools. The School therefore is unique in the provision it

makes for children with special needs, and I have looked no further at other special schools in the BWDBC area.

55. About how it considered education standards and diversity of provision, the Proposer told me:

“Having more places available within a special school setting in borough will enable more children in our borough to have a choice to remain in borough and in a special school rather than having to travel to out of borough provision (or consider a mainstream in borough place when they would prefer a special school) purely due to lack of places at Newfield. Increased availability of provision at Newfield will better serve vulnerable learners and promote delivery of excellent standards of education, training and care.”

56. The School’s last Ofsted inspection in December 2024 recorded that all areas were judged to be ‘Good’. Of particular note was the praise that inspectors had for the: curriculum; training for staff in respect of SEND; seamlessly sequenced learning; effective assessment strategies; thoughtful learning environments set up to suit each learning pathway; development of children’s reading, language and communication skills; use of a wide range of communication strategies and tools; effective strategies in place to identify and support any additional SEND that children may have; focus on children’s personal development; well-considered enrichment opportunities outside of the classroom; many opportunities to prepare them for adult life; and the strengthening of governance. It is clear that the School has been making improvements (the previous Ofsted inspection in November 2021 resulted in a judgement of ‘Requires Improvement’) and is providing a high standard of education for the children on roll.

57. I find that the Proposer has made a strong argument for its proposal. The School already takes in more children than it has capacity for. The proposal makes provision for children with needs not catered for in any other special school in the local authority area and that provision is considered to be ‘Good’ by Ofsted. By reducing the age range to remove nursery provision which is no longer required and adding capacity for age groups for which there is a demand, I determine that the extra places created provide the potential for the School to increase educational standards and for the Proposer to increase the diversity of provision in the LA area. This will be achieved by increasing the number of places for parents seeking the special needs provision catered for by the School for their children and reducing the number who may, currently, be forced to attend schools out of area.

Equal opportunities

74. The Guidance states:

“The decision maker must comply with the Public Sector Equality Duty (PSED), which requires them to have ‘due regard’ to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- foster good relations between people who share a relevant protected characteristic and people who do not share it.”

2. About this aspect, the Proposer told me:

“Council decisions are assessed for potential equality issues/impacts using the Local Authority’s EIA toolkit [...]. It should also be noted that increasing the numbers of places available at Newfield will enable a greater number of borough residents to obtain in-borough provision for their children reducing the number of children who end up having to travel out of borough for their education (which will promote equality of opportunity within this particular group).”

58. I asked the Proposer to forward a copy of the EIA toolkit undertaken for this proposal. I can see that it was completed on 27 November 2024. The toolkit provides a checklist for the relevant LA staff to assess the need for an EIA to be undertaken. The key outcome of the impact analysis section of the assessment was that an EIA was not required.

59. I have considered for myself the equalities impact of implementing the proposal. I am satisfied that there is no adverse impact on persons having any of the nine protected characteristics as set out in the Equality Act 2010 arising from these proposals.

Community cohesion

75. Concerning evaluating the community cohesion aspect of any proposal relating to a prescribed alteration, the Guidance states:

“Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from and about each other; by encouraging through their teaching, an understanding of, and respect for, other cultures, faiths and communities. When considering a proposal, the decision maker should consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different groups within the community.”

3. Concerning this aspect, the Proposer told me:

“Promotion of equality is integral to building community cohesion. Local cohesion may be undermined where some pupils have different experiences or outcomes to others. Allowing more BwD [Blackburn with Darwen] pupils with SEND to be educated within the borough ensures that they can build a community of support with

those around them. Research suggests that the attitudes and behaviour that parents and children bring to the educational process are more deeply and directly affected by the strength of community and family bonds. Being able to educate pupils locally will help to strengthen those bonds between the school and the parents. It will be easier for parents, family members and friends of pupils to participate in extra-curricular/school activities and build bonds of other members of the school community if their children are able to secure a place at Newfield with their peers from BwD instead of having to be placed out of borough.”

60. The proposal increases the number of places for children with SEND catered for at the School and reduces the need for children to have to attend schools further afield / out of the LA area. In my view, this is likely to increase cohesion for those parts of the community gaining places at the school for their children.

61. I have carefully considered whether the proposal would have the effect of undermining cohesion between different communities. Taking into account the submissions from the parties in this case, I have not found there to be evidence that there will be any such effect.

62. I am satisfied that the proposals meet the community cohesion objectives.

Travel and accessibility

76. The Guidance states:

“Decision makers should be satisfied that proposed changes will not adversely impact any particular group, including those with protected characteristics or who are disadvantaged (for example, those who are eligible for free school meals or pupil premium). Decision makers should also consider how the proposal will support the local authorities’ duty to promote the use of sustainable travel and transport to school.

