

The Protection of School Playing Fields and Land for Academies

Overview

This Guidance describes the main circumstances in which local authorities and governing bodies need to seek the consent of the Secretary of State for Education and Skills to dispose, or change the use, of land used by schools. It also describes how the Secretary of State will assess applications for consent to dispose, or change the use, of such land.

Action

To ensure that existing school playing fields are protected to provide for the future needs of schools and their communities and to protect land that is needed for Academies.

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This Guidance is an e-document available from the Assets Team's web pages on Teachernet. Ad hoc changes may be made from time to time. A summary of such changes is recorded at Annex H. Copies of the Guidance are also available on request from the Schools Assets Team.

Guidance

Management & Finance

Local Authorities,
Diocesan
Authorities,
Voluntary Bodies
and Sports
Organisations

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The Education (School Premises) Regulations 1999; (for England only) section 77 of the School Standards and Framework Act 1998 and Schedule 35A to the Education Act 1996;
DfES Building Bulletin 98: Briefing Framework for Secondary School Projects and Building;
DfES Building Bulletin 99: Briefing Guide for Primary Schools;
DfES Building Bulletin 85: School Grounds: A Guide To Good Practice
DfES Building Bulletin 77: Designing for Pupils with special Educational Needs: Special Schools

Superseded documents:
Guidance 0580/2001: The Protection of School Playing Fields and Land for City Academies

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PART I – STRATEGIC OVERVIEW

1. This Guidance, which supersedes Guidance 0580/2001: The Protection of School Playing Fields and Land for City Academies, sets out the Secretary of State's policy to stop the unjustified sale of school playing fields. The Guidance also sets out how the Secretary of State will determine whether there are any extraordinary circumstances that would persuade him of the need to change the current pattern of playing field provision at schools. The Guidance:
 - tightens up the criteria set out in the previous Guidance and Circulars relating to schools' and communities' needs, thereby safeguarding the delivery of a broad and balanced curriculum;
 - clarifies the protection given to playing fields provided for pupils aged under 8;
 - extends and clarifies the general consents procedure overall while reducing bureaucratic burdens where possible; and
 - ensures that any proceeds arising from the sale of playing fields at operating schools are:
 - re-invested primarily back into providing sport or recreation facilities, particularly outdoor facilities, or
 - used to help drive up standards and to replace old schools, rather than for general repairs or paying for teachers.

The Guidance also sets out how the Secretary of State will determine applications for consent to dispose or change the use of land, including buildings, used by community schools which, may be needed for the purposes of an Academy.

2. Before the introduction of legislation in October 1998 there was widespread concern about the indiscriminate and uncontrolled disposal of school playing fields. Local authorities and schools now need to obtain the Secretary of State's written consent before they can sell, or dispose in any way, or change the use of playing fields used by schools. This Guidance ensures, where a disposal of a school playing field takes place, that any proceeds (including benefits in kind) realised are used primarily and effectively to provide or enhance modern sporting facilities. This, in turn, will increase the amount of physical activity in which young people feel motivated to participate. These measures underline the Government's intention to support the development and improvement of sporting and play provision for the benefit of schools and their local communities, and to provide wider access to these facilities.
3. The legal framework governing the disposal, or change of use, of school playing fields, and this Guidance, should not be considered in isolation. Any proposals affecting school playing fields should form an integral and co-ordinated part of the various planning processes available to schools and to local authorities, including

School Development Plans and School Organisation Plans. It follows that any proposals to dispose, or change the use, of school playing fields should be reflected also in authorities' agreed Asset Management Plans, which are the vehicles for identifying targets for funding and for delivering authorities' strategic priorities.

PART II - EXECUTIVE SUMMARY

4. This Guidance covers the two main circumstances in which local authorities need to seek the consent of the Secretary of State for Education and Skills to dispose of certain categories of land. It also covers the disposal of playing fields by certain school bodies. The Guidance describes the following legislation which provides for these circumstances:
 - (i) Section 77 of the School Standards and Framework Act 1998, and
 - (ii) Schedule 35A to the Education Act 1996 as amended by Schedule 7 to the Education Act 2002.
5. Section 77 protects school playing fields used by maintained schools in the last ten years. Local authorities, school governing bodies and foundation bodies, now need to obtain the Secretary of State's consent before they dispose, or change the use, of school playing fields.
6. Schedule 35A protects land, including playing fields, used by community or county schools within 8 years of the date of disposal where that land is needed for an Academy. Local education authorities are now required to obtain the Secretary of State's consent before they dispose of such land. In this case, disposal includes the appropriation of land for other purposes. Where it is proposed to change the use of land protected by Schedule 35A, local education authorities are under a duty to inform the Secretary of State of their proposals. Local education authorities do not need consent under Schedule 35A or Section 77 where the land in question is being made available in order to establish an Academy unless it breaches the minimum area requirements of the Education (School Premises) Regulations 1999. If statutory minimum standards are to be breached, the Secretary of State's agreement to relax those standards is needed.
7. This Guidance replaces Guidance 0580/2001: *The Protection of School Playing Fields and Land for City Academies*. It is a reference document aimed mainly at:
 - local education authorities that are considering the disposal or appropriation of land at community or former county schools, and
 - local authorities or school governing bodies and foundation bodies that are considering the disposal, or change of use, of school playing fields.
8. Part III of the Guidance outlines the legal framework regulating the disposal, or change of use, of school playing fields in England by local authorities, governing bodies and foundation bodies under section 77 of the School Standards and Framework Act 1998. (A playing field is any land in the open air which is provided for the purposes of physical education or recreation). It also outlines the legal framework regulating the disposal or appropriation of land which has been wholly or mainly used as a county or community school within 8 years of the date of the proposed disposal. This means that the disposal of school playing fields at county or community schools requires the Secretary of State's consent under both Acts.

9. Part IV explains the strict criteria against which applications to dispose or change the use of school playing fields will be assessed and the role that the School Playing Fields Advisory Panel will play in advising on those applications. Part IV also includes the new criteria against which applications made under Schedule 35A will be assessed.
10. Part V outlines how the Department will regulate those applications for which, because of their nature, the Secretary of State has decided to grant a general consent. Annex F sets out the circumstances in which general consents will apply under both section 77 and under Schedule 35A.
11. Part VI outlines the application process under section 77 and Schedule 35A. Neither Section 77, Schedule 35A nor this Guidance affect the need, or otherwise, to secure planning permission, or affect the procedures for applying for planning permission. The planning permission process is a separate process concerned with the development of land, including school playing fields, while section 77 is concerned with the protection of school playing fields against indiscriminate disposal or change of use. Schedule 35A is concerned with providing land for Academies. Education Ministers do not have any statutory powers to influence any future development of land; this is strictly a matter for the local planning authority. It is expected, however, that, where section 77 applies, the Secretary of State's consent is normally sought before application is made for planning permission. Applicants are reminded that consent under either section 77 or Schedule 35A will not have considered the future open space, sport and recreation needs of communities.
12. Annex A of this Guidance describes the background as to why legislation was introduced to protect land at schools.
13. In the remainder of this Guidance, we refer simply to 'section 77', 'the SSFA' (School Standards and Framework Act 1998), "and 'Schedule 35A' to denote Schedule 35A to the Education Act 1996 ('the 1996 Act') as amended by Schedule 7 to the Education Act 2002.

PART III - THE LEGAL FRAMEWORK

SECTION 77

14. Section 77(1) of the SSFA applies to the **disposal** of playing fields* by a

- local authority (including a parish council)
- governing body of a maintained school, or
- foundation body as defined under section 21 of the SSFA

and section 77(3) applies to certain **changes of use** of playing fields by

- a local authority

where, in both the case of **disposals** and **changes of use**, the playing fields:

- are used by a maintained school for the purposes of the school, or
- have been used by a maintained school for the purposes of the school at any time during the preceding 10 years.

** Playing field is defined in section 77(7) of the SSFA as 'land in the open air which is provided for the purposes of physical education or recreation.'*

15. The disposal of property, including playing fields, by foundation, foundation special and voluntary schools is covered by Schedule 22 to the SSFA (Annex B, paragraphs 17 –19 refer.)

SCHEDULE 35A

16. Paragraphs 2 – 6 of Schedule 35A apply to the **disposal** or **appropriation** of any land at community or former county schools, including buildings and playing fields, by a local education authority where that land has been used wholly or mainly for such a school in the last 8 years.

Powers of redress

17. Paragraph 3 of Schedule 35A provides the Secretary of State with powers to compulsorily purchase the land and to transfer it to the promoters of the Academy where land is disposed of, or appropriated, without prior consent and to repudiate option and contract to dispose agreements.

18. Where the Secretary of State exercises his powers of compulsory purchase he is entitled to recover certain costs from the authority. These costs are equal to an amount to cover the compensation agreed or awarded in respect of the purchase together with any interest payable by him in respect of compensation and the costs and expenses incurred by him in connection with making the compulsory purchase order.

Duty to inform

19. Paragraph 7 of Schedule 35A places a duty on local education authorities to inform the Secretary of State of any proposals to change the use of land which has been used by a community or county school within eight years of the date of disposal in such a way that it can no longer be used for the purposes of a school.
20. Local education authorities should inform the Secretary of State by letter of their proposals (see paragraph 111). The letter should contain details of the changes proposed and make clear how those changes will alter the land in question so that it will cease to be capable of use wholly or mainly for the purpose of a school.

CHANGES OF USE

21. Section 77(3) provides that, without the prior consent of the Secretary of State, no local authority may

'take any action ... which is intended or likely to result in a change of use of any playing fields ..whereby the playing fields will be used for purposes which do not consist of or include their use as playing fields by a maintained school for the purposes of that school.'

22. So, for example, a local authority may not change the use of playing fields to a local authority residential home, without prior consent under section 77.
23. Section 77(3) has been interpreted to mean that a local authority may not take even preparatory work, such as a feasibility study, with a view to changing the use of a school playing field. The Department does not share that interpretation. We take section 77(3) to refer to actions which, by their nature, relate to implementation of a change of use (such as signing a contract or physically laying foundations) rather than the kind of activity which is the normal process of policy and decision-making (such as consultation on the principle or even proposed details of change, research and assessment of financial implications).
24. As set out in paragraph 19 above, Schedule 35A makes provision for local education authorities to inform the Secretary of State of any proposal to change the use of land used as a community or county school where the change of use means that the land could no longer be used for the purposes of a school. Taking the example set out in paragraph 22 above, the authority may also need to inform the Secretary of State under Schedule 35A that a change of use was proposed

MATTERS FOR WHICH CONSENT IS NOT REQUIRED

25. The prior consent of the Secretary of State under section 77 is not required where:
 - consent is required under other legislation, although the criteria described in this Guidance may still apply (see 'Disposals under Schedule 22 to the SSFA' at paragraphs 17-19 of **Annex B**);
 - a local authority changes the use of a school playing field and the land becomes used in connection with the provision by that local authority, of

educational facilities for a maintained school or any recreational purposes (see 'Changes of use not covered by section 77' at paragraphs 29 - 32 below;

- the land in question is land in respect of which the Secretary of State has given a general consent (see **Annex F** 'Section 77 General consents: detail').
26. Similarly, the prior consent of the Secretary of State under Schedule 35A is not needed where the land in question is land in respect of which the Secretary of State has given a general consent (see **Annex F** 'Schedule 35A General consents: detail'):
27. However, even though a general consent may apply to a disposal, or change of use, of a school playing field under section 77, it does not obviate the need to also obtain the Secretary of State's consent under Schedule 35A if that playing field has been used wholly or mainly for the purposes of a community or county school in the last 8 years. Similarly, just because a general consent applies under Schedule 35A, it does not obviate the need to obtain consent under section 77 if the land involved falls within the definition of playing field. It might well be that proposals meet the conditions for a general consent under both section 77 and Schedule 35A.
28. The need to obtain consent under paragraphs 2 to 5 of Schedule 35A does not apply if:
- the land concerned is to be used for the purposes of an Academy;

Schedule 35A does not apply where:

- the land was used as a school other than a county or community school, (for example, a voluntary aided or foundation school or a special school), or
- the land concerned ceased to be used as a county or community school over 8 years before the date of the proposed disposal.

CHANGES OF USE NOT COVERED BY SECTION 77

29. Section 77(4) provides that changes of use by a local authority are not covered by section 77 where the land in question, after the change in use, becomes used

'in connection with the provision by a local authority of educational facilities for a maintained school or any recreational facilities.'

