

Buckinghamshire County Council

Children and Young People's Service

Guidance on Planning Obligations for Education Provision



1. Introduction

- 1.1 Buckinghamshire County Council (BCC) has a statutory duty to ensure that there are sufficient early years and school places in its area and to promote parental choice through increasing the diversity of provision.
- 1.2 In Buckinghamshire the challenge for school place planning is to address a decline in the pupil population in some areas leading to surplus places; Whilst other areas (such as northern Aylesbury Vale, Aylesbury Town and High Wycombe) face a shortfall of school places because of housing growth. In Chiltern and South Bucks Districts, indications are that the pupil population is not falling as anticipated; it is believed that young families are moving into the area from outside the County due to the reputation of its schools for high educational standards, and its close proximity to London for commuters. Combined with this is an increase in fertility rates across the county which are at their highest levels since 1980. This increase in population is placing significant pressure on school places.
- 1.3 To create sustainable communities, BCC needs to ensure adequate provision of education infrastructure. Developers are expected to meet demands or mitigate the impacts of their proposals through planning obligations.

2. Vision

BCC's vision for the provision of education in the County, as agreed by Buckinghamshire Children and Young People's Strategic Partnership, is as follows:

In Buckinghamshire, we want all our children and young people to have the best start in life and to be able to lead safe, healthy and fulfilling lives, and to be able to make a positive contribution to their communities and to society. We will ensure access to a range of universal services as well as developing more targeted services to meet their specialist needs.

3. Purpose

- 3.1 The aim of this guidance is to secure a coherent and consistent approach to ensuring that developers provide or make appropriate contributions to meet the costs of additional education infrastructure requirements generated by new housing developments. This will help to reduce the uncertainty and time spent on negotiating individual planning applications. The guidance also aims to inform the four Buckinghamshire District Councils in the preparation of policies on developer contributions. It will be regularly reviewed as necessary to take account of changes in Government guidance, experience gained through subsequent negotiations, and to incorporate the latest available building costs and figures on occupancy levels - without the need for a full scale review.
- 3.2 This guidance establishes:
 - (i) the process for agreeing developer contributions for education provision;
 - (ii) the criteria by which the demand for additional education services are assessed;
 - (iii) the basis on which the costs of providing those services is established; and
 - (iv) the payment of contributions and how they will be spent.

4. Government and Local Policy on Planning Obligations

National Policy

- 4.1 Developers may be required to contribute towards the cost of securing the infrastructure necessary to meet the increased needs for services arising from developments. Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority (in Buckinghamshire, the four District Councils) to enter into a legally-binding agreement with a developer or for a developer to provide a unilateral undertaking to secure those contributions.
- 4.2 Guidance issued by the Secretary of State on Planning Obligations (Circular 05/05) sets out the framework within which local planning authorities may seek planning obligations. Paragraph B15 recognises that if a proposed development would give rise to the need to provide additional or expanded community infrastructure, for example, a new school classroom, which is necessary in planning terms and not provided for in the application it might be acceptable for contributions to be sought towards this additional provision through a planning obligation. The Circular states that planning obligations should only be sought where they meet all of the following policy tests:
- a. *relevant* to planning (i.e. in order to bring a development in line with the objectives of sustainable development as articulated through the relevant local, regional or national planning policies);
 - b. *necessary* to make the proposed development acceptable in planning terms;
 - c. directly *related* to the proposed development – for example, there should be functional or geographical link between the development and the planning obligation;
 - d. fairly and reasonably related in *scale and kind* to the proposed development;
 - e. *reasonable* in all other respects. The developers may reasonably be expected to contribute to the cost of all, or that part of, additional infrastructure provision which would not have been necessary but for their development.

The Circular also provides guidance on different types of contributions which may be made, for example pooled contributions – i.e. where the cumulative impact of a number of developments creates the need for infrastructure, it may be reasonable to pool contributions to secure infrastructure in a fair and equitable way. It also encourages local authorities to employ formulae and standard charges to indicate the level of contribution likely to be sought.

Regional and Local Policy

- 4.3 Government's Planning Policy Statement 12: Local Spatial Planning (June 2008) states that the development plan is made up of the Regional Spatial Strategy (RSS) produced by the Regional Assembly and Development Plan Documents (DPD) produced by local planning authorities within the local development framework (LDF). The Core Strategy is the principal DPD which includes the overall vision setting out how the area and the places within it should develop, strategic objectives for the area focusing on the key issues to be addressed and a delivery strategy for achieving these objectives. The core strategy should be supported by evidence of what infrastructure is needed to enable the amount of development proposed for the area,

taking account of its type and distribution. Supplementary Planning Documents (SPD) provide greater detail on the delivery of policies in its DPDs.

4.4 The South East Plan which covers South East England and was produced by the South East England Regional Assembly (SEERA) is the RSS and was adopted in May 2009. The plan requires the following new homes for each district between 2006 and 2026:

- Aylesbury Town: 16,800
- Rural Areas of Aylesbury Vale District: 10,090
- Chiltern District: 2,900
- South Bucks District: 1,880
- Wycombe District: 8,050

Policy CC7 of the plan states that contributions from development will be required to help fund the necessary infrastructure. The policy also states that local authorities should provide clear guidance on the role of developer contributions towards infrastructure to provide clarity for landowners and prospective developers.

However on the 27 May 2010, the new coalition government made a commitment to abolish RSSs including the removal of Regional and District level housing targets. Decisions on housing supply will rest with Local Planning Authorities and LDFs will continue although there may be a need to revise them. As details of the changes emerge, they will need to be incorporated into this guidance.

4.5 In April 2007 Wycombe District Council adopted a comprehensive developer contributions SPD as part of their LDF which includes details on how and when development should contribute to the provision of education infrastructure. The SPD takes precedence over this guidance, although this document may be used to help inform future reviews of the SPD.

