

**CABINET MEMBER FOR EDUCATION & CULTURAL SERVICES – 15
MAY 2019**

**ACCOUNTING FOR COMMUNITY USE OF SCHOOL LAND AND
BUILDINGS ON STRATEGIC HOUSING SITES**

Report by Assistant Director Community Facilities Management

RECOMMENDATION

The Cabinet Member for Education & Cultural Services is **RECOMMENDED** to approve a policy position that where land and buildings are provided through a section 106 agreement to mitigate the delivery of housing, specific school facilities shall only be available for community use where access is solely upon the absolute discretion of the school governing body.

Executive Summary

1. The purpose of this report is to set policy regarding the constraints the County Council, as Education Authority accept regarding community use of school sites.
2. Whilst the County Council supports optimising the land available for residential development within any strategic housing development it cannot accept any obligation within planning conditions or section 106 agreements that school facilities are available for community use unless defined to be at the discretion of the governing body of the school.

Introduction

3. The predominant land uses upon large strategic housing development sites usually comprises land for residential use, public open community space, highways, education and structural landscaping
4. When developers are preparing planning applications for large sites, they often query whether some of the playing fields on a proposed school site can be identified as meeting the community's needs for open space.
5. The land required for open space is set by the District Council. The open space standards will be referenced within Local Plans and will be consistent with national guidance. Various types of open space are expected, including formal playing fields and playgrounds accessible to the new community.

6. The land required for educational use is derived from The School Premises (England) Regulations 2012 - Regulation 10. This states that suitable outdoor space must be provided in Schools to enable: -
 - Physical education to be provided to pupils in accordance with the school curriculum; and
 - Pupils to play outside
7. Physical education (PE) includes the playing of games. There are two types of outdoor space used for PE: sports pitches and hard surfaced games courts
 - Sports pitches, grass and/or all-weather, are used for team games such as football, hockey and cricket, and for athletics.
 - Games courts are for sports such as netball and tennis and are usually provided as a multi-use games area, with additional courts in larger schools.
8. The Department for Education (DfE) 'Building Bulletin 103: Area Guidelines for Mainstream Schools' (BB103) sets out simple, non-statutory, area guidelines for school buildings (part A) and sites (part B) for all age ranges from 3 to 19. It covers all state schools, including mainstream academies and free schools, except special schools and alternative provision. For new school sites Building Bulletin 103 recommends the maximum site area should be applied.
9. The land necessary to deliver the curriculum is consequently defined within adopted space standards set by the County Council as Local Education Authority with reference to central government recommendations.
10. Wherever land or buildings are accessible to communities, safeguarding of pupils and delivery of the curriculum remain the overall priority.
11. The purpose of this paper is to set policy regarding the position that the County Council, as Education Authority, will take regarding community use of school sites.
12. The Cabinet Member for Transformation who holds responsibility for Property has confirmed his support for adoption of this policy.

Key Issues

13. Delivery of the Curriculum

It is recognised that there may be opportunity for some joint use of the playing pitches and other facilities on school sites outside of school hours provided that appropriate measures can be put in place to ensure that the facilities remain available to accommodate pupil numbers and deliver the curriculum – The measures would need to take account of matters including:

- (a) safeguarding (e.g. fencing, controlled access etc),
- (b) health and safety (e.g. dog fouling, broken glass, needles etc),
- (c) condition (e.g. avoiding use in waterlogged condition, wear and tear), and

(d) expansion/changing needs of the school

14. Community Use

Open community use of school playing fields and other facilities cannot therefore be assured and must remain a local decision taken following consideration of the local circumstances.

School governing bodies will need to have control over any out of hours use of school facilities, including sports facilities. Where issues arise that threaten the school's ability to deliver the curriculum they must have the power to restrict or prevent access without having to go through undue negotiation hurdles.

15. Management of the School

The Education Act 2011 amended the Education and Inspections Act 2006 to change the arrangements for establishing new schools. Most new schools will now be established as academies, and since May 2015, all new academies are classified as free schools. The County Council will therefore no longer operate new schools and will have no ability to enforce any joint use arrangements.

It is also important when seeking sponsors for new schools that the council does not create a situation where inherent operational and safeguarding issues related to the school site are a barrier to potential sponsors.

All school revenue funding is calculated using a formulaic allocation which does not take account of specific site factors. Any additional costs arising from managing shared use facilities (e.g. additional staff time, maintenance etc) is not reflected in the school budget share and must be a local decision which may need to consider offsetting costs through income generation.

16. Expansion/changing needs of schools

To enable school sites to adapt and expand OCC require unfettered sites that present no barrier to change and to give the Council the ability to be nimble and cost effective in their ability to adapt to future obligations

Where expansion of a school is proposed consent is required under Section 77 of the School Standards and Framework Act and Schedule 1 of the Academies Act 2010 whereby the Secretary of State will take account of community use of playing fields under an authorised agreement. This could delay and potentially constrain future expansion to accommodate growth.

17. Open Space Policies

The local planning authority (district council) will determine how to apply their open space standards upon any planning application for development. It may

be that the local planning authority will decide on a reduced open space requirement on the basis that a school on the site will include some playing fields and these might be available for community use.

However, the County Council considers that planning consents should not be granted on the basis that community open space is guaranteed on future school sites, as decisions on community use will be made by the future school governing body and will change from time to time.

18. Corporate Plan Priorities

The Corporate Plan includes an objective of enabling people to play an active part in their communities. This is reflected within the selection process regarding determination of an Academy Sponsor where the council expects any school to play an active part in their community. Consequently, it is considered that use of public facilities in light of local circumstances should be taken at a community level by the school.

19. Exceptions

It is recognised that circumstances may arise where land or buildings must be acquired but where acquisition is only possible on condition there is some community use and there is no alternative option.

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Background papers: None

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