A local authority, therefore, may build permanent classrooms or install mobile classrooms on playing fields without the need for consent under section 77, or it might build an indoor leisure centre, whether for use by the school, by the community or by both. However, where proposals include the granting of a lease to part of a school playing field to, say, a district council so that they can build a joint use sports centre, the Secretary of State's consent is required under section 77 because the proposal involves a disposal.

30. Local authorities may also provide access roads and footpaths, including cycle paths, for the purposes of a maintained school without the need for consent under

section 77. However, the change of use of playing fields in order to create facilities for parents to set down and pick up pupils by car is not exempt from section 77. Schools and authorities should work together closely to explore healthier options to travel to school, such as walking or cycling.

31. Also, although the Secretary of State recognises the importance of providing housing for key workers, he wishes to make clear that such housing should not normally be developed on playing fields needed by schools. The sale, lease or transfer of playing fields to third parties, such as housing associations, with a view to providing accommodation for key workers is a disposal which requires consent under section 77.
32. The effect of The Education (School Premises) Regulations 1999 is that, while changes of use may be made in these ways to playing fields in excess of the minimum area prescribed for team games in the Regulations, nothing may be done to reduce the team game playing fields to a size below that which is prescribed. This is so unless a relaxation of the minimum area standard has been secured from the Secretary of State under section 543, as amended, of the Education Act 1996, as amended by paragraph 159 of Schedule 30 to the SSFA.

IMPLEMENTATION DATES

33.	For the disposal, or change of use, of a school playing field by a:	Section 77 took effect on:
	local authority	1 October 1998 ¹
	governing body	1 February 1999 ²
	foundation body	1 February 1999 ³
	For the disposal of any land, including buildings, at community schools by a:	
	local authority	Schedule 35A took effect on: 24 July 2002
		Prior to Schedule 35A, Schedule 8 to the Learning and Skills Act 2000 took effect from 28 July 2000

34. Any contract signed before the relevant date that legislation came into force will not require consent under section 77 or Schedule 35A. The Department takes the view that the signing of any contract to dispose of land, including playing fields and buildings, will be a disposal for the purposes of section 77 and Schedule 35A if, after signing and after any conditions described within the contract are met, the prospective seller would be bound by its terms to proceed with the disposal. Options giving a party a right to buy at some future date, should they wish to do so, are mentioned specifically in the definition of disposal. It follows, therefore, that a

¹ By virtue of Regulation 2(1) of the School Standards and Framework Act 1998 (Commencement No 2 and Supplementary and Transitional Provisions) Order 1998

² By virtue of Regulation 2(2) of the School Standards and Framework Act 1998 (Commencement No 4 and Transitional Provisions) Order 1998

³ By virtue of Regulation 2(2) of the School Standards and Framework Act 1998 (Commencement No 4 and Transitional Provisions) Order 1998 (foundation bodies will not hold property before 1 September 1999)

contract entered into before the introduction of section 77 on 1 October 1998 would not require consent under that section, or under Schedule 35A, and Schedule 8 before it, as the disposal has, in effect, already taken place.

WALES

35. Section 77 and Schedule 35A, together with this Guidance, apply only to schools in England.

PART IV - THE SECRETARY OF STATE'S CRITERIA

GENERAL

36. The Secretary of State has undertaken to publish criteria against which decisions on applications under section 77 to dispose, or to change the use, of school playing fields, normally will be taken. Those criteria are described in this Part of this Guidance. The Secretary of State has also decided to publish criteria against which he will consider applications under Schedule 35A to dispose of any land at community or former county schools.

UNUSED SCHOOL PLAYING FIELDS

37. Consultation about the effects of section 77 has shown that a number of local authorities and schools are concerned about the financial implications of maintaining school playing fields that are not used for school purposes at present. The Department, however, does not see this as a justification for selling such playing fields that may otherwise be of use to the local community. Nor does the Department consider it justification for fencing off such playing fields to prevent local use, particularly where it displaces authorised users. The Department wishes, therefore, to encourage local authorities to consider arrangements whereby such playing fields could be maintained by other local organisations and managed to benefit their local communities. Examples of such local organisations could be district or parish councils or local sports organisations or clubs.
38. We continue to encourage authorities to bring back into use previously under-used playing fields by providing a general consent to allow unused school playing fields to be leased or transferred to other local authorities or organisations, provided the recipient authority gives an undertaking to maintain the playing fields as playing fields and to protect the rights of any existing user (see **Annex F** 'General Consents' paragraphs 11 - 12).
39. Schools should also consider alternative uses for playing fields that are not used. With imagination, unused playing fields can be used to deliver and enhance the teaching of most parts of the National Curriculum. Such areas can also be used to promote pupils' social and cultural development and greater appreciation of the environment.

PRESUMPTION AGAINST THE NEED FOR CHANGE

40. The Secretary of State has a general presumption against the need to change the current pattern of school playing field provision by disposal or change of use. Investment in school buildings has increased from £683m a year in 1996-97 to £2bn in 2000-01. Capital spending will rise from £3.85 bn in 2004 – 05 to £6.75 bn in 2007 – 08. This will ensure that, through our Building Schools for the Future programme, by 2015 every secondary school can be refurbished or rebuilt with first class technology and state of the art facilities.
41. There are many potential streams of funding for investment and authorities and schools should not view the sale of playing fields as a mainstream or routine

method to fund improvements to facilities. The Secretary of State expects authorities and schools to first investigate and exhaust these other means of funding before considering the sale of school playing fields. Examples of the funding available to schools include:

- for all schools: Devolved formula capital;
- for special schools: Targeted capital funding
- for Secondary and some All-age: the new Building Schools for the Future programme;
- for all LEAs: Modernisation Funding and the opportunity to bid for Targeted Capital Funds;
- for additional pupil places :Basic Need Funding;
- dedicated funding for Specialist schools , Academies and Voluntary Aided Schools.

The Capital Investment site at www.teachernet.gov.uk/management/schoolfunding has further information about funding sources. There is a section on **grants for schools** which provides a brief outline of some of the main sources of funding, including lottery funding, European Union funding, the Single Regeneration Budget, Trust Funds, and funding related to former Training and Enterprise Councils (now Learning and Skills Councils). Information on the **Education Funding Strategy Group** is available on the main Department for Education and Skills site. For information on funding partnerships between the public and private sectors, look at the **Schools Private Finance Initiative** site or access the Department for Education and Skills' **Public Private Partnerships** (PPP) website for contact names and numbers to help you with an application. The **Partnerships UK** site has examples of public-private partnerships involving schools as well as useful background information and contacts..

42. As a precondition of applying for his consent, the Secretary of State expects applicants to present evidence that they have exhausted other reasonable avenues of funding before resorting to selling playing fields, particularly at operating schools.

SECTION 77 CRITERIA FOR DECISION-MAKING

CRITERIA: OVERVIEW

43. The criteria against which applications under section 77 normally will be made fall under three main headings. These may be described as schools' needs, community use, and finance. Normally, applications to dispose, or change the use, of school playing fields will only be approved in the exceptional circumstances that fulfil these criteria, which are detailed below.

CRITERION 1: SCHOOLS' NEEDS

44. The Secretary of State's expectations as to the size and quality of playing fields that normally should be retained to meet schools' needs are based on the Department's recommendations for:
- the statutory minimum amount of playing fields set out in the Education (School Premises) Regulations 1999, taking into account the capacity of the school and making allowance for further increases in pupil numbers at

popular schools;

- the statutory minimum national quality standard of 7 hours use per week;
- the Department's recommended total site area for new schools, and within that site area, the Department's recommended area for each component part of the playing field element as set out in Building Bulletins 98: *Briefing Framework for Secondary School Projects* and Building Bulletin 99: *Briefing Guide for Primary School Projects*.

Quality of grassed team game playing fields (sports pitches)

45. The Education (School Premises) Regulations 1999 ('the SPRs') set out the quality requirements for school playing fields that are laid out for team games. Briefly, grassed team game playing fields must be capable of sustaining the playing of team games by pupils at each school that use those pitches for 7 hours per week per school during term time. This means that where more than one school shares team game playing fields, any shared parts must be capable of sustaining the playing of team games by pupils of each of those schools for at least 7 hours during each week of the school term.

Total site and playing field area

46. The total site area currently recommended for new primary and secondary schools is that provided in The Department's Building Bulletins 98 and 99. The relevant extract is attached (**Annex C**). BB98 and BB99 superseded BB82: Area Guidelines for Schools with effect from 1 April 2004. Applications made before 1 April 2004 will either be considered against the areas set out in BB82 or applicants will be given an opportunity to reconsider their applications in the light of the new recommendations for overall site and playing field areas. Prospective applicants, however, should check with the Department what the current version is before submitting an application. BB98 and BB99 contain recommendations on what proportion of the total area should be allocated to the provision of various areas of playing fields. It clearly would be unreasonable to expect existing schools across the country to enlarge their sites where existing sites are smaller than those recommended for new schools. In a great many cases this would be impossible. The revised guidelines are also intended to set realistic recommendations for minimum areas to address the school workforce, and community use out of school hours. Special schools are currently covered by the SPRs. Although Building Bulletin 77: *Designing for Pupils with Special Educational Needs: Special Schools* does not set out recommended areas for other outdoor playing fields, in line with the Secretary of State's presumption against the need to change the current pattern of playing field provision at schools, the needs of special schools will be assessed on a case by case basis against the recommended areas set out in BB98 and BB99 for other mainstream schools, as per paragraph 47 below.
47. The SPRs prescribe minimum areas of team game playing fields only for those schools with pupils who have attained the age of eight years. Section 77, however, applies to all maintained schools, including special schools, irrespective of pupils' ages. It follows that, while the Regulations do not require team game playing fields to be provided for pupils under eight years of age and, therefore, offer no protection to them, section 77 will protect **all** areas of playing field which have been provided,

whether in response to Regulatory requirements or otherwise. The area requirements set out for infant or primary schools in the Key Formulae to BB99, will therefore be applied to protect playing fields already provided for pupils aged under eight years. Those same area guidelines are also applied as criteria to playing field areas at all schools protected by section 77.

48. In relation to the school that is the subject of the application, the applicant must calculate the total area of playing field provision which would be recommended if that school were a new school. However, prospective applicants must use a notional number of pupils that allows for growth. The method for arriving at the notional NOR (Number On Roll) is described in **Annex D**. Normally, the applicant should be able to demonstrate clearly that the total site area and, within that site area, the playing field provision are sufficient to accommodate the notional NOR to allow for possible future growth. In order to protect playing fields at schools where there are children under eight years old, the Secretary of State has decided that, for the purposes of assessing applications under section 77, the playing field recommendations for infant schools or Key Stage 1 pupils should at least be met. Where schools move to a new site, the Secretary of State will take into account the designed capacity of the replacement school to ensure that its playing field needs are met. He also wishes to ensure that Key Stage 1 pupils that enjoy access to playing fields will not be disadvantaged by a move to a new site. Where Key Stage 1 pupils have not enjoyed access to playing fields at the old site, the new site should provide at least the recommended areas set out in the Key formulae for infant and primary schools in BB99.
49. Where a school closes and a new school that encompasses the same age range of pupils immediately re-opens on the same site, the Secretary of State considers that pupils should enjoy the same or similar access to playing fields that the former pupils enjoyed, including Key stage 1 pupils. He does not accept that the new school should only meet the minimum requirements of the SPRs and that any outdoor space that is in excess of the statutory minimum is surplus and, therefore, should be considered as a source of additional funding for the replacement school.

Sequential disposals

50. Section 77 was introduced to protect small areas of school playing fields as well as larger sports pitches. The Department will, therefore, monitor carefully the number of disposal applications that affect individual schools in order to protect against the gradual erosion of a school's playing field provision by a sequential series of 'minor' disposals. Although a disposal might already have taken place, this in itself would not be a sole reason for rejection but it may be taken into account where the loss of land would result in a site smaller than that recommended to accommodate possible future NOR.

Closing and closed schools

51. When a school is closed, consideration may be given to the disposal, or change of use, of the playing fields provided for it. Normally, the Secretary of State would expect allowances to be made for possible future increases in roll. In these particular cases, there clearly is not a roll to consider for the closing school, unless the intention is to move to a new site. Nevertheless, the closure of a school is not, of itself, evidence that associated playing fields are no longer needed by other

schools in the local area. It will be for those applying for consent to show an absence of any such need or, alternatively, to present their case. In particular, the Secretary of State has indicated that applications for consent to dispose, or to change the use, of playing fields used by a closed or closing school, will need to demonstrate to his satisfaction that the needs of local schools, particularly those sharing a campus or a boundary with the closed school, have been taken fully into account (see 'other schools' needs' at paragraphs 53 - 54).