4.6 BCC is currently consulted by Aylesbury Vale District Council (AVDC) on all developments above a 10 dwelling threshold and has the ability to negotiate contributions towards education provision directly with the developers. Policy GP94 of the Aylesbury Vale District Council Local Plan to 2011 (adopted January 2004) states: "In considering applications for residential development the Council will have regard to the need for the provision of community facilities arising from the proposal. Conditions will be imposed on permissions, or planning obligations sought in order to secure appropriate community facilities, or financial contributions thereto, reasonably related to the scale and kind of housing proposed." Further, policy CS14 of AVDC's submitted Core Strategy states: "The Council requires, through the use of developer contributions, that all new development provides or contributes to necessary on or off-site infrastructure requirements which are required to support the development in order to avoid placing additional burden on the existing community. A developer contributions SPD is to be produced that will set out the process for calculating developer contributions and the mechanism for securing them, which may include pooling contributions."

4.7 The currently adopted Local Plan's for both Chiltern (CDC) and South Bucks (SBDC) covering the period 1996-2006 refer to BCC's Structure Plan (now superseded by the South East Plan) which acknowledges the importance of community provision and states that "new residential development must be consistent with the availability of

services, including schools."

CDC's emerging Core Strategy which covers the period 2006-2026 states that the Council will encourage the provision of infrastructure to serve the requirements of the District's residents and businesses. Where appropriate, new developments will be required to help achieve this, and as a minimum will be expected to provide sufficient infrastructure to meet the needs of future occupiers. The Council will work closely with infrastructure providers in the District to identify solutions to remedy existing infrastructure deficiencies and to ensure that the infrastructure requirements of new development are met. If a need is identified, the Council will seek financial contributions from new development to help meet infrastructure provision in the District. Infrastructure requirements will be dealt with in more detail in the Delivery DPD (Policy CS 36).

South Bucks District Council South Bucks District Council's emerging Core Strategy preferred policy approach 28 (Securing infrastructure through planning obligations) states: "The preferred approach is to seek to enter into planning obligations with developers, in order to mitigate the impact of a development by helping to secure a particular facility needed in connection with that development, for example by securing contributions towards additional or enhanced community infrastructure."

- 4.8 The Community Infrastructure Levy (CIL) Regulations came into force on 6 April 2010. The CIL is a national tariff-based scheme which would be based on square metre of gross internal floorspace as opposed to number of bedrooms. Adoption of the CIL by local planning authorities is discretionary. However, local authorities would be empowered to charge the CIL on new developments to help finance the infrastructure needed to support growth. It would replace the current system of negotiated planning obligations and pooled contributions, but it would not cover on-site works (e.g. where the developer provides a new school). As a pay-as-you-go scheme, the CIL would make it impossible to ask developers to forward fund infrastructure.

5. BCC School Place Planning Principles

- 5.1 After extensive consultation BCC's adopted policy on Early Years and School Place Planning established the following principles to guide decision making:

- Improved outcomes - developing high quality provision by encouraging partnerships between schools and ensuring buildings are fit to meet the 21st Century curriculum;
- Maximising efficiency in pursuit of high quality by ensuring cost effective provision through removal of surplus places¹, developing links to other initiatives (e.g. extended services) and actively seeking developer contributions;
- Local schools for local children by promoting community cohesion (e.g. providing schools of the right size and in the right place to serve their communities);
- Facilitates diversity of educational provision to promote choice to parents;

¹ Audit Commission recommend planning for 95% occupancy in schools to allow for year on year changes in births and parental choice.

- Sustainability of schools in terms of financial, social and environmental impacts;
- Consultation as part of the commissioning process;
- Working in partnership with key stakeholders.

6. Process for agreeing contributions

- 6.1 BCC is not the plan making body for local spatial planning (i.e. Local Development Frameworks) nor does it determine the majority of planning applications, including residential development. As such, planning obligations for County Council services must be achieved in co-operation and agreement with the relevant District Planning Authority (DPA). When lack of education provision is a major issue in the consideration of development proposals at a public enquiry or appeal, where appropriate, BCC will provide evidence to the DPA in support of the requirement and make available a suitable expert witness to appear at inquiry. BCC will underwrite any costs awarded against the District Council, in respect of education matters at appeal or enquiry, where BCC has been judged to have acted unreasonably.
- 6.2 BCC is working with each of the Bucks Districts to include education provision requirements into a Developer Contributions SPD – similar to the arrangements already in place with Wycombe District Council. However, until such policies are in place, it is incumbent on BCC to identify proposals from the weekly planning application lists published by the District Councils on which we would wish to comment.
- 6.3 Best practice guidance on the validation of planning applications suggests a checklist of what planning applications should include. Amongst other things the principles of an agreement, or “Heads of Terms”, will normally be expected to be established prior to an application being determined and the necessary legal agreement will need to be completed before a planning consent is issued by the local planning authority. A flow-chart showing the S106 planning obligations system as typically applied by a local planning authority in relation to a minor planning application is provided as Appendix 1
- 6.4 Contributions will only be sought on development proposals of four or more dwellings where BCC indicates to DPAs that there is already pressure to provide education services. This is the same threshold used by Wycombe District Council and has been adopted to strike a balance between an equitable system of contributions and the imposition of disproportionate costs in dealing with small applications. On average a development of four dwellings will generate a single pupil which is a meaningful level of contribution that will have an impact on facilities. In the future, BCC would wish to see the threshold reduced to one dwelling to ensure fair and consistent treatment of all developments and to reflect the fact that small projects may not in themselves have an impact on infrastructure within an area but collectively they do create additional demands.
- 6.5 Contributions will not be sought from housing where it can be demonstrated that the accommodation will not generate additional children into the education system (e.g. sheltered housing or homes which are exclusively for students or the elderly).