The decision maker should consider whether a proposal will result in unreasonably long journey times or increased travel costs for local authorities or families, as well as any increase in the use of motor vehicles which is likely to result from the change, and the likely effects of any such increase.

Decision makers should be satisfied that the proposers have taken into account whether the proposal will result in a significant increase in the number of children who are unable to travel sustainably, for example due to a lack of suitable walking, cycling or public transport routes. Further information is available in the statutory Home-to-school travel and transport guidance for local authorities.”

4. Concerning this aspect, the Proposer told me:

“As at 31st December 2024, there were 113 BwD pupils being transported out of the borough to special schools. Some of those children have out of borough placements

due to parental preference or the need for specialized/niche provision. However, many of those pupils would have attended Newfield if a place was available to them. Having to travel out of borough having to travel out of borough significantly increases travel times, travel costs and use of motor vehicles for these pupils. 67 of the 113 pupils have transport directly paid by the LA, totaling £1,083,469.835 p.a. (The other 46 pupils have transportation paid directly by the school they are attending, but those costs are included/covered by the fees paid by the LA to the school for that pupil's placement.) Travel times, travel costs and use of motor vehicles will all be reduced if Newfield can increase its admission number and offer placements to more BwD children (although we acknowledge that there is a possibility that other local authorities may seek to take up some of these places (in addition to the out of borough pupils already on roll at Newfield)."

63. It is clear that the proposal will reduce travel (and the cost of that travel) for a number of children currently being transported to schools further afield. I find that the proposal meets the travel and accessibility objectives.

Funding

64. The Guidance states:

"The decision maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees of the school, diocese or relevant diocesan board) have given any agreements required for this."

65. Concerning this, the Proposer wrote in its referral to the adjudicator:

"[Proposal A] In the 2023-24 Schools Capital Programme, Blackburn with Darwen Borough Council's Executive Board made the decision establishing the necessary budget to support the physical expansion to Newfield School. As time elapsed the projected costs increased so the Council's Executive Board approved a budget variation in January 2025 to make another £650,000 available to cover the projected costs of the planned physical expansion of Newfield Special School, giving a total available budget of £2.6million for this specific project [...]. Once the additional places are available, Newfield School will be required to increase its staffing capacity to meet the needs of these additional pupils but this will be funded through the increased pupil funding which they will receive due to having more pupils on the school roll. There will be no negative impact on staff from changing the age range at the school.

[Proposal B] There are no project costs in relation to the change of age range. If the age range is not formally changed, there is the risk that in future years a very small number of nursery age children might seek a place at Newfield instead of using the nurseries/early years providers which already exist in the borough, who would be

able to fully meet the needs of those children. Such a situation would not be cost effective or provide long-term value for money.”

66. The Proposer also confirmed that there will be no issues with land costs as the expansion will take place on the existing school site.
67. From the information provided by the Proposer, I can see that there will be considerable costs to expand the School buildings in order to increase its capacity to admit more children. However, the Proposer has provided evidence that the BWDBC Executive Board have appropriately costed, approved and allocated the required funding, including the recent increase in funds to cover additional costs incurred, to meet Proposal A. I can see there are no costs for implementing Proposal B.
68. Consequently, I am satisfied that funding has been properly accounted for in this proposal and there would appear to be no adverse funding implications arising from the implementation of this proposal.

Conclusion

69. I have found that the Proposer conducted the statutory consultation in line with the Guidance.
70. In terms of the five factors to consider when determining on Proposals A and B, I find that the proposals will increase educational standards and diversity of provision and will not have an adverse impact on equal opportunity or community cohesion. In addition, I have found that the proposals will reduce the cost of transporting children to special schools further afield. The Proposer has also provided convincing evidence that it has not only considered the costs of both proposals, but has provided additional funding to ensure that its vision can be realised.
71. I am satisfied that the Proposer has presented an implementation plan that will ensure the proposals can be achieved in planned timescales.
72. For the reasons set out in detail above, I approve the proposal for the two prescribed alterations for the School, as I have set out below.

Determination

73. Under the powers conferred on me by the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 made under section 21 of The Education and Inspections Act 2006, I have considered the proposal for prescribed alterations to be made to:

- a) increase the capacity of Newfield School from 190 to 255, creating 65 new places for pupils with Special Educational Needs and Disabilities; and
- b) change the age range of the School from 2-19 years to 4-19 years.

I approve the proposal.

Dated: 17 April 2025

Signed:

Schools Adjudicator: Dr Robert Cawley