52. Where there is community use of such playing fields, the applicant will need to demonstrate to the Secretary of State that their proposals have taken that use into account and that reasonable alternative arrangements have been made (paragraph 75 refers). Where fencing off of playing fields has already displaced authorised community users, the Secretary of State will take into account the reasons for the closure of the playing fields to those users and the suitability of any alternative arrangements that were made.

Other schools' needs

53. Where an application is in respect of land capable of being used as a sports pitch, the Secretary of State considers that other local schools should have access to at least the minimum amount of team game playing fields, as set out in the SPRs, based on a notional number of pupils, including some allowance for possible future growth. That is to say, that other local schools within the radii described in paragraph 54 below should have sufficient team game playing fields, as set out in the table at Schedule 2 to the SPRs. Those team game playing fields should be equivalent to the size required for either the maximum potential capacity of those schools or the local education authority's highest projected NOR over the next five years, whichever is the greater. Those playing fields should also, of course, meet the minimum quality standard of sustaining 7 hours use a week for each school that uses the playing fields. Where schools with key stage 1 pupils share a campus or common boundary with the school where the proposed disposal is to take place, account should be taken of whether those pupils have access to at least the minimum recommended outdoor play areas for infant and primary schools.
54. Where other local schools already meet or exceed the minimum team game playing field standard for possible future NOR, there is no need for further consultation with those schools. However, where there is a deficit, it is for the applicant to demonstrate, to the satisfaction of the Secretary of State, why the playing fields forming the subject of the application should not be used to make up that deficit. As a guide, it would seem reasonable to include all schools inside the authority's boundaries that are within reasonable travelling distance of the playing field in question. This would suggest a radius of ½ mile in respect of primary schools. Imaginative timetabling of the school curriculum may well allow older pupils to use appropriate playing fields that are further from their school. It would, therefore, be reasonable to take into account the needs of secondary schools within a 1 mile radius.

Alternative playing field uses

55. The Secretary of State recognises that there is a wide range of uses for playing fields. In determining whether schools' needs are met, he will consider whether there is a balance of these uses within the school playing field provision.

56. Department's BB98 and BB99 includes recommended areas for:
- **pitches** at least to the prescribed minimum area for team game playing fields for grass pitches and artificial surface pitches;
 - **hard surface games courts** for non-team and skills practice, including multi-games courts, tennis courts and play grounds and hard paving marked out for games;
 - **hard play (informal and social areas)**, including playgrounds not marked out for formal team games;
 - **soft play (informal and social areas)**, including grassed areas, paved areas (including playgrounds), paths and outdoor seating;
 - **float (marginal areas)**, which can be used to enhance some areas, depending on the design of the site, to address the individual priorities of each school, and
 - **habitat areas** for gardens, trees, wildlife, livestock enclosures, and nature trails.
57. During recent years there has been increased appreciation of the potential value of playing fields as an 'outdoor classroom'. There are many imaginative ways of utilising these resources and the Secretary of State is anxious to ensure that applicants have also considered these alternative potential forms of use, before they dispose of them or change their use. The Department itself has published Building Bulletins 71 and 85, *The Outdoor Classroom* and *School Grounds: A Guide to Good Practice* respectively. Organisations such as Learning through Landscapes or the National Playing Fields Association, as well as the regional offices of Sport England, may be able to offer advice or assist in investigating alternative uses for school playing fields identified as 'surplus'.
58. Applicants should demonstrate that the school's needs in each of these areas are fully met or, if not, fully explain why the land cannot be used to meet these needs. For example, an applicant should demonstrate that the school has at least sufficient land set aside as hard games courts, informal and social areas, marginal areas and habitat to meet the needs of the school. The recommended sizes for each area, against which applications will be assessed, are set out in BB98 and BB99.
59. At the point of applying for consent, an applicant is also expected to show that not only the school for which the playing fields in question were provided, but also other local schools that might reasonably be able to gain access to those playing fields, do not have a deficit. For example, whereas it would be unreasonable to reserve an informal or social area for use by another school say one mile away, it would, however, be reasonable to reserve such land for another school that shares a campus or boundary with the school where the disposal is proposed.

The curriculum

60. Playing fields and hard surface games courts may both be needed if a school is to be able successfully to fulfil the National Curriculum. Applications for consent to

proposals affecting this provision, therefore, should give a detailed assessment of the impact of the proposal on the provision of the curriculum, both formal and informal, and demonstrate clearly how the curriculum will be met should consent be given. For example, where an alternative playing field is proposed which is off-site, the effect of additional travel-time will have to be taken into account. Applicants may wish to consult the guidance on curriculum analysis provided on our web site at www.teachernet.gov.uk/curriculumanalysis.

Equal opportunities

61. Proposals to dispose of school playing fields, whether they be sports pitches, hard play areas or other social and recreation areas, should take into account the needs of pupils with disabilities. Such proposals should ensure that special education needs pupils' access to sports, recreation, and social areas is not adversely affected. Applicants should be able to demonstrate in their application that any new or improved sports, recreation, or social facilities will improve the standards available for disabled pupils.

Balancing indoor and outdoor sports provision

62. Not all games can be played safely on all-weather surfaces, hard multi use games courts or indoors. Applications for consent to proposals affecting this provision therefore should assess whether the right balance would be struck between indoor and outdoor facilities, and between natural grass, all-weather and hard court provision were consent to be given.

Asset Management Plan

63. All applications will need to show how they fit within the authority's strategic Asset Management Plan. Applications should also show how the proposed disposal, or change of use, fits into the authority's strategic school organisation plan, together with the authority's overall sports strategy plan, including sports provision at its schools.

Consultation (schools)

64. The Secretary of State expects that the applicant should consult those likely to be affected by the proposals. He would expect, for example, that as a minimum, the applicant would consult and take into account the views of:
 - parents of pupils attending the school where the disposal or change of use is to take place;
 - other schools in the local area that do not have access to at least the minimum amount of team game playing field set out in the SPRs, where the proposed disposal would result in the loss of land capable of being used as at least a small sports pitch,
 - other schools that may share a campus or common border and that may be able to use the land, where the proposed disposal affects areas other than those capable of forming sport pitches,

(See 'Consultation (general)' at paragraph 83 for further details of the level of

consultation expected.)

Telecommunication masts

65. The erection of telephone masts and their base stations on school playing fields are disposals that are covered by Section 77. Audits carried out by the Radiocommunications Agency of mobile phone base stations located at or near schools show that the level of emissions ranges from several hundred to many thousands of times less than those recommended in guidelines set out by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). However, it is possible that some parents of pupils may still have reservations and concerns about siting masts at schools.
66. The Department has, therefore, established a policy that the installation of telecommunications masts and other equipment will not normally be permitted on school playing fields unless:
- the prior approval of planning consent has been obtained, thus demonstrating that the proposals comply with ICNIRP guidelines, and
 - it is clearly demonstrated that the proposals enjoy the support of a significant majority of parents of pupils at the school affected. Consultation under the planning process requires only that proposals have the support of the school's governing body.

CRITERION 2: COMMUNITY USE

67. The Secretary of State considers that school premises are a resource not only for pupils, but also for the wider community. Local education authorities and schools should seek out opportunities to develop their community role, not least because appropriate community use can improve pupils' attainment and help to bring about among parents and other local people a sense of ownership of, and belonging to, the school. In seeking out such opportunities, authorities and schools should therefore give priority to activities which support and promote pupils' learning and the wider community generally, such as homework and after-school clubs, other study support activities, basic skills courses, adult education, youth service activities and family learning opportunities. In January 2000 we issued the Guidance: *Raising Standards: Opening Doors*, to help schools develop the use of their premises and facilities and enhance their links with the local community. The Community Education Development Centre (CEDC) with support from the Department, published further Schools Plus guidance: *Building Learning Communities* in November 2000, offering schools more practical advice and support on how to develop as a community resource and how to extend their links into the community.
68. In many locations the school is the main, or even only, place that can provide the local community with sports and other facilities. Using the local school as a centre for adult learning, childcare facilities and for meetings helps regenerate and strengthen communities. Schools can also support community learning and health education. The Secretary of State, therefore, has decided that, in assessing applications under section 77, it is right that he takes into account community use of school playing fields. Where the fencing off of a school playing field displaces or disadvantages authorised community users, the Secretary of State will take into

account the circumstances of the closing off of the playing field and of the alternative provision, if any, provided to the former users.

69. The Department's joint publication with the Department for Culture, Media and Sport *A Sporting Future for All* states that the Government "will work to extend opportunities beyond the school day by encouraging schools to provide a range of after school activities for all pupils whatever their age or ability." Paragraph 7.15 of *A Sporting Future for All* goes on to say:

'It is important that young people of all abilities have the opportunity to have access to high quality physical education and sport provision outside school hours. Out of school hours clubs and activities offer great scope for schools to form partnerships which will broaden and strengthen the range of opportunities available to all young people.'

70. The Secretary of State, therefore, expects applicants to have taken into account not only those after school activities and out of hours clubs that already exist, but to have considered the scope for using the land in question to help further develop such schemes and links with the local community. Applicants should also be able to demonstrate that, where proposals include a permanent loss of playing fields, any existing after school activities will not be adversely affected.

71. It is the Department's view that only authorised community use of playing fields should be taken into account, whether or not such authorised use is covered by formal or informal agreements. Such use may be by:

- local sports clubs for practice or the playing of arranged games;
- local youth and community groups for sport or recreation, for example local scout groups;
- nursery, pre-school and day care groups;
- after school and out of hours groups;
- groups involved with educational programmes run in partnership with schools;
- charitable groups for fetes, sports days, and other fund raising events on an annual or more regular basis.

72. There may be a misconception in the local community that school playing fields are public parks and, therefore, are open to any public access and use. School playing fields are provided primarily for the physical education and enjoyment of children attending the school. Although schools and authorities make their playing fields available for authorised community use, unauthorised use may cause damage to these valuable resources. Although it may appear to be harmless to allow children ad hoc use of school playing fields to kick a ball about at evenings and weekends, it must be remembered that the quality of school sports pitches may suffer as a result. Sports pitches can only be used for a limited amount of time, particularly in extremes of dry or wet weather, and must be allowed periods to recover. The Secretary of State will not take into account unauthorised uses when considering an application. Such unauthorised uses include:

- local residents exercising and walking dogs;
- unauthorised 'kick-around' by local children or as a golf practice range by local residents (unauthorised use of school grounds may also be considered to be trespass);
- use as an unofficial picnic, camping, or caravan site.

73. The Secretary of State expects, therefore, all applications for consent under section 77 to dispose, or to change the use, of school playing fields to detail exactly the existing community use of those fields. The question of potential additional future community use falls within the remit of the planning process, of which Sport England is an integral part and a statutory consultee on proposed developments on school playing fields.

Consultation (local community)

74. The Secretary of State intends to ensure that applicants have consulted all those most likely to be affected by the proposal. So, for example, groups with permission to use the playing fields should be consulted, whether they do so by virtue of formal or informal agreements. The local community generally should also be consulted. (See 'Consultation (general)' at paragraph 83 for further details of the level of consultation expected.) The Secretary of State expects applicants to be open about their proposals, therefore, applications should, in general, be open to scrutiny on demand by the local community and other consultees.

75. Where current community users would be displaced if the proposal were implemented, the Secretary of State expects the application to include a complete and full account of the effect on those users: in particular, whether their activities can realistically be moved to an alternative site on terms which do not adversely affect them. So, for example, applicants should make clear whether charges at the alternative venue are higher than at present. Applicants should, in any event, be prepared to put forward a strong case saying why consent should be granted where realistic alternative venues cannot be provided. Where community users have already been displaced by the fencing off or closure of school playing fields, the Secretary of State expects those users to be consulted as part of the wider consultation.

CRITERION 3: FINANCE

76. No application under section 77 will be considered unless it sets out the proposed financial implications, including any expected proceeds or benefits and their intended destination. The Secretary of State will expect any net proceeds arising from the disposal of school playing fields, or any benefits in kind, to be used towards specific projects to improve, or enhance, sports or educational facilities at or for schools. Applications for consent should provide an assurance that proceeds will be ring-fenced for these purposes.