- 6.6 When a planning application involves demolition and rebuilding, contributions will apply to the net number of new dwellings created.
- 6.7 Education infrastructure required may include land and buildings for a new school or more typically an extension to an existing school to increase the capacity of the school to meet the needs of additional pupils. In view of the number of smaller residential developments currently taking place in the County and their cumulative impact on the capacity of educational facilities, developer contributions will be pooled in accordance with Circular 05/05 so that infrastructure can be secured in a fair and equitable way.
- 6.8 Applications seeking to renew planning permissions will require reassessments where there has been a material change of circumstances.
- 6.9 BCC will alert the District Councils to the potential need for planning obligations at the earliest opportunity - usually through the Development Plan Process. This will identify potential need, enabling developers to build education infrastructure requirements into their land cost calculations, and providing a clear policy background for the needs to be a material consideration when determining any application. It should however be noted that requirements do not need to be published in a local plan for them to be regarded as a material consideration.
- 6.10 Some developments are not known about until Planning Application stage and comments will be incorporated in any response to the District Planning Authorities on Strategic Planning merits, including those objected to on planning policy grounds within the required 21 day period.
- 6.11 Consultation should take place at outline/full application stage even if the site has previously been investigated at Local Plan or Development Brief stage as significant changes in school rolls can occur in a short period. Consultations at pre-application discussion stage would be welcomed.
- 6.12 District Councils will be advised when applicants (or their consultants) make direct contact with BCC, and will receive all copies of all correspondence and information relating to the development site throughout the process.
- 6.13 BCC accepts that in some circumstances the planning obligation requirements associated with a development may render it unviable, although paying too much for the site is not necessarily reasonable justification. In such cases, BCC will require developers to share a viability appraisal, financial information or a valuation report (with current values) with Council Officers for independent scrutiny. Whilst commercially sensitive information will be treated in confidence, it may be necessary to report key issues and conclusions to senior Council Officers and elected Members at both BCC and the relevant planning authority when considering the planning application.

If it is subsequently agreed that a developer cannot afford to meet all of the requested S106 requirements associated with their development, planning obligations may be prioritised in negotiation with the developer subject to the proposal being acceptable in all other respects. BCC and the local planning authority will need to come to a view as to whether, on balance, the benefits of the scheme (e.g. its contribution to the sustainability of the local area) outweigh the disbenefits of the developer not fully

funding the necessary infrastructure. Consideration will also be given to support from other sources of funding (e.g. Social Housing Grant) or likely future market changes (i.e. any reductions in planning obligations agreed at the bottom of the market may be recovered in full or part when the market picks up).

6.14 A contribution calculator is available to calculate the number of children likely to be generated by a development and assess the level of contribution required.

7. Assessing Need

Primary and Secondary School Provision (4-18 year olds)

7.1 The Audit Commission² best practice guide on school place planning (Trading Places) recommends that school occupancy should be reviewed on an annual basis at both aggregate level for sub areas and at individual school level. It is right to try and ensure that there are sufficient places at catchment area level - as parents have an expectation that their child will be able to secure a place at their local school and minimise the distance they need to travel. However, it is also important to plan at an area level to recognise the complexities of parental preference. Indeed the Education and Inspections Act 2006 places a duty on local authorities to promote choice and diversity in relation to provision of school places. Forecasting at planning area level also has the effect of cancelling out the effect of changes in parental preference (and ensuring uniform trends in pupil numbers) which allows local authorities to make more effective decisions about adding and removing capacity.

BCC's policy on Early Years and School Place Planning is based on Local Area School Place Plans which reflect the needs and aspirations of the local community. The planning areas are based on

- (i) established patterns of pupil movement;
- (ii) local community boundaries established by BCC for the delivery of local services;
- (iii) feeder school links;
- (iv) physical boundaries;
- (v) school catchment areas.

The 2 and 3 mile radii used by the Department for Education (DfE) for assessing borrowing requirement allowances is not appropriate for assessing school place requirements, as they do not take into account parental preference, the rural nature of the authority or catchment area boundaries.

In the County there are four secondary planning areas (one for each district) and 18 primary/nursery planning areas. The planning areas for secondary schools are much larger than those for primary schools as parental choice is exercised to a greater degree at secondary level.

An area planning approach satisfies the policy test set out in Government Circular 05/05 (Planning Obligations) which states that where off-site provision / enhancement of a facility is required there is to be a functional or geographical relationship with the proposed development. Significant pupil movement as a result of parental choice and overlaps between school catchment areas show that developments will not only

² The Audit Commission is an independent watchdog, funded by Central Government, to ensure economy, efficiency and effectiveness in local public services.

have an impact on the catchment schools but also on other schools within their relevant planning area. In September 2008, a decision by the Secretary of State (Application ref CH/2006/1772/OA) confirmed that BCC's methodology for assessing need (i.e. planning not just for the catchment area school but also for the wider area) met the policy tests of Circular 05/2005 - despite the lack of detailed spending plans or detailed policies within the District Council's adopted Local Plan.

- 7.2 Projections of supply/demand for school places are based on Audit Commission recommendations. They are calculated for a five year period for primary schools and a 10 year period for secondary schools and are derived from current number on roll, demographic information about births, data on planned housing and pupil number trends. It would be difficult for a local authority to plan further ahead due to the uncertainty in forecasting future births and changes to government policy. The projections are updated at least every two years.
- 7.3 Pupil demand is assessed against school capacity³ which is equivalent to the higher of the school's DfE net capacity calculation (including temporary classrooms) and its current number on roll.
- 7.4 It is generally accepted that schools should not operate at 100% of their capacity, and a small surplus in places does not necessarily equate to there being sufficient capacity within schools. The Audit Commission recommends that local authorities should plan for a 95% occupancy rate in schools to allow for volatility in preferences from one year to the next (e.g. year on year changes in the birth rate). BCC is meeting this requirement in most areas. An exception to this is the grammar sector where BCC plans for 0% surplus capacity - where owing to the Greenwich Judgement⁴ any spare capacity is generally filled by pupils living outside Buckinghamshire (although overall there is little net movement of secondary pupils across the County boundary). If surplus capacity falls below the 5% threshold of sustainability described above (or 0% for grammar schools), a contribution towards provision of school places will be required.
- 7.5 Although education post 16 is currently non-statutory, there is a statutory requirement to secure the required further education provision for children aged 16-18.