77. In the case of operating schools, where the disposal or change of use involves an area to be sold that is capable of forming at least a sports pitch, the Secretary of State has a strong expectation that any net proceeds will be applied as follows:

- to enhance or improve on site outdoor sports or leisure facilities;
- to enhance or improve outdoor sports or leisure facilities at or for other local schools, where the school disposing of the playing field already has available to it facilities of sufficiently high quality for school and community use;

Otherwise, it is for the applicant to persuade the Secretary of State that proceeds should be used to:

- to enhance or improve on site indoor sports or leisure facilities;
- to enhance or improve indoor sports or leisure facilities at or for other local schools, where the school disposing of the playing field already has available to it facilities of sufficiently high quality for school and community use.

Exceptionally, where proceeds are not to be used for sports or leisure facilities, the applicant must convince the Secretary of State of the need to re-invest proceeds to enhance or improve on site educational facilities, or, where the facilities are already of a sufficiently high quality, to improve educational facilities at other schools within the authority's control, particularly schools in the local area.

78. Proposals to re-invest proceeds to provide new sports or leisure facilities should also take into account the sustainability of those facilities over a ten year period. Applicants should provide evidence of how they will manage the maintenance, repair and replacement of such things as playing surfaces and sports halls, having regard to the frequency and type of use that will be made of the new facilities.
79. In the case of closed or closing schools, the Secretary of State will normally expect any proceeds arising from the disposal of land that could form at least a sports pitch to be re-invested in the following order of priority, unless applicants can otherwise persuade the Secretary of State:
 - to enhance or improve outdoor sports and leisure facilities at other school sites within the authority's area of responsibility and in line with any local sports strategy plan, particularly at schools in the local area;
 - to enhance or improve indoor sports and leisure facilities at other school sites within the authority's area of responsibility and in line with any local sports strategy plan, particularly at schools in the local area;
 - otherwise, any proceeds should be used to meet educational priorities identified in Asset Management Plans for other schools in the authority's local area or as prioritised in the local school organisation or development Plans.
80. Where the proposed disposal or change of use involves an area of playing field that is not capable of forming at least a sports pitch, the Secretary of State still expects that any proceeds or benefits arising should be used to improve sport and recreation or educational facilities for schools in line with local sport strategy or school organisation or development plans.
81. It is the Department's view that enhancements to educational facilities should include capital projects to help drive up standards and replace old schools, but not

general repairs to school buildings or to supplement day to day running costs. Examples of general repairs, even if they are normally considered to be capital projects, are replacing boilers and heating systems, re-roofing buildings, replacing windows, etc. Similarly, as Devolved Formula Capital is for capital expenditure on buildings, proceeds should not be spent on equipment unless this is incidental to, and at the margins of, a larger building project – for example, a project to provide new classrooms which requires directly associated fixtures and equipment. Expenditure on equipment must not be a major part of the expenditure funded from proceeds. For example, we would not expect applications to propose to fund ICT equipment from proceeds unless the expenditure is directly associated with a new IT suite that is to be funded from the proceeds.

82. Where the Secretary of State approves an application to dispose of school playing fields, the successful applicant should inform the Department of when the disposal is completed and the amount of proceeds realised. The successful applicant should also inform the Department of (i) the expected start and (ii) completion dates for work on the agreed capital project(s) to be funded from the proceeds, and (iii) on final completion of the project(s). The Department will monitor progress to ensure that the new or improved sports or educational facilities as set out in the application are delivered.

CONSULTATION (GENERAL)

83. When carrying out consultation about proposals to dispose of playing fields, particularly areas used, or which could be used, as one or more sports pitches, applicants should remember that it was local concerns that prompted legislation to protect playing fields used by schools. It is with this in mind that the Secretary of State expects prospective applicants to consult fully on their proposals prior to submission for consent. What, in the Secretary of State's view, represents full consultation is described below. Applications will normally need to satisfy these expectations.

Duration and timing

84. The Secretary of State normally expects consultations to take place for no fewer than 6 term-time weeks. For areas capable of forming at least a small sports pitch of 2,000m² or more, the Secretary of State would expect a consultation period of not less than 10 term-time weeks. The statutory period for consultation on applications for planning permission is shorter and, therefore, is normally insufficient for applications under section 77. The consultation exercise should be open in seeking views and comments, not simply canvas for support or opposition to proposals. It should also be clear, in those cases where there is a loss of playing field, exactly which area of land is to be lost. Normally, consultation should be current and should have taken place no more than 12 months before the application is submitted.

Scope

85. The Secretary of State further expects that, as part of the consultation, prospective applicants will seek views from:

- (i) the Headteacher, governing body, teachers (particularly the Head of PE) and parents of pupils attending the school in question, where it will continue as an operating school, and any other school using the field for the purposes of the school, or which has used the field for the purposes of the school at any time during the past 10 years (except those using the playing fields because their own playing fields were unavailable to them temporarily); and
- (ii) where there is land capable of forming at least a sports pitch, the Headteacher or governing body of a maintained or maintained special school within the local area (as set out in paragraph 54), whether they use the playing fields concerned or not; and
- (iii) the Headteacher or governing body of any school that shares a campus or common border with the school in question; and
- (iv) any group or organisation with permission to use the playing field, whether by virtue of a formal agreement or otherwise (perhaps via the school), or that has used the playing field (where records permit); and
- (v) the local community generally (perhaps through a newspaper notice or targeted letter mailings); and
- (vi) any minor authority in whose area the playing field is situated (such as a district, town or parish council); and
- (vii) the local authority, where the proposal is being made by a governing body or foundation body, and
- (viii) the local authority in whose area the playing field is situated, if that is different from the local authority intending to dispose, or to change the use, of the playing field.

86. The Secretary of State would expect to see evidence that the relevant groups have been consulted and the results of those consultations. The Secretary of State, however, accepts that the same degree of consultation may not be required for all applications. For example, an application involving the granting of a lease to a small area of playing field that does not affect a sports pitch is not as contentious as the permanent loss to development of thousands of square metres of grassed sports pitches. It is for the applicant to determine the appropriate level and means of consultation commensurate with the proposed disposal or change of use. If the Secretary of State is not convinced that the level is, in his opinion, appropriate, he may ask for additional consultation before making a decision on the application.

Applicant's comments on consultation responses

87. It is for the applicant to demonstrate, as part of their case, that either the application enjoys local support or that local concerns have been given the fullest consideration. They may do so by providing a summary of the points raised during consultation and their comments upon them. Copies of responses may be attached to applications, but there is no requirement to do so. Issues concerning planning matters are not for the Secretary of State for Education and Skills. Material relating to such matters should, wherever possible, be excluded from the application.

SCHOOL PLAYING FIELDS ADVISORY PANEL

88. All applications are referred to an independent advisory panel known as the School Playing Fields Advisory Panel. The Panel is purely advisory and has no decision-making or executive function. It comprises representatives of the National Playing Fields Association, the Central Council of Physical Recreation, Learning through Landscapes, the National Association of Head Teachers, and the Local Government Association. The Chair of the Panel is appointed by the Secretary of State to act as an impartial, independent Chairman. The Terms of Reference of the Panel are set out in **Annex E**
89. The purpose of the Panel is to provide the Secretary of State with independent objective advice on the extent to which each application to dispose, or change the use, of school playing fields meets the published criteria. The setting up of the Panel means that it is unnecessary for applicants to consult any of these organisations prior to application.

SCHEDULE 35A CRITERIA FOR DECISION-MAKING

GENERAL

90. Schedule 35A is concerned only with protecting land needed for Academies. Most Academies will be established with the support of local education authorities and we will accordingly expect the majority of applications under Schedule 35A to be approved. The legislation does not specify circumstances where the Secretary of State may withhold consent to dispose or appropriate land. Where such consent is withheld, it will be because the Secretary of State reasonably believes that the land could be used to site an Academy for the benefit of that local community.
91. Each application will, however, be judged on its merits and with regard to one or more of the following criteria.

CRITERIA

Location

92. Academies will normally be based in urban areas. The Secretary of State will, accordingly, be unlikely to withhold consent relating to land that falls under Schedule 35A that is situated in rural areas.

Size of the land

93. The Department has certain standards with regard to the minimum size of land in which to establish a secondary school. These are set out in the table at **Annex C**. The Secretary of State will take into account whether the land in question meets this minimum standard when considering its suitability as a site for an Academy.

Viability of the remaining land to be a school

94. The parcel of land that is the subject of the application may be only part of a school site. In such cases the Secretary of State will consider the viability of the remaining site as an Academy. This might be relevant, for example, where land being disposed of covers the only vehicular access to the remainder of the site or reduces

the size of the remaining land to an area below the Government's minimum size for a secondary school.

Purposes of the disposal

95. Disposing or appropriating land for the purposes of funding or facilitating a school re-organisation are dealt with below. However, local education authorities dispose of and appropriate land for a variety of reasons. For example, a redundant school site may be earmarked for a much-needed local road improvement and the Secretary of State would want to take this into consideration when assessing an application.

Overarching case for an Academy in the area

96. In considering each of the criteria set out above, the Secretary of State will consider whether there is a realistic prospect of establishing an Academy and if so, the benefits an Academy would bring to the community. The circumstances in which the Secretary of State considers that Academies could most effectively contribute to the quality and diversity of secondary provision in an area are described in *'Academies - schools to make a difference: A guide for sponsors and other partners'*.

Reorganisation of school places and current proposals

97. The Secretary of State would want to consider carefully the necessity for disposal or appropriation of land where there is a reorganisation of provision in the area. This is particularly so where there is an unmet demand for school places which the school reorganisation is intended to address. He would be prepared to consider arguments that objectives of quality and regeneration could be met by the existing reorganisation scheme. Those bringing forward proposals should, however, satisfy themselves at the earliest opportunity that any disposal of land necessary in order to implement the proposals, perhaps because of capital receipts, will be approved by the Secretary of State. The reorganisation proposals will not be able to be approved until such approval has been received. Where proposals, for example, involve the closure of a school that the Academy is intended to replace, the School Organisation Committee or adjudicator may approve statutory proposals linked to the establishment of an Academy under Regulation 9(g) of the School Organisation Proposals Regulations, SI 1999/2213 (as amended). Such approvals would be conditional on the making of an agreement for an Academy. Similarly, proposals dependent on the acquisition of land for their implementation may be approved conditional on acquisition of the site or playing fields.

PART V - GENERAL CONSENTS

SECTION 77

GENERAL

98. Section 77(5) of the SSFA empowers the Secretary of State to give consent to a particular disposal or change of use or generally in relation to disposals or changes of use of a particular description. The general consents are set out in *The School Playing Fields General Disposal and Change of Use Consent (No.3) 2004* order. A description of these consents is given at **Annex F**.
99. The effect of a general consent is that, where the circumstances described apply, and where any conditions are met, the specific prior consent of the Secretary of State will not be required under section 77. It is, however, for the Department to determine whether a general consent under section 77 applies. To enable such a determination to be made a local authority should provide the following details:
- the location and area of the playing fields at issue (in square metres);
 - a plan, preferably of A4 size but no larger than A3, clearly showing the area in question in relation to the whole of the school site. It would be helpful if the plan also identifies the specific types of playing field areas at the school;
 - the area (in square metres) of the remaining team game playing fields together with the number of pupils on roll aged under 8 years, 8 to 10 years, and 11 years and older;
 - details of the total site area (in square metres);
 - the date, or the proposed date, of the disposal or change of use;
 - an explanation as to why the authority thinks the disposal, or change of use, is covered by a general consent, and
 - in the case of an operating school, the views of the headteacher and governing body.
100. General consents given by the Secretary of State do not remove the need for consent under other legislation. So, for example, nothing in a general consent would remove the need for consent under Schedule 35A or under Schedule 22 to the SSFA, where those Schedules otherwise apply, or the need to apply for planning consent where it is needed.

MINIMUM PLAYING FIELD REQUIREMENTS

101. Similarly, a general consent does not affect the need for schools to meet the minimum playing field area requirements set out in the Education (Schools Premises) Regulations 1999. Nor does it affect the need to first obtain a relaxation to this requirement in cases where the area of school playing field may be reduced below the minimum set out in those Regulations.

SCHEDULE 35A

GENERAL

102. Paragraph 11 to Schedule 35A gives the Secretary of State the power to give consent to a particular case or class of case, which may be subject to conditions. The class consents that have been agreed by the Secretary of State are set out in ‘*The Academies General Disposal and appropriation Consent (No.1) 2003*’ order. The order came into force on 10 March 2003. A description of these class consents is set out in Annex F.