Further, the White Paper *Raising Expectations* (published on 17 March 2008) sets out proposed changes to the delivery system for education and training as participation age is raised to 18. The government proposals included the following as set out in the Education and Skills Act 2008:

- Responsibilities will be transferred from the Learning and Skills Council (LSC) to LAs (effective from 2010/11);
- LAs will have the strategic lead for planning, commissioning, funding and organising 14-19 education and training within the local area.

³ The Audit Commission definition of surplus places

⁴ The Greenwich Judgement court case established that LA boundaries should not be considered relevant if parents chose that their children should be educated in a different LA school, provided that that school had a place available.

As teaching spaces in secondary schools are shared between pupils aged 11-15 and 16+ it is necessary to assess 11-15 and post 16 provision together.

This guidance will need to be reviewed once the full impact of the proposed changes to the 14-19 curriculum are known. The proposal to raise the participation age to 18 is likely to impact on both post 16 staying-on rates and pupil generation rates.

- 7.6 Current projections show there is a shortfall in places in the secondary phase in all parts of the County (apart from in South Bucks grammar schools), and many primary planning areas are already, or are anticipated, to have a deficit in capacity in the next five years (See Appendix 2 for areas of shortfall in primary and secondary school places).

Pre-School Provision (3-4 year olds)

- 7.7 The local authority has a duty to provide free early years provision for every child who wants it from the term following their third birthday. This means that a child is entitled to spend up to five terms in an early year's provision before admission to a school's reception class. These children are accommodated through a mixture of maintained (i.e. school), voluntary, private or independent sector provision (i.e. pre-school, nursery, independent school, accredited childminder). Where the number of nursery aged pupils generated by a development cannot be accommodated within existing provision, BCC will seek a contribution towards the capital costs of additional facilities. Any increased demand for early years places generated by developments will be assessed on a case by case basis. The data on Early Year's provision is currently being reviewed as part of BCC's update to its Childcare Sufficiency Assessment and will be published by March 2011.

At present early education provision is an entitlement to 12.5 hours per week which will increase from September 2010 to 15 hours per week - offered flexibly over a minimum of 38 weeks per year. In addition, the government now fund some provision for a limited number of 2 year olds who meet specific funding criteria as part of a pilot programme.

Children Centres including Early Years Provision (0-3 year olds)

- 7.8 The Apprenticeships, Skills, Children and Learning Bill now makes it a statutory duty for LAs to ensure that every community is served by a Sure Start Children's Centre, offering permanent universal provision across the country, ensuring that every child gets the best start in life. Children's Centres offer services for under fives and their families, bringing together health, early education, childcare and advice and support for parents. In addition, the Childcare Act 2006 requires local authorities to secure adequate early learning provision and to secure sufficient childcare for parents who wish to work. Development of around 3000 dwellings will generate the need to secure accommodation and land for one Children's Centre. The size of a typical Children's Centre is 200 sqm (excludes pre-school provision) and building costs (including external works, furniture and equipment and professional fees) are equivalent to £2,500 per sqm. The size of the external area should be 235 sqm and will need to include a fenced canopied play area, parking for staff, buggy and bike storage in line with the Governments `Healthy Living` policy.

Special School Provision

7.9 For developments over 200 dwellings an assessment will be made of the need to secure additional accommodation for pupils with special educational needs (SEN). Special school provision across the County is already at capacity with significant numbers of temporary classrooms in place to cope with existing demand from within county. BCC is also a significant net exporter of pupils to non-Bucks maintained special school provision (in particular pupils with an autistic spectrum disorder and with behavioural, emotional and social difficulties).

The proportion of Bucks primary and secondary pupils who attend a special school is 1% and 2.4% respectively – therefore to determine the number of special school pupils generated from a site, it is necessary to apply these percentages to the mainstream pupil estimates. The pupil yield figures for mainstream schools are accordingly reduced by the same percentage. Based on DfE Building Bulletin 102, a special school pupil requires between four to five times the space of a pupil in mainstream provision. The cost per pupil for providing a special school place is therefore estimated at four times the build cost of mainstream provision.

7.10 Where a need to provide additional capacity has been identified, contributions for education will normally be sought for:

- 3 – 4 years (Nursery places)
- 4 - 10 years (Primary School places)
- 11 - 18 years (Upper School places)
- 11- 18 years (Grammar School places)
- Children Centres including Early Year's provision
- Special School places

8. Calculating Contributions

8.1 Where developer contributions are required, they will be calculated by multiplying the number of children likely to be generated by the net dwellings from the development (Table 1) by the costs of providing additional places (Table 2).

8.2 BCC will make neighbouring authorities aware of any developments planned in areas of the county that are covered by the catchment area of schools maintained by neighbouring authorities. Similarly, BCC will comment on any planning applications in neighbouring authorities which fall within the catchment area of a Buckinghamshire school.

8.3 BCC's medium to long term pupil generation rates have been derived from an analysis of 2001 Census data and information from the Survey of English Housing (2003/04). The analysis excludes dwellings owned outright which contain a high proportion of households made up of elderly persons and are therefore not representative of modern housing development. It is also based on South East Plan requirements that all new developments should incorporate 35% affordable housing. Secondary pupil generation rates are based on 33% of the population qualifying for a grammar school place and a staying on rate of 50% in upper schools and 100% in grammar schools. On average new dwellings are likely to generate pupils at the rates shown in the table 1 below (rates calculated as at June 2009):

| Provision Type | Table 1: Pupil generation rates by dwelling type per 100 dwellings | | | | | | | |
|----------------|--|-------|--------|--------|-------|-------|--------|---------------|
| | Flats | | | Houses | | | | Bucks Average |
| | 1 Bed | 2 Bed | 3+ Bed | 1 Bed | 2 Bed | 3 Bed | 4+ Bed | |
| Nursery | 0.4 | 1.4 | 2.7 | 1.6 | 3.3 | 5.8 | 6.7 | 4.4 |
| Primary | 2.8 | 9.6 | 19.1 | 11.5 | 23.1 | 40.3 | 47.3 | 30.4 |
| Upper | 1.0 | 3.4 | 9.8 | 5.1 | 9.7 | 22.0 | 28.3 | 15.9 |
| Grammar | 0.6 | 1.9 | 5.7 | 2.9 | 5.6 | 12.6 | 16.3 | 9.2 |

The average rates used by BCC are comparable to those used by neighbouring authorities.