103. It is for local authorities themselves to determine whether or not they meet the conditions for a class consent under Schedule 35A. Granting of consent is subject to the authority disposing of or appropriating the land to provide the Secretary of State with details of:

- (i) the location and area (in square metres) of the land to be disposed of or appropriated, and
- (ii) the total site area of the school or former school, and
- (iii) the date (or proposed date) of the disposal or appropriation, and
- (iv) an explanation as to why the local authority thinks that the disposal or appropriation is covered by a general consent.

104. As for general consents granted under section 77, consents given by the Secretary of State under Schedule 35A do not remove the need for consent under other legislation, for example, under section 77.

SCHEDULE 22

105. Schedule 22 does not provide for general consents. Therefore, although a general consent might apply to playing field if it belonged to a community school, it does not apply to playing fields at foundation schools, or at former grant maintained schools that are now foundation or voluntary schools. However, where a general consent would have applied if the land had been at a community school, the Secretary of State will normally assess an application under Schedule 22 against the general consent criteria.

PART VI - APPLYING FOR CONSENT

MAKING AN APPLICATION

106. The Secretary of State normally expects that, where his consent is needed, an application under section 77 is made to him before application is made for planning permission. However, the Secretary of State understands that some applicants might, as part of, say, a feasibility study, wish to explore outline planning permission before making an application under section 77. In other circumstances, the Secretary of State accepts that applicants may wish to go further, particularly where time is of the essence, and apply for full planning consent at the same time as applying for consent under section 77. Applicants must remember that disposal cannot, in any event, take place unless the Secretary of State gives his consent under section 77. Applicants are reminded that consent under either section 77 or Schedule 35A will not have considered the future open space, sport and recreation needs of communities.
107. Where an application is in respect of land on which a telecommunications mast is to be provided, the Secretary of State would first expect the applicant to go through the full planning process so that he can be reassured that the proposal is safe and complies with ICNIRP guidelines. Any application to the Secretary of State under section 77 should demonstrate that it enjoys the majority support of the school and parents of pupils.
108. Applications for consent should be made using the appropriate up to date Departmental form, obtainable from the Schools Assets Team (details on the front of this Guidance or from the Department's Internet site at www.teachernet.gov.uk/schoolslandandproperty). Where appropriate, these forms also encompass applications under Schedule 35A. The forms, which may be revised from time to time, are self-explanatory. They set out the details required in each case and, when completed, should be returned to the Schools Assets Team. In specific cases, applicants may be approached for additional information.
109. Where local authorities other than education authorities, such as district or parish councils, apply to dispose of school playing fields, the Secretary of State expects them to undertake all consultations necessary and to provide all the information that he requires relating to the specified criteria – this may mean obtaining such information from the relevant local education authority.

PROCESSING APPLICATIONS

APPLICATIONS UNDER SCHEDULE 35A

110. In the majority of cases, an application for consent under Schedule 35A will be a simple procedure in order to keep bureaucracy to a minimum. This reflects the expectation that most applications will be straightforward and will gain consent with a minimum of information required. Most of these might well be satisfied by one of the class consents agreed by the Secretary of State.

111. In cases where parcels of land are being disposed of, or appropriated, and where section 77 consent **is not** required and a class consent is not appropriate, then application is either by a simple application form (which may be by fax, E-mail or post) that outlines the following;

- the **Name** of the school and its full **postal address**;
- a description of the land which includes a measurement of its area;
- the **educational history** of the land in question - when was it last used for the purpose of a school. Will a school remain on adjacent land?
- the **reasons** for the disposal or appropriation of the land.
- It is essential to attach an A4 plan of the site with the land in question clearly marked.

112. The Department would normally expect to give a decision on 90% of such applications within two working days of receipt of the necessary information. Where applications also include playing fields which require consent under section 77, a completed application form as detailed below is required.

SECTION 77 APPLICATIONS

113. The Department normally aims to give a decision on applications under section 77 within 16 weeks of receipt, where all the information necessary was available at the outset. The School Playing Fields Advisory Panel will assess all applications. The Secretary of State will take the Panel's advice into account when considering individual applications. He may, as a result of the Panel's assessment, require additional information before making his decision. Where he requires additional information, the Secretary of State will normally ask the Panel to look again at the application in the light of any new information.

114. The Department's Schools Assets Team is responsible for progressing the assessment of all applications against section 77 criteria. The Team will liaise with applicants to ensure that all necessary information is available to enable the Advisory Panel to reach a view and to allow the Secretary of State to make an assessment based on the same information that has been presented to the Panel. Where necessary, officials from the Schools Assets Team may need to arrange site visits in order to obtain the necessary information. Where requested, the Team will meet applicants to explain the process or to obtain local knowledge that applicants consider is an integral part of their application.

115. Authorities should bear in mind the Department's normal 16-week target and the possible need for additional information, particularly in contentious applications, when considering the timing of their applications. The provisions and requirements of section 77 and the criteria against which applications are assessed have been in place for some years. There should be few, if any, occasions where authorities or schools require decisions to be made urgently to meet planned deadlines. There may, however, be some extenuating circumstances that require urgent decisions. Whilst such one off applications will be dealt with on merit, the timetable for Advisory Panel meetings means that the minimum time frame for a decision in urgent cases is likely to be at least 10 weeks from receipt of all necessary information.

116. During the assessment process, applicants will have been offered a number of

opportunities to address concerns raised by the Department and by the Advisory Panel. The Secretary of State's decision, therefore, will be final. Unsuccessful applicants are free, of course, to make further applications, which will again be assessed against the criteria set out in this Guidance.

BACKGROUND - THE NEED FOR LEGISLATION

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THE NEED FOR LEGISLATION

PLAYING FIELDS

1. The statutory framework as it stood in 1997 offered no protection to any part of an existing school playing field which was in excess of the prescribed minimum area for team games, even at those schools to which minimum area requirements did apply. Schools to which the minimum area requirements did not apply (that is those schools where all the pupils are under 8) not only lacked a right to playing fields where they did not already exist, but had no means of ensuring that they kept any playing fields that might have been provided for them. Similarly, there existed no protection for playing fields at closed or closing schools. This meant that nearby schools with a shortage of playing field provision had no say in the future use of these so called 'surplus' pitches.
2. The absence of legal protection for that part of playing fields in excess of the minimum prescribed in The Education (School Premises) Regulations 1999 was set against increasing concern about the disposal and development of school playing fields across the country. The manifesto upon which the current Government was elected included a commitment to act on this matter and, during the passage through Parliament of the School Standards and Framework Bill, the Secretary of State moved an amendment that later became section 77 of the SSFA.
3. Section 77 protects school playing fields by requiring local authorities (in the case of disposals or changes of use) and governing bodies and foundation bodies (in the case of disposals) to obtain the prior consent of the Secretary of State before disposing, or changing the use, of a school playing field.

ACADEMIES

4. The Education Act 2002 has allowed the city academy model to expand into rural areas, and for the establishment of all-age, primary, secondary (with or without sixth form) and 16-19 Academies. It also enables city technology colleges (CTCs) to become Academies. Schedule 35A to the Education Act 1996 (as amended by the Education Act 2002) contains provisions relating to the establishment of Academies. An Academy is a new type of publicly funded independent secondary school located in areas of disadvantage. The intention is that local education authorities should be closely involved in the development of plans for Academies. Normally, Academies will be set up and established on land with the agreement of the owner of the land on which they are to be situated. This may or may not be the local education authority. Establishing an Academy will involve a transfer of land between the owner and the Academy. Where the local education authority owns the land that is to be used for an Academy, the transfer of the land will not require the consent of the Secretary of State.
5. In most cases, we expect the arrangements for the provision of land for Academies to be agreed between the local education authority and the Academy by means of a long lease. Generally, land would revert to the local education authority if it was no longer used for the purposes of the Academy. Where land was transferred from a local education authority to an Academy under a scheme made by the Secretary of State, the scheme would include restrictions on disposal.

6. Where, exceptionally, sponsors and the local education authority cannot agree on the establishment of an Academy, the Secretary of State can make a scheme to transfer the land for an Academy from the local education authority to the sponsor. The Secretary of State can exercise this power only where the following conditions are met:
 - a. a local education authority holds a freehold or leasehold interest in the land when the scheme is made;
 - b. at some time in the period of 5 years ending on the 28th July 2000 the land was used wholly or mainly for the purposes of a county or community school;
 - c. the land is no longer used as a community or county school or the Secretary of State believes that it is about to be no longer used in this way;
 - d. before making the scheme, the Secretary of State consulted the authority.
7. The following requirements must be met as regards such a scheme:
 - a. the scheme must provide for a transfer of the authority's interest in the land or in such part of it as is specified in the scheme;
 - b. the transfer must be to a person who is specified in the scheme and is concerned with the running of an Academy;
 - c. the transfer must be made to the transferee for the purposes of the Academy;
 - d. the scheme must provide for the transfer to the transferee of any right or liability held by the authority as holder of the interest in the land in question. This includes the rights and liabilities of a trustee but excludes the liability in respect of the principal of or interest on a loan.
8. The scheme can only come into force when the land is no longer used as a county or community school and the scheme will specify or identify a day when it will come into force. The scheme may include other provisions as the Secretary of State sees fit and is binding on all parties.

DIFFERENCES BETWEEN SECTION 77 AND SCHEDULE 35A

9. The purpose of section 77 is to protect school playing fields against indiscriminate disposal or change of use, by requiring the prior consent of the Secretary of State before disposal or change of use may take place. The purpose of Schedule 35A, however, is to ensure that where there is a need for an Academy to be established, land is made available. Accordingly, the approach to considering applications under both Acts will be different.
10. It is expected that the majority of applications for consent under Schedule 35A will be approved. On the other hand, the Secretary of State has a presumption against the need to dispose or change the use of school playing fields. The Department publishes in this Guidance the criteria against which applications to dispose and change the use of school playing fields will be assessed. It is expected, therefore, that few authorities will bring forward applications that they consider do not meet

these criteria.

11. The Secretary of State will consider carefully applications made under Schedule 35A. Applications under section 77 will not only be considered by the Secretary of State but also by his independent Schools Playing Fields Advisory Panel.

DEFINITIONS OF TERMS USED IN THIS GUIDANCE

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DEFINITIONS PROVIDED IN THE SSFA, 2002 AND 1996 ACTS

1. Section 77 and Schedule 35A use a number of terms that the SSFA and the 2002 and 1996 Acts do not define. The final interpretation of these terms is a matter exclusively for the courts, but Departmental Guidance is offered below. Where the SSFA or the 1996 Act do provide a definition for the terms used in section 77 and Schedule 35A we have, for ease of reference, reproduced those definitions here. We also give the Department's view of certain terms used for the purposes of this Guidance.

MAINTAINED SCHOOLS

2. Section 77 applies to playing fields provided for 'maintained schools'. Section 20(7) of the SSFA defines 'maintained schools' (from 1 September 1999) as community, community special, voluntary, foundation, and foundation special schools. Under section 77 a pupil referral unit (PRU) is not considered to be a maintained school as it is a unit that is often attached to one or more maintained schools and the pupils may also remain on roll at those schools.

COMMUNITY OR COUNTY SCHOOL

3. Schedule 2 to the SSFA provides that a school which was a county school (within the meaning of the Education Act 1996) before the appointed day (1 September 1999) shall become a community school.

ACADEMY

4. The legal basis for Academies is provided for in section 482 of the Education Act 1996 as amended by Schedule 7 to the Education Act 2002. Academies are publicly funded independent secondary schools located in areas of disadvantage.

FOUNDATION BODY

5. Section 77 applies to foundation bodies. Section 21(4) of the SSFA defines 'foundation body' as a corporate body established under section 21 of the SSFA in relation to three or more schools which holds property for the purposes of those schools and appoints foundation governors for those schools.

LAND

6. Land is defined in section 579(1) of the Education Act 1996 as

'buildings and other structures, land covered with water and any interest in land.'