8.4 Table 2 below gives a breakdown of the build cost per pupil used by BCC to determine developer contributions towards education provision (as at 1 Jan 2009):

Table 2: Breakdown of BCC Cost Multipliers

| Provision Type | DfE Cost Multiplier elements | | | | Additional Cost elements | | | Total Cost Multiplier |
|----------------|------------------------------|------------|--------|-----------------------|--------------------------|--------------------|--------------|-----------------------|
| | Building Costs | Site Works | Fees | Furniture & Equipment | Abnormals | ICT Infrastructure | ICT Hardware | |
| Nursery | £9,551 | £1,137 | £1,466 | £962 | £669 | £225 | £906 | £14,915 |
| Primary | £9,551 | £1,137 | £1,466 | £962 | £669 | £225 | £906 | £14,915 |
| Upper | £13,974 | £1,662 | £2,146 | £2,258 | £978 | £225 | £1,450 | £22,693 |
| Grammar | £14,131 | £1,681 | £2,170 | £2,258 | £989 | £225 | £1,450 | £22,903 |

The DfE cost multiplier is used to determine the capital allocation to local authorities and includes external works, professional fees and furniture and equipment but excludes site abnormals, ICT, site acquisition costs, VAT and the effect of regional variations in prices. In line with the DfE methodology for funding LAs, an average multiplier for adaptations and new build is used (which is weighted to reflect the national balance of such projects). As such, the above costs do not apply to the provision of new schools where this has been identified. As the DfE cost multipliers are only updated every two or three years, they will be inflated at the time of agreement using the Buildings Cost Index published by the Building Cost Information Service (BCIS). ICT and abnormal costs are based on the DfE funding allocation model for their Building Schools for the Future initiative. Abnormals are any extra costs that are a consequence of particular site factors or constraints and are based on an average for all building projects. Abnormals are common and include items such as poor ground requiring complex foundations or additional costs arising from local planning requirements. Many poorly designed builds assessed in an audit carried out by the Commission for Architecture and the Built Environment (CABE) - the government's advisor on architecture - suffered from inadequate budgets as a result of unexpected abnormals. An average location factor of 7% across Buckinghamshire, as published by BCIS, has been applied to all costs apart from ICT costs. ICT hardware costs are based on minimum DfE targets for computer:pupil ratios of 1:8 in primary and 1:5 in secondary schools. Planning applications will be assessed using the latest available BCC cost multipliers without the need for a full scale review.

8.5 Table 3 below converts the above tables into costs per dwelling:

| Provision Type | Table 3: Cost per dwelling | | | | | | | |
|----------------|----------------------------|--------|--------|--------|--------|--------|--------|---------------|
| | Flats | | | Houses | | | | Bucks Average |
| | 1 Bed ⁵ | 2 Bed | 3+ Bed | 1 Bed | 2 Bed | 3 Bed | 4+ Bed | |
| Nursery | £60 | £209 | £403 | £239 | £492 | £865 | £999 | £656 |
| Primary | £418 | £1,432 | £2,849 | £1,715 | £3,445 | £6,011 | £7,055 | £4,534 |
| Upper | £227 | £772 | £2,224 | £1,157 | £2,201 | £4,992 | £6,445 | £3,608 |
| Grammar | £137 | £435 | £1,305 | £664 | £1,283 | £2,886 | £3,733 | £2,107 |

8.6 BCC will require a new school where existing schools do not have the scope to expand or are unsuitable to accommodate planned development (e.g. pupils would need to cross a major road). Where this has been established, contributions will be sought based on the cost of new build as determined by the DfE (as at 1 Jan 2009) – equivalent to £2,640 and £2,750 per gross sqm of building area⁶ for primary and secondary facilities respectively. BCC’s preferred size of new school is in line with government guidance which states that primary and secondary schools with 1-2 and 6-8 forms of entry⁷ respectively are the most efficient model and promote effective teaching and learning. It will also normally be appropriate to base the costs on whole forms of entry to reduce the need for mixed aged teaching which is unpopular with both parents and teachers.

Alternatively, provision of the school and associated facilities by the developer will be considered in appropriate circumstances. These will need to accord with the DfE Schools Building Bulletin Guidance supplemented by the BCC Local Estate Strategy Guidance, with design and build costs also paid by the developer. Further, in line with recent DfE policy, developers will also be required to install sprinklers in new schools and ensure that the buildings are assessed and signed off by a licensed BREEAM⁸ Education Assessor with at least a BREEAM ‘Very Good’ rating. It is also essential that the architect and BCC collaborate throughout the design period for the new school. All designs will be evaluated by a design assessment panel to ensure that they meet the highest design quality. Developers will be expected to provide a suitable site and meet all the design and build costs including site infrastructure and playing fields, full capital costs of fixtures and fittings (i.e. fixed furniture including ICT infrastructure) and furniture and equipment (i.e. loose furniture including ICT hardware equivalent to £1511 per primary aged pupil and £2335 per secondary aged pupil) to enable the delivery of the curriculum. The Agreement will normally be ensured by a bond.

Under the terms of the Education Act 2002, new schools will be subject to new competition requirements where a charitable body is invited to bring forward proposals to run the school. Contributions will be applied towards such new provision, whether or not BCC is responsible for running the school.

Where there is a requirement for land, the developer will either provide a suitable site (see Appendix 3) in line with the latest size guidance from the DfE (Appendix 4

⁵ A bedroom is a private room used mainly for sleeping purposes, even though the use may be occasional (Census 2001)

⁶ Costs as at 1 Jan 2009. Gross square metre building area is based on the DfE building bulletin area guidelines including the provision of a kitchen and dining area in accordance with our estates strategy that all children have access to at least one hot school meal each day.

⁷ One form of entry is equivalent to cohort of 30 pupils

⁸ Building Research Establishment Environmental Assessment Method

provides minimum areas for a range of schools based on DfE Building Bulletin 98 and 99) or sufficient funding to acquire such a site. Land costs will be valued at the level agreed in a Certificate of Appropriate Alternative Development (Section 17, Land Compensation Act 1961) or other agreed valuation of the land.

9. Payment of contributions and repayment of any unspent contributions

9.1 All payments should normally be made on commencement of development rather than occupation, and should not be subject to unduly onerous monitoring requirements to:

- safeguard the authority against developers defaulting on their commitments where 'need' is clearly identified;
- allow BCC to plan more effectively by providing greater certainty as to the receipt of contributions;
- keep pace with the completion of the development to enable provision to be in place when the pupil numbers arise.

For larger developments staged payments on commencement of agreed phases of the project will be acceptable.

9.2 Where staged payments are proposed, if money is spent in advance of contributions being received then BCC will still receive the appropriate monies from the developer at the agreed time.

Similarly, in cases where an item of infrastructure necessitated by the cumulative impact of a series of developments is provided by the local authority before all developments have come forward, the later developers will still be required to contribute the relevant proportion of the costs provided the need for the infrastructure is set out in advance. This is in line with guidance at paragraph B23 of Circular 05/05.

9.3 If payment due under these agreements is paid late, interest will be payable from the due payment date to the actual date of payment so that the value of the money in real terms does not deteriorate. Where land transfers are involved, BCC will need to agree the precise site location and transfer terms as part of any S106 negotiation.

9.4 The developer will be responsible for paying BCC's reasonable legal and administration costs in connection with the negotiation, preparation, completion and monitoring of the planning obligations in relation to education provision. BCC monitors compliance with individual S106 provisions to ensure adherence to the terms of the legal agreements. To assist with this process BCC employs a dedicated Developer Contributions Co-ordinator whose main duties and responsibilities are:

- To be the main point of contact within the County Council for all matters concerning developer contributions to the authority's service requirements;
- To monitor planning applications received by the District Council and to coordinate a response from all services including Legal on planning obligations;
- To monitor agreements and developments to ensure that payments are both collected and spent in accordance with the terms of the agreement;
- To maintain a Contributions database for the above purposes.

10. How contributions will be spent and restrictions

- 10.1 BCC expects to be a party to legal agreements, whether separately or jointly negotiated, to ensure that terms are acceptable and so that contributions are received and monitored at the appropriate time. As such, legal agreements should make provision for payments to either be made either direct to BCC, or to the relevant District Council so that the correct index linked amount can be obtained and to facilitate audit trails for expenditure.
- 10.2 Appendix 2 shows those planning areas / schools that are projected by BCC to have insufficient capacity to meet the extra demands placed upon them from new development over the projection period. Developers will be expected to provide or contribute to new facilities or adaptation of existing ones within a planning area. Requirements for additional accommodation will not necessarily be identified in our Asset Management Plans until after a proposal is submitted and approved, as the plan will not have yet been updated to take account of the effect of that proposal and the needs arising from it. Further, any proposals will need to be developed and consulted upon - in partnership with key stakeholders - as part of BCC's development of Local Area Early Years and School Place Commissioning Plans. Once these have been adopted they will form an appendix to the guidance and will be kept under review on a regular basis.

In an appeal decision on the 21st April 2009 (APP/P1940/A/09/2094781), the inspector concluded that apart from transport all other requirements for planning obligations (including education) met the tests of Circular 05/05. Despite the lack of spending plans or an SPD, the inspector accepted Hertfordshire County Council's evidence of need and the condition that contributions would be used to provide adequate provision in the locality for the additional needs arising from the development.