PLAYING FIELDS

7. Section 77(7) of the SSFA defines 'playing fields' as

'land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed description of land'

8. The Department's view is that physical education or recreation means team games, non-team games, informal and social activities and the study or enjoyment of the natural environment. Team game playing fields are playing fields which, having regard to their configuration, are suitable for the playing of team games and which are laid out for that purpose.
9. The Department takes the view that, for the purposes of section 77, school playing fields include:
 - **grass pitches and artificial surface pitches** set out for the playing of team sports such as football, rugby, hockey, tennis, etc;
 - **hard surface games courts** for team and non-team games and skills practice, including multi-games courts, tennis courts and hard paving marked out for games;
 - **informal and social areas**, including grassed areas, paved areas (including playgrounds), outdoor seating and teaching areas including rest and quiet areas;
 - **marginal areas** around the edges of playing fields for run-off and to allow for the cyclical realignment of pitches;
 - **habitat areas** for gardens, trees, wildlife, livestock enclosures and nature trails, and
 - **local authority parkland** that is used, or has been used in the last ten years, for the purposes of a maintained school.
10. The Department's view is that land which falls under the following descriptions is not considered to be school playing fields under section 77:
 - land on which stands a building or other structure including indoor and outdoor swimming pools, and incidental land that is functionally linked to such buildings or structures;
 - soft landscaped or grassed areas not suitable for use for physical education or recreation purposes, such as marginal waste land outside of a school's physical boundary fencing and flower beds which directly surround a building or which are connected to a caretaker's house, and
 - roads, car parks, paths and, for example, hard standing areas for the storage of waste containers.

STANDARDS FOR SCHOOL PLAYING FIELDS

11. The Education (School Premises) Regulations 1999 set out the minimum size and quality of team game playing fields that should be provided for all maintained schools. The Department's Guidance 'Standards for School Premises' describes and offers advice on meeting the standards for school premises.
12. Where proposals would reduce team game playing fields below the size prescribed

in those Regulations, or affect the size or location of playing fields at schools that are already said to have a relaxation of standards, a further application to the Secretary of State for his agreement to relax those standards is required. This additional application should be made at the same time as an application for consent under section 77, otherwise the decision could be delayed.

SPORTS PITCH

13. For the purposes of this Guidance, it is the Department's view that a 'sports pitch' means an area of:

open grassed land that is capable of forming at least a small pitch, which is equal to, or larger than, The Football Association's recommended area for games played by under-10s, that is 2,000m². It should also have a configuration and topography making it suitable for a sports pitch, whether it is laid out or not, or

synthetic or artificial playing surface, or dedicated hard games court of more than 2,000m² that is set out for team games.

A sports pitch will, naturally, form part of a school's team game playing fields.

USED WHOLLY OR MAINLY

14. Schedule 35A limits the need to obtain consent to land that has been used 'wholly or mainly' as a school in the last 8 years before the date that the disposal is to take place. In the Department's view, 'wholly' means completely or totally while 'mainly' should be taken to mean more than half of the site has been used as a school in the 8 year period.

BODIES AFFECTED BY SECTION 77

15. Section 77 applies to all local authorities including county, district, borough, and parish councils. Section 77 also applies to the governing body of a maintained school and to a foundation body.
16. The Department takes the view that section 77 applies to disposals, and changes of use, of school playing fields by a local authority, and to disposal by a governing body or foundation body, where they hold those school playing fields on trust. It also takes the view that section 77 applies to disposals where the local authority, governing body or foundation body are joint holders of playing fields.

DISPOSALS UNDER SCHEDULE 22 TO THE SSFA

17. There are circumstances in which the disposal of a school playing field does not require the prior consent of the Secretary of State under section 77 of the SSFA, because the prior consent of the Secretary of State is instead required under Schedule 22 to the SSFA. This is the case where

- (a) the governing body of a foundation, foundation special or voluntary school wish to dispose of land, including school playing fields, falling within the scope of

paragraph 1 of Schedule 22 to the SSFA, that is, broadly, publicly funded land transferred to the governing body, land bought with the proceeds from such land or land bought or improved from public funds, for example from delegated funding, or

- (b) a foundation body wish to dispose of land, including school playing fields, falling within the scope of paragraph 2 of Schedule 22 to the SSFA , which is, broadly, land held by a foundation body similar to that described in (a) above.

18. Before applying for consent to dispose of a school playing field, the governing body of a foundation, foundation special or voluntary school, or a foundation body, should check whether, in the particular circumstances, consent is required under paragraphs 1 or 2 of Schedule 22 to the SSFA.
19. Nevertheless, where an application for consent is made under Schedule 22 to the SSFA, the disposal of any playing fields element of that application will be considered against the criteria set out in Part III of this Guidance. Those applying for consent under paragraphs 1 or 2 of Schedule 22 to the SSFA should therefore have regard to the Guidance and procedures described here for any playing field element of their application. However, where such an application would not normally fall under section 77, for example the land has not been used for more than 10 years, the Secretary of State will normally assess the application against the provisions of Schedule 22. Where the disposal would be covered by one of the general consents if it were at a community school, the Schedule 22 application will normally be assessed against the general consent criteria.

DISPOSALS

20. Section 142(6) of the SSFA defines 'disposal' as
 - (a) granting or disposing of any interest in land (for example by sale (including payment in kind as well as cash), lease, transfer, exchange, easement);
 - (b) entering into a contract to dispose of land or to grant or dispose of any such interest, or
 - (c) granting an option to purchase any land or any such interest.
21. Section 77 does not apply to the disposal of playing fields owned by trustees of foundation, voluntary and foundation special schools, but such disposals may be subject to the provisions of either Schedule 22 to the SSFA or the Trust Deed under which the land is held.

LICENCES AND TRANSFER OF CONTROL AGREEMENTS

22. The Department does not regard the granting of a licence as a disposal for the purposes of section 77 or Schedule 35A, unless the licence results in the change of use of, or surrenders an interest in, the land. Similarly, the Department views

'Transfer of Control Agreements' as agreements merely to transfer the management of certain school facilities, not as a disposal under the provisions of S77 or Schedule 35A.

APPROPRIATION

23. Section 122 of the Local Government Act 1972 provides that a local authority may appropriate for a new purpose any land which belongs to the authority and that is no longer required for the purpose for which it was held immediately before the appropriation. In other words, appropriation means the transfer of land from one part of an authority to another, for example, from 'education department' to 'highways department' to be used as part of a road widening scheme. Such an appropriation might also be considered to be a change of use which requires the Secretary of State's written consent under section 77.

SUMMARY OF FORMULAE FOR TOTAL SCHOOL SITE AREA

(Taken from Building Bulletin 98: Briefing Framework for Secondary School Projects and Building Bulletin 99: *Briefing Guide for Primary School Projects*)

Key Formulae for Calculating Area in All Schools (except nursery and special)	Area for each school (m ²)					Area for each pupil in:			
	For any primary school	For any middle school	For any Secondary school:		recep KS 1 and KS 2	KS 3	KS 4	post-16	
			without a sixth form	with a sixth form					
minimum building areas									
basic teaching	-	50		50	200	2.1	2.9	3.1 5	3.3
Halls	100	250		600	600	0.3*	0.3	0.3	0.3
learning resources	15	50		75	125	0.15*	0.2 5	0.2 5	0.45
staff & admin.	30	75		125	125	0.2	0.2 8	0.3 3	0.35
Storage	45	100		175	200	0.25	0.3 3	0.3 8	0.4
dining & social	-	25		25	100	-	0.2	0.2	0.5
'float'	10	150		250	250	0.1	0.2 4	0.3 9	0.4
TOTAL NET BUILDING AREA	200	700		1300	1600	3.1	4.5	5	5.7
minimum site areas	Likely total site area = net site area x 1.1 to 1.35								
Pitches	-			10000**				35***	
soft play (informal & social)***	800			800				2.5	
Games courts (hard surfaced)	600			600				2	
hard play (informal & social)	400			400				1.5	
Habitat	200			200				1	
'float'	-			1000				5	
TOTAL NET SITE AREA	2000			13000				47***	

* **nursery places** may use the same formulae except halls = 0 and learning resources = 0.45

** **first and middle schools** (with KS1, 2 and 3 pupils) should use a constant of 7500 for pitches

*** **infant places** do not require an area per place for pitches, as the soft play area doubles as playing field area

N = number of pupil places (or full-time equivalent where applicable) **Likely gross building area = net area / 0.7**

Key Formulae for Primary, First and Middle, and Middle Deemed Primary Schools	all primary schools	5 – 12 first and middle schools	8 - 12 middle schools
	basic teaching	2.1N	50 + 2.2N
Halls	100 + 0.3N	250 + 0.3N	250 + 0.3N
learning resources	15 + 0.15N	50 + 0.16N	50 + 0.17N
staff & admin.	30 + 0.2N	75 + 0.21N	75 + 0.22N
Storage	45 + 0.25N	100 + 0.26N	100 + 0.27N
Dining & social	-	-	25 + 0.05N
'float'	10 + 0.1N	175 + 0.12N	150 + 0.14N
TOTAL NET BUILDING AREA	200 + 3.1N	700 + 3.25N	700 + 3.45N

These formulae can be used for schools where there are (approximately) the same number of pupils in each year up to Year 8. If the number of pupils in each year is not the same, the table below should be used to determine the correct formula. Nursery pupils are not included.

N = number of pupil places (or full-time equivalent where applicable) **Likely gross building area = net area / 0.7**

Key Formulae for Middle Deemed Secondary and Secondary Schools (with and without sixth forms)	9 - 13 middle schools	11 - 16 secondary schools	11 - 18 secondary schools
	basic teaching	50 + 2.5N	50 + 3N
Halls	250 + 0.3N	600 + 0.3N	600 + 0.3N
learning resources	50 + 0.2N	75 + 0.25N	125 + 0.29N
staff & admin.	75 + 0.24N	125 + 0.3N	125 + 0.31N
Storage	100 + 0.29N	175 + 0.35N	200 + 0.36N
dining & social	25 + 0.1N	25 + 0.2N	100 + 0.26N
'float'	150 + 0.17N	250 + 0.3N	250 + 0.32N
TOTAL NET BUILDING AREA	700 + 3.8N	1300 + 4.7N	1600 + 4.9N

These formulae can be used for schools where there are (approximately) the same number of pupils in each year up to Year 11. The stay-on rate is assumed to be 62.5% in the 11-18 school. If the number of pupils in each year is not the same or the sixth form stay-on rate is different, the table below should be used to determine the correct formula.

Playing field areas

Key Formulae for Site Areas (not including confined sites)	infant schools	5 – 11 primary schools	all middle and secondary schools
Pitches	-	20N	10000 + 35N
soft play (informal & social)**	800 + 2.5N	800 + 2.5N	800 + 2.5N
games courts (hard surfaced)	600 + 2N	600 + 2N	600 + 2N
hard play (informal & social)	400 + 1.5N	400 + 1.5N	400 + 1.5N
Habitat	200 + 1N	200 + 1N	200 + 1N
'float'	5N	5N	1000 + 5N
TOTAL NET SITE AREA	2000 + 12N	2000 + 32N	13000 + 47N
TOTAL SITE AREA: from	2300 + 14N	2200 + 36N	14000 + 52N
To	2700 + 16N	2500 + 40N	16000 + 59N

These formulae can be used for 5 - 11 primary schools where there are (approximately) the same number of pupils in each year up to year 7, and all infant, middle or secondary schools. Nursery pupils are not included.

CALCULATING NUMBER ON ROLL FOR THE PURPOSES OF SECTION 77 APPLICATIONS

1. Each case will be considered on its merits but, in order to provide the education community with a working guide, the allowance to be made for expansion is determined by using the highest of five possible numbers of pupils on roll, based on pre-set formulae. These are shown below. They comprise:

A	the present NOR (as defined in the most recent PLASC)
B	the maximum potential capacity (that is, the physical capacity of the school multiplied by 105% in primary and secondary schools ⁴)
C	the local education authority's highest projected NOR over the next five years, having considered likely demographic changes
D	<p>increased NOR if a popular school. For these purposes, a popular school is one where the number of applications for places for the academic year at the time of the application is 105% or more of the actual number of admissions. The increased NOR should be calculated as the present NOR plus</p> <p>a. a further 30 pupils for every year of compulsory education in schools with between 120 and 750 pupils on roll inclusive, up to a maximum of 100% increase in pupil numbers, or</p> <p>b. a further 60 pupils for every year of compulsory education in schools with 751 or more pupils on roll, up to a maximum of 100% increase in pupil numbers.</p>
E	<p>The possible future NOR in growing schools. Measured as the present NOR (as at 'A' above), plus the increase in roll above the lowest NOR recorded during the last 5 years, that is:</p> <p>'A' plus ('A' - 'X'), where X = the lowest NOR during the past 5 years (see example at paragraph 3).</p>

2. The formula at D allows for popular schools that may be more likely to expand in future. So, for example:

- a middle school of, say, 230 pupils with 70 applications for 60 places during

⁴ The physical capacity is used to measure surplus places under *The Education (Information as to Provision of Education) Regulations 1999*. Potential capacity may be defined differently in future and prospective applicants will need to make sure that the assessment method they are using is the one current at the time.

the last academic year and a final intake of 62 after appeals, would fall into this category. Hence the notional NOR would be the actual NOR that academic year (230) plus 30 multiplied by the number of years, in this case 4, giving a notional NOR of 350; while

- a secondary school of 900 pupils with 200 applications for 180 places during the last academic year and a final intake of 194 after appeals, would also fall into the category of a popular school. The notional NOR would be the actual NOR that academic year (900) plus 60 multiplied by the number of years, in this case 5, giving a notional NOR of 1200.