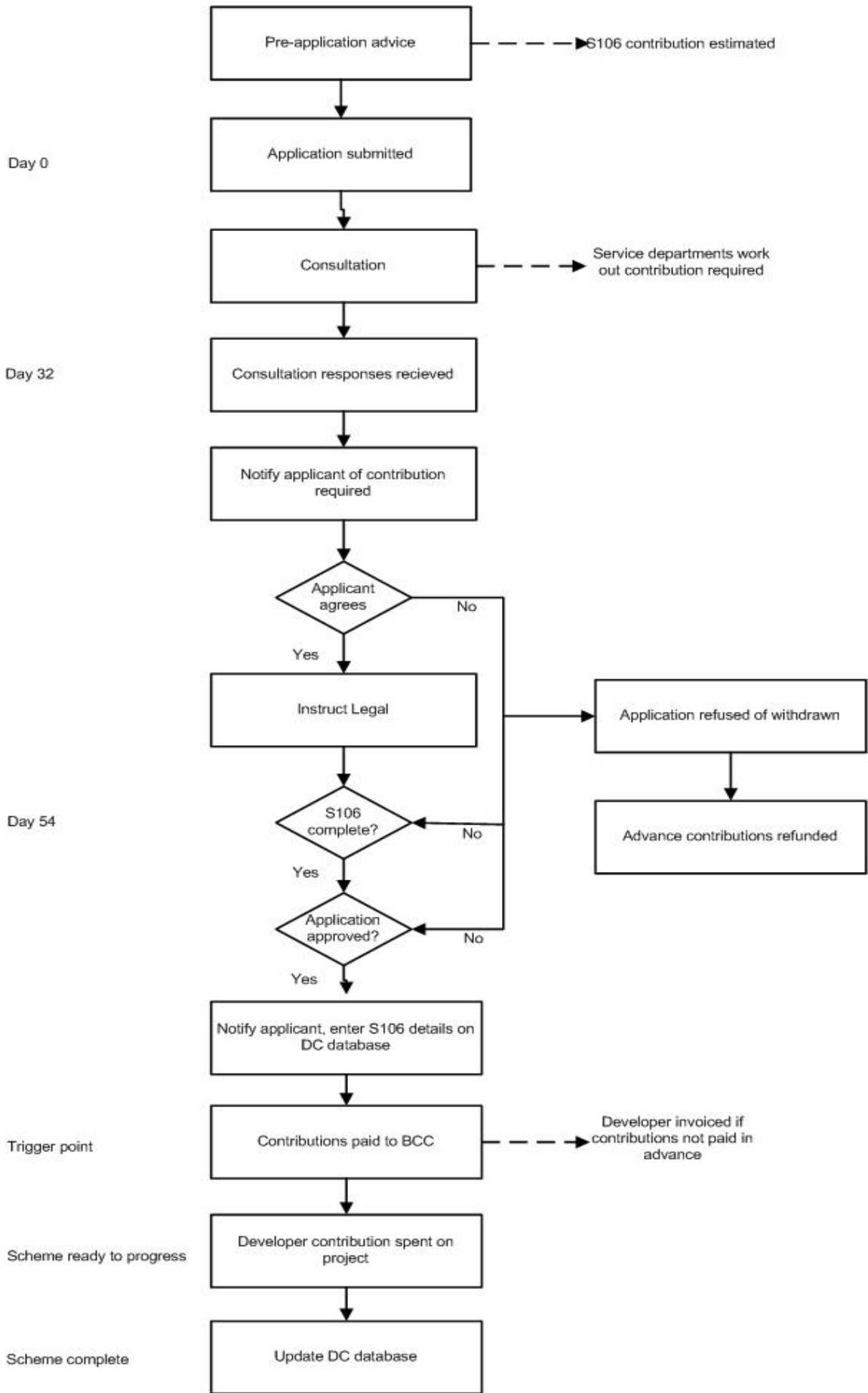
- 10.3 To help implement our local planning area strategies, developer contributions should be made towards education facilities within the planning area and not be confined to the catchment area school for nursery, primary, special and secondary contributions.
- 10.4 All financial contributions will be index-linked in any S106 legal agreement or undertaking from the date of signing to the date of payment based on the Buildings Cost Index published by BCIS. Any contributions unused or uncommitted will be repaid to developers, together with any interest accrued, 10 years from the date of receipt. This is to ensure sufficient time is built into the complex and lengthy commissioning process to enable payments to be committed for expenditure and spent. Where the delivery of infrastructure is dependent on other service providers or delays beyond the Council's control, BCC will seek to retain the contributions beyond the ten year period.
- 10.5 The County Council maintains a transparent accounting system to ensure that all financial contributions can be traced from payment to final expenditure or repayment.

11. Status of Guidance

- 11.1 The guidance has been developed by BCC Officers and incorporates the views of all key stakeholders (including elected members, schools, all Buckinghamshire District and Parish Councils and development industry stakeholders) through the consultation

exercise between June and July 2009 and was adopted on the 8 June 2010. The guidance acts as interim guidance for applicants on BCC's approach towards developer contributions for education provision until the adoption of a relevant planning policy document (most likely an SPD) by the respective District Council. This guidance will be reviewed annually to reflect any material local, regional or national changes to ensure that it continues to meet the needs of BCC and its community.

Appendix 1: Planning Obligations process



Appendix 2: Primary and Secondary School Places

The table below shows the current and projected surplus/deficit places for all primary and secondary planning areas:

| Primary Planning Area | No. of Schools | 2008/09 Capacity | 2008/09 Actual Pupils | 2008/09 Surplus/Deficit | | Incl Current Planning Permission | | | Incl Permissions and Housing allocated in the Core Strategy | | |
|----------------------------------|----------------|------------------|-----------------------|-------------------------|-----|----------------------------------|---------------------------|-----|---|---------------------------|------|
| | | | | Places | % | 2012/13 Projected Pupils | Surplus/Deficit (2012/13) | | 2012/13 Projected Pupils | Surplus/Deficit (2012/13) | |
| | | | | | | | Places | % | | Places | % |
| Buckingham | 6 | 1675 | 1429 | 246 | 15% | 1437 | 238 | 14% | 1607 | 68 | 4% |
| Winslow and Waddesdon | 20 | 2987 | 2435 | 552 | 18% | 2426 | 561 | 19% | 2518 | 469 | 16% |
| Wing and Ivinghoe | 8 | 1680 | 1365 | 315 | 19% | 1377 | 303 | 18% | 1465 | 215 | 13% |
| Haddenham | 10 | 1515 | 1363 | 152 | 10% | 1341 | 174 | 11% | 1414 | 101 | 7% |
| Aylesbury Town | 19 | 6582 | 6003 | 579 | 9% | 6563 | 19 | 0% | 6693 | -111 | -2% |
| Wendover | 5 | 1305 | 1202 | 103 | 8% | 1302 | 3 | 0% | 1317 | -12 | -1% |
| Chesham | 9 | 1851 | 1570 | 281 | 15% | 1681 | 170 | 9% | 1854 | -3 | 0% |
| Amersham | 10 | 2001 | 1858 | 143 | 7% | 1967 | 34 | 2% | 2251 | -250 | -12% |
| Great Missenden | 7 | 1191 | 1094 | 97 | 8% | 1023 | 168 | 14% | 1023 | 168 | 14% |
| Princes Risborough | 8 | 1688 | 1445 | 243 | 14% | 1458 | 230 | 14% | 1504 | 184 | 11% |
| High Wycombe | 29 | 8305 | 7743 | 562 | 7% | 8291 | 14 | 0% | 8985 | -680 | -8% |
| West Wycombe | 7 | 1146 | 914 | 232 | 20% | 853 | 293 | 26% | 876 | 270 | 24% |
| Marlow | 8 | 2019 | 1845 | 174 | 9% | 1783 | 236 | 12% | 1826 | 193 | 10% |
| Bourne End | 7 | 1797 | 1673 | 124 | 7% | 1800 | -3 | 0% | 1832 | -35 | -2% |
| Beaconsfield | 3 | 840 | 809 | 31 | 4% | 891 | -51 | -6% | 938 | -98 | -12% |
| Gerrards Cross and The Chalfonts | 12 | 2867 | 2649 | 218 | 8% | 2702 | 165 | 6% | 2935 | -68 | -2% |
| Ivers | 4 | 807 | 678 | 129 | 16% | 742 | 65 | 8% | 771 | 36 | 4% |
| Beeches | 10 | 2360 | 2252 | 108 | 5% | 2403 | -43 | -2% | 2471 | -111 | -5% |