3. The formula at E makes additional site and playing field allowance at schools that are below their maximum capacity but are becoming more popular. The NOR may, therefore, be expected to rise to at least the school's maximum, and perhaps further. In these circumstances, the Secretary of State considers it prudent to make allowances for the future expansion of such schools and to take this into account when considering the disposal of playing fields at such schools. For example:

- a primary school with a maximum capacity of, say 360 pupils, where the lowest NOR in the last five years was 180 but with a current academic year NOR of 300, should calculate its required site and playing field for 420 pupils, derived from:

- $A = 300$
- $X = 180$
- this gives a formula of $300 \text{ plus } (300 - 180) = 420$

4. If the schools' existing sites mentioned in these examples are not extensive enough to accommodate such expansions, then it is the Secretary of State's view that there is no surplus land at these sites. Applications, therefore, that involve the loss of playing fields at such sites would need to be convincing to persuade the Secretary of State and his Advisory Panel of the merits of such proposals.

SCHOOL PLAYING FIELDS ADVISORY PANEL: TERMS OF REFERENCE

SCHOOL PLAYING FIELDS ADVISORY PANEL

TERMS OF REFERENCE AND PROCEDURE FOR CONSIDERING APPLICATIONS TO DISPOSE OF SCHOOL PLAYING FIELDS.

1. The Panel's functions will be:
 - a. to advise the Secretary of State for Education and Skills on applications to dispose, or change the use, of school playing fields under Section 77 of, and Schedule 22 to, the School Standards and Framework Act 1998; and
 - b. to contribute from time to time, when asked by the Secretary of State, to any review of the Government's policy for the protection of school playing fields.
2. The Secretary of State will choose the Chairman and member organisations of the Panel, and will determine their term of office. The Panel will usually meet monthly. Members of the Panel must undertake to treat as confidential all information passed to them by the Department for Education and Skills in relation to individual applications for disposal of school playing fields, including advice from The Department's officials. The Secretary of State may remove members if he considers this necessary, for instance in cases of breach of confidentiality or persistent non-attendance.

Advice on individual applications:

3. When providing advice on individual applications, the Panel will take full account of:
 - a. the statutory framework set out in Section 77 of, and Schedule 22 to, the School Standards and Framework Act, and
 - b. published Government policy on the protection of school playing fields, as set out in the Department's Guidance: *The Protection of School Playing Fields and Land for Academies*.
4. To assist the Panel to assess individual applications, the Department will:
 - arrange for Panel members to receive the Local Education Authority's application, supporting papers and plans, as well as any objections received by the Department, at least four weeks before the Panel meeting at which the application is to be considered;
 - provide a report to Panel members summarising the application (if necessary on the basis of a site visit), and providing information as to whether the Local

Education Authority has complied with the criteria against which the decision should be assessed (schools' needs, community use, finance), at least four weeks before the Panel meeting at which the application is to be considered;

- provide administrative support, in particular a Secretary to the Panel, who will act independently of the Schools Assets Team and who will assist and advise the Chair of the Panel as required. The Secretary to the Panel will also arrange for all papers, reports and applications to Panel members to be circulated before each meeting of the Panel.
5. Each Panel member will be expected to provide a brief preliminary report on each application in advance of the Panel meeting at which the application is to be considered. The preliminary report should be returned to the Panel Secretary at least two weeks before the meeting of the Panel in order to allow the Secretary to circulate all comments to other Panel members before each meeting.
 6. Schools Assets Team case officers will attend meetings of the Panel, as requested by members, to answer questions about reports to the Panel and to furnish, where appropriate, more detailed information on individual applications. In exceptional cases, where the Panel requires additional information in order to reach a view, the Panel Secretary may ask the appropriate Schools Assets Team case officer to furnish the required information.
 7. Exceptionally, the Chairman of the Panel may agree to the need for Panel members to carry out a site visit. Such additional site visits should be carried out by two members of the Panel, selected by the Chairman. The selected members (who should NOT include the Chairman) that undertake the site visit should provide a report (agreed if possible) to be circulated to other members for consideration at the next meeting of the Panel.
 8. The Panel should seek to reach a unanimous view on each application. If a unanimous view is not possible, then the Panel should provide the Secretary of State with majority and minority reports (where appropriate by cross referring to the preliminary reports submitted by relevant individual members).
 9. The Panel Secretary will record the advisory report of the Panel on each application and issue the Panel's report to the Schools Assets Team. Where the Panel advises that an application should be rejected, the Schools Assets Team will notify the applicant of the Panel's concerns so that the applicant is able to comment on those concerns before the Secretary of State makes his decision. Where the applicant brings forward new, relevant information which may affect the Panel's recommendation, the Panel will be given another opportunity to consider its recommendation in the light of the new information before the application is put before the Secretary of State.
 10. The Secretary of State will take his decision on the application having regard to all relevant matters including all information provided by the applicant, objectors, the Advisory Panel and Departmental officials.
 11. These terms of reference will be amended from time to time.

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SECTION 77 GENERAL CONSENTS

FACILITIES FOR CHILDCARE, LIFELONG LEARNING, HEALTHCARE AND SOCIAL SERVICES, PLAY, SERVICES FOR CHILDREN AND YOUNG PEOPLE, SERVICES FOR THE COMMUNITY, AND CULTURAL AND SPORTING ACTIVITIES, AS PART OF THE EXTENDED SCHOOL

1. The Government believes that the school should be at the centre of its community, therefore, it welcomes proposals to extend the facilities at schools to provide welfare as well as education to the school community. Research shows that the provision of community services in schools can (i) improve pupil attainment, behaviour and attendance, (ii) support family involvement in children's learning, and (iii) boost community pride and involvement.
2. The introduction of childcare, lifelong learning, health and social services, cultural and sporting activities, play and other services for children and young people, and other services for the community such as community centres, are useful building blocks to help drive up academic and social skill standards at our schools.
3. The Government, however, does not see the provision of these extended school facilities as an alternative to the provision of playing fields for sport and leisure facilities. Where possible, additional facilities should be provided within the existing buildings or on brown field areas. As a last resort, extended school facilities might be provided on surplus playing fields.
4. Experience has shown that where consent under section 77 is first needed for the area of school land to be used, the application process may cause unwanted delays, problems and inconvenience to the local community that would benefit from such facilities. It was never the intention to hinder such projects where there is clearly surplus land that could be used to provide these facilities.
5. A general consent, therefore, has been given where:
 - there is land that is clearly surplus to
 - the statutory team game playing field requirement, as set out in the Education (School Premises) Regulations 1999, and
 - the individual areas recommended in Building Bulletins 98 & 99 for pitches, games courts, hard and soft play (informal and social) and habitat, and
 - the disposal, or change of use, results in the provision of facilities for childcare, lifelong learning, healthcare and social services, play, services for children and young people, services for the community, and cultural and sporting activities, as part of the extended school, and
 - the proposal has the support of the school on which the new facilities are to be provided.

CLOSED/CLOSING SCHOOLS

6. As a result of wide national consultation and experience since the introduction of section 77, it is apparent that, although grassed playing field areas at closed or closing school sites may be utilised by other schools to make good shortages in sports pitches, hard play areas or enclosed social areas at such schools normally have no further use. It is the case that some infant and junior schools, and some junior and secondary schools, may share sites. On such sites, it might be the case that one school closes but the other remains open. Where the continuing school has a shortage of site area, playing fields, play or social areas, it is right that it should have the opportunity to improve its provision by acquiring and using such areas previously used by the closed school. Where there is no such shortage, however, those hard play and social/recreation areas are clearly surplus. Similarly, there would be no benefit in requiring authorities to make full applications for land that immediately surrounds, and is an integral part of, the school buildings and which clearly could not be used for sports purposes.
7. The Department considers that 'hard play' areas include, for example, playgrounds, concrete or mainly paved social areas such as quadrangles or outdoor teaching areas and other incidental recreation areas with tarmac, concrete or paved surfaces. Hard play areas do not include areas with an all-weather surface as described in the Education (School Premises) Regulations 1999 or tarmac games courts provided solely for the playing of team games, such as tennis and netball courts or multi use games areas.
8. A general consent has been given to the disposal or change of use of hard play areas, enclosed social areas, and other ancillary social and recreation or habitat areas that surround the buildings at closed or closing school sites where:
 - no other schools share the site or border the site; or
 - the local education authority can satisfy the Secretary of State that the areas in question are not needed by other schools that share or border the school site.

EASEMENTS, WAYLEAVES AND TEMPORARY DISPOSAL OR CHANGE OF USE

Easement

9. Easements and wayleaves are the means through which organisations such as utilities secure temporary access in order to carry out maintenance and related works to the services they provide. Such access will not, of itself, constitute a threat to playing field provision. A general consent has therefore been given to the granting of easements and wayleaves by a local authority, governing body or foundation body.

Temporary disposal or change of use

10. There are occasions when temporary access is needed over school playing fields to complete construction work on, or adjacent to, the school site. Such temporary access might be granted in the form of a short lease or other contractual agreement that would result in the temporary change of use of part of a playing field. The Secretary of State has agreed to grant a general consent to the temporary disposal

or change of use of school playing field provided that:

- the lease or temporary change or use is for no longer than three school terms, and
- he is re-assured that the school is still able to carry out the curriculum to at least the same extent, and
- the land is returned to at least the same condition that it was beforehand.

AREAS OF LAND LESS THAN 50M²

11. On some occasions, it is necessary for organisations such as utilities to require more than temporary access. In such cases, an easement is insufficient and access can only be guaranteed by means of a lease or outright purchase. The amount of land required is usually quite small, therefore, a general consent has been given to the disposal of areas of less than 50m² where such land is required for highway purposes, health and safety reasons or by one of the utilities (water, gas, electricity). The construction of telecommunication masts and associated equipment on school playing fields is not intended to be covered by this general consent. The erection of such equipment is dealt with in Part IV at paragraphs 65 and 66.

CERTAIN DISPOSALS WHERE PLAYING FIELDS WILL REMAIN AS PLAYING FIELDS

12. There can be occasions when a local authority, governing body or foundation body wish to lease or transfer playing fields to an organisation with the express intention that that organisation will maintain them as playing fields. Such a lease or transfer (which will be a disposal) falls within the scope of section 77, but a general consent has been given, provided that:

- the constitution of the receiving organisation obliges that organisation to maintain them as playing fields or the terms of the lease or transfer agreement require that organisation to maintain them as playing fields for at least 10 years, or
- the transfer or lease is to a local authority and the receiving authority has given an undertaking that the playing fields will continue to be used as school/community playing fields for at least 10 years, and
- in both cases the terms of the disposal agreement provide that any school or community user group using the playing fields immediately before the transfer may continue to do so for at least 10 years following the date of the disposal, during which time they will have access to the playing fields for the same periods and on the same, or more favourable, terms as they did before the disposal, and
- the principal purpose of the receiving organisation is not to make a profit from commercial sports schemes.

13. The intention here is to help improve playing field facilities and to make playing fields more widely available to local communities thereby promoting social inclusion. It is not intended that transfers or leases made under this general consent will be

made to commercial, profit making organisations who propose to charge commercial rates for the use of their facilities. Such transfers or leases are subject to the full application procedure required under section 77.

14. The Secretary of State also agrees that a general consent should be granted where the disposal involves the granting of a leasehold interest in the whole school site, including the playing fields, to facilitate an agreement under a Private Finance Initiative, provided there is no net loss of school playing field.

EXCHANGES

15. There can be occasions when specific playing fields would be sold or their use changed, in return for which alternative playing fields will be provided. In such instances, the needs of schools and their communities may be provided for just as generously as before and, in these circumstances, the Secretary of State takes the view that nothing would be gained by subjecting the disposal to scrutiny. But, in other instances, the playing fields to be provided in place of the original ones might be available to the school or authorised local community users on less generous terms than those being lost. So, for example, a school and its community partners which previously had exclusive use of its former playing fields might have to share the replacement playing fields. The Secretary of State wishes to exercise flexibility where this can be justified and therefore draws a distinction between arrangements giving the school and its local community the same right of access to the replacement playing fields as they had to the original ones, and those arrangements that do not.
16. The Secretary of State also draws a distinction between exchanges that replace school playing fields with newly created playing fields and those whereby existing playing fields are to be made available for schools' use. For example, it is not intended that playing fields at an operating school may be sold under this general consent because the school will be given existing playing fields at a nearby closed school or the shared use of other already existing playing fields.
17. The Secretary of State also wishes to be satisfied that the location of the replacement playing field is such that schools can realistically have the same access that they previously enjoyed. For example, he would question whether a school could enjoy the same access to a remote, off-site playing field as a replacement for an on-site playing field.
18. There is also a need to take into account those occasions where an authority may retain the playing fields of a school that has been closed for a number years and now wishes to establish new school playing fields at an alternative site. If newly created playing fields are provided at the new site, which at least replicate the area of playing field at the old, closed site, it would seem sensible to treat the matter as an exchange. However, in such a scenario, the Secretary of State would first wish to be assured that there were no other local schools that could have benefited by having access to the closed school playing fields.
19. A general consent, therefore, is given to the disposal, or change of use, of school playing fields where, upon that disposal or change of use, any school which used the original playing fields in the six months immediately before the disposal will have made available to it newly created alternative playing fields, provided that the

replacement playing fields:

- are of at least the same area as the original playing fields, and
 - meet the quality requirements of sustaining 7 hours use a week per school that will have use of those playing fields, and
 - are immediately available to any such school for at least the same periods and on the same, or more favourable, terms as the original playing fields had been and have the same or better facilities, and
 - the location is such that the school is able to carry out the curriculum to at least the same extent as on the original playing field, and
 - there is no reduction in the amount or type of sports provision currently available to the school.
20. In the case of playing fields at a closed school site, the latter three conditions above clearly would not apply. The Department, however, would wish to be satisfied that there are no shortages of team game playing fields at schools in the local area of the closed school. If there are shortages, the authority would need to present convincing arguments why those schools could not be given use of the redundant playing fields. Authorities should remember that they are responsible for providing at least the statutory minimum amount of playing fields set out in the SPRs.

DISPOSALS CONNECTED WITH CERTAIN STATUTORY PROPOSALS

21. Certain statutory proposals (listed at paragraph 25 below) concerning school organisation required the Secretary of State's approval or a determination by a local education authority to implement the disposal. These proposals may have included the disposal of playing fields. Such proposals may have been submitted to the Secretary of State prior to the date section 77 took effect (1 October 1998 for local authorities and 1 February 1999 for governing bodies) and may have been approved or determined before these dates, or not approved or determined until after these dates. In any case, when the actual disposal of the land takes place after these dates section 77 will apply and local authorities and governing bodies would be required to seek the Secretary of State's further consent in relation to the disposal of any playing fields.
22. However, the Secretary of State believes that where such a proposal was submitted to him for approval before these dates and has now been approved it would not be reasonable to subject the disposals to the section 77 consent procedure. Any proposed disposal under these statutory provisions that involves the disposal of playing fields submitted after these dates must comply with the requirements of section 77.
23. Some local authorities and governing bodies will have submitted certain kinds of statutory proposals (connected with school organisation) for the approval of the Secretary of State and those statutory proposals might in turn have depended upon the disposal of school playing fields. Some of these statutory proposals might have been submitted prior to the date when section 77 took effect (1 October 1998 for local authorities and 1 February 1999 for governing bodies).

24. In the case of statutory proposals approved by 1 October 1998 or 1 February 1999 (as the case may be), the Secretary of State believes there are circumstances in which it would not be reasonable to subject disposals to scrutiny under section 77. These circumstances are where information provided to the Secretary of State in connection with the publication or approval of the proposals specified the proposed disposal of the playing fields in question.

25. A general consent therefore has been given to the disposal or change of use of school playing fields where that disposal is necessary to implement proposals:

approved by the Secretary of State under section 37, 169 or 340 of the Education Act 1996, before 1 October 1998, or

determined by the local education authority before 1 October 1998 under section 38 of the Education Act 1996, or

approved by the Secretary of State under section 43 of the Education Act 1996, before 1 February 1999,

where, in any of these cases, information provided to the Secretary of State in connection with the publication or approval of the proposals specified the proposed disposal of the playing fields in question.

DISPOSAL OR CHANGE OF USE OF PLAYING FIELDS USED ONLY TEMPORARILY FOR SCHOOL PURPOSES

26. The Secretary of State is mindful that there is a difference between playing fields provided primarily for reasons other than for schools' use, but used by schools and forming an essential part of their playing fields provision, and playing fields provided primarily for reasons other than for schools' use but used by schools only occasionally. It is possible that section 77 could be interpreted to mean that it applies to playing fields used by schools for even the shortest, one-off games session, during the preceding 10 years, even where that use took place only because the playing fields actually provided for the school were unavailable temporarily due to reasons beyond the control of the local authority, governing body or foundation body, for example, due to flooding. The Secretary of State sees no need to regulate the disposal or change of use of playing fields under section 77 where these are not provided primarily for schools and where they do not constitute part of schools' normal playing field provision.

27. A general consent has therefore been given to the disposal, or change of use, of playing fields not primarily provided for school purposes, that is, not the school's own provision of playing fields but playing fields such as local authority parkland used by the school where they are:

used only temporarily by schools when their normal playing fields were unavailable, for example, where a school used local authority parkland for a few months several years ago while the school refurbished their own playing fields. For the purposes of this general consent, the Department is of the view that 'temporary use' would be interpreted to be:

used for a maximum of three school terms as a school's main team game playing field in the last ten years, for example, when a

school's own playing fields were being relaid;

used while the school's own playing fields were temporarily unavailable for reasons outside the control of the authority, foundation or governing body as the case may be, for example, where a school needs to be rebuilt because of fire damage and is, for a short time, relocated to another site;

or

used only occasionally by schools to supplement their main, normal playing fields. For the purposes of this general consent, the Department is of the view that 'occasional use' would be interpreted to be:

an informal use without prior agreements;

a formal use by select groups of pupils for specific purposes, for example, use of municipal golf courses, or

a formal but infrequent use, for example use of athletics stadiums for school sports days or annual inter-school competitions.

DISPOSALS UNDER PARAGRAPHS 8 AND 9 OF SCHEDULE 3 AND PARAGRAPHS 16 AND 20 OF SCHEDULE 6 TO THE SSFA

28. Paragraphs 8 and 9 of Schedule 3 and paragraphs 16 and 20 of Schedule 6 to the SSFA (or, before 1 September 1999, sections 68 and 70 of the Education Act 1996) give local education authorities the power to assist the governing body of an aided school and the promoters of new voluntary and foundation schools. Where that assistance consists of the provision of any premises for the use, or for the purposes, of a school, the local education authority must convey their interest in those premises to the trustees of the school or, where there are no trustees, to the foundation body, which then must hold those premises on trust for the purposes of the school. Given that the local education authority is under a statutory duty to convey their interest, the Secretary of State believes specific consent under section 77 is unnecessary. A general consent therefore has been given to disposals of school playing fields in these circumstances.

CLASS (GENERAL) CONSENTS SCHEDULE 35A

General

29. Some of the class consents listed below are similar to, but not necessarily the same as, those agreed under section 77 general consents. All consents listed below are for the disposal or appropriation in respect of a freehold or leasehold interest in land.

PRE-SCHOOL, NURSERIES, CHILD CARE, FAMILY LEARNING CENTRES, SURE START UNITS, AND OUT OF SCHOOL CLUBS

30. The provision of pre-school, nursery school, child care provision, family learning centres, sure start units, spaces for sport and art and out of school clubs at schools is in line with Government policy to encourage schools to become the centre of their communities. To help reduce bureaucracy and to avoid delays in progressing proposals to provide these additional facilities that are already covered by another general consent available under section 77, a class (or general) consent, therefore, has been given to provide facilities for, or consisting of :

a childcare centre;

a pre-school nursery

a family learning centre

a day nursery

a sure start unit

sports or arts facilities for use by a maintained school, or

an out of school club

EASEMENTS

31. Easements are temporary access in order to carry out limited work for short periods. This type of access will not, of itself, constitute a threat to the possible provision of an Academy on a site. A general consent has therefore been given to the granting of an easement over land.

AREAS OF LESS THAN 50M²

32. Sometimes an easement is insufficient and access can only be guaranteed by means of a lease or outright purchase of quite small areas of land that would not threaten the provision of an Academy. Therefore, a general consent has been given to the disposal of areas of less than 50m² where such land is required for the purposes of construction, maintaining or servicing a highway, health and safety reasons or enabling provision gas, water or electricity.

CERTAIN DISPOSALS OF AREAS OF LAND LESS THAN 8,000m²

33. A general consent has been given for an area of land less than 8,000m² provided that:

It is not part of a disposal or appropriation of a larger area of land, and

taken together with any immediate neighbouring areas of land in which the authority holds a leasehold or freehold interest, the land in question does not contribute to or form part of a combined area of 8,000m² or more; and

it does not constitute an access to an area of land of more than 8,000m² in which the authority has a leasehold or freehold interest.

DISPOSALS CONNECTED WITH LEASES UNDER A PFI AGREEMENT

34. Where the disposal is the granting of a leasehold interest to make possible an agreement under the Private Finance Initiative, the Secretary of State sees no need for a formal application. Therefore he gives consent to the granting of a leasehold interest in the land if it is to facilitate an agreement under a PFI scheme.

DISPOSALS UNDER PARAGRAPH 9 OF SCHEDULE 3 TO THE SSFA

35. In order to fulfil its duty under paragraph 9 to Schedule 3 of the SSFA, the Secretary of State gives his consent to transfer to a voluntary aided school any premises which the authority is providing to that school by way of assistance.

Bibliography

- Area Guidelines for Schools*, DfES Building Bulletin 82, HMSO, (1996), ISBN 0-11-270921-4 £17.95
- A Sporting Future for All*, DCMS, free of charge from DCMS
- Asset Management Plans: Section 1: Framework*, DfES2000, (2000)
- Asset Management Plans: Section 2: Property Information Systems and School Premises Data*, DfES, (2000)
- Asset Management Plans: Section 3: Condition Assessment*, DfES, (as amended 2002) and *Section 3a: Getting Into Condition*, DfES (2003)
- Academies - schools to make a difference: A guide for sponsors and other partners*, DfES Published July 2002 1-84185-831-5
- School Grounds: A Guide to Good Practice*, DfES Building Bulletin 85, The Stationery Office, (1997), ISBN 0-11-270990-7 £19.95
- Standards for School Premises*, DfES Circular 29/2000, free of charge from Schools Premises Team
- The Education Act 1996*, HMSO, (1996), The Stationery Office, ISBN 0-10-545696-9
- The Education (Information as to Provision of Education) Regulations 1999*, Statutory Instrument 1999 No. 1066, The Stationery Office, ISBN 0-11-082533-0
- The Education (School Premises) Regulations 1999*, Statutory Instrument No. 2, (1999), The Stationery Office, ISBN 0-11-080331-0
- The Learning and Skills Act 2000*, The Stationery Office, ISBN 0-10-542100-6
- The Outdoor Classroom*, DfES Building Bulletin 71, HMSO, ISBN 0-11-271061-1, £22.95
- Building Bulletin 77: Designing for Pupils with Special Educational Needs: Special Schools*, HMSO, The Stationery Office, ISBN 0-11-270796-3, £14.95
- Building Bulletin 98: Briefing Framework for Secondary School Projects, (2004)*, and *Building Bulletin 99: Briefing Framework for Primary School Projects, (2004)*, download from www.teachernet.gov.uk/sbareaguidelines
- The School Playing Fields General Disposal and Change of Use Consent 2004*, (2004), DfES, free of charge from Schools Assets Team
- The School Standards and Framework Act 1998*, (1998), The Stationery Office, ISBN 0-10-543198-2
- The Education Act 2002*, (2002), The Stationery Office, ISBN 0-10-543202-4

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SUMMARY OF CHANGES: DfE 1017/2004: *The Protection of School Playing Fields and Land for Academies*

1. November 2004: DfE 1017/2004: *The Protection of School Playing Fields and Land for Academies* introduced.
2. July 2006: paragraph 8 of Annex F.