| Secondary Planning Area | No. of Schools | 2008/09 Capacity | 2008/09 Actual Pupils | 2008/09 Surplus/Deficit | | Incl Current Planning Permission | | | Incl Permissions and Housing allocated in the Core Strategy | | |
|--------------------------------|----------------|------------------|-----------------------|-------------------------|-----|----------------------------------|---------------------------|-----|---|---------------------------|------|
| | | | | Places | % | 2018/19 Projected Pupils | Surplus/Deficit (2018/19) | | 2018/19 Projected Pupils | Surplus/Deficit (2018/19) | |
| | | | | | | | Places | % | | Places | % |
| Aylesbury Vale Upper Schools | 7 | 8153 | 7114 | 1039 | 13% | 7976 | 177 | 2% | 11031 | -2878 | -35% |
| Chiltern Upper Schools | 5 | 5605 | 5363 | 242 | 4% | 5401 | 204 | 4% | 5793 | -188 | -3% |
| South Bucks Upper Schools | 2 | 1635 | 1537 | 98 | 6% | 1493 | 142 | 9% | 1546 | 89 | 5% |
| Wycombe Upper Schools | 7 | 1096 | 5872 | 465 | 7% | 5936 | 401 | 6% | 6361 | -24 | 0% |
| Aylesbury Vale Grammar Schools | 4 | 4911 | 4848 | 63 | 1% | 5084 | -173 | -4% | 6852 | -1941 | -40% |
| Chiltern Grammar Schools | 3 | 3613 | 3607 | 6 | 0% | 3500 | 113 | 3% | 3692 | -79 | -2% |
| South Bucks Grammar Schools | 2 | 1982 | 1908 | 74 | 4% | 1748 | 234 | 12% | 1798 | 184 | 9% |
| Wycombe Grammar Schools | 4 | 4703 | 4698 | 5 | 0% | 4695 | 8 | 0% | 4942 | -239 | -5% |

The primary projections exclude any developments for which new provision is being made. The schools within the planning areas highlighted are projected to have a shortfall of places when we include Audit Commission recommendations that LA's should plan for 95% occupancy in schools to allow for volatility in preferences from one year to the next. Contributions will still be required within planning areas which are projected to have surplus capacity, if there are projected to be insufficient places to accommodate the catchment children and the catchment school has a site suitable for expansion.

The contribution calculator will allow planning authorities and developers to determine the number of surplus places available for a particular development. The planning area for the site is identified when the name of the catchment school is entered. To identify which primary school catchment area the site is within, enter the postcode of the proposed development into BCC's catchment checker facility on the following website:

www.buckscc.gov.uk/bcc/schools/ea_school_postcode_checker.page?

The following map shows the 18 primary planning areas in Buckinghamshire:



Appendix 3: School Site Specifications

Where a developer is required to provide land to accommodate new school provision, Buckinghamshire County Council will require that the site include the following:

- a) The site should be in the heart of the community encouraging walking or other environmentally friendly means of pupils going to and from school (e.g. providing access to public transport and safe routes to school – i.e. pupils do not have to cross a major road). Proximity to other local community facilities (which pupils can visit as part of their learning and development) and associated parking areas (separate from staff car parking) are vital. The local authority is keen to encourage the co-location of other services (e.g. children centres, libraries, community centres, health centres, childcare facilities, adult learning, learning support units, places of worship, leisure facilities etc.). However, community use facilities on the school site (where use is intended during the school day) need to have a separate access and adult and pupil facilities should not be shared.
- b) School security is important. For example, a school in a remote area is more vulnerable because it is not overlooked by neighbours.
- c) Ensure the size of the overall site is dependent on number/age range of pupils given for each individual school (in line with the latest size guidance from the DfE) and any additional specially resourced or community facilities required. The site should also be capable of temporary expansion to accommodate any peaks in pupil numbers⁹.
- d) Boundaries to be of regular shape, particularly around playing field areas otherwise a larger site will need to be provided.
- e) Satisfactory road frontage to be provided compatible with the requirement for good “sight lines” to road access. Careful consideration should be given when designing the main entrances to the school and the likely congestion at peak times - in particular the safe pick up and drop off of pupils. Any set down-pick up parking area, which may be required as part of the brief, is not included in the school site area.
- f) Contours and undulations on the site will vary according to the topography of the area. A level site is recommended in order to minimise any requirement for earth shaping in order to accommodate buildings and playing fields.
- g) Services and an unobstructed access road for construction purposes are to be available to the site boundary for the building start date.
- h) Where practicable sub-soil to be suitable for normal building loads i.e. 3 storeys for secondary schools and single storey for most other educational buildings.
- i) The developer to be responsible for removing any encumbrances such as buildings, soil stockpiles and overhead lines prior to the building start on site date. Sites should be largely free from building constraints such as pipelines, brooks, pylons, sewers, trees with preservation orders, landfill sites or rights of way. Developers shall be responsible for securing any surveys, such as archaeological and site contamination investigations, as necessary.

⁹ A survey carried out in Milton Keynes showed that in the short to medium term, with any major housing development, pupil numbers initially are slow to build up but then accelerate before falling to a settled number.

- j) Sites should not be liable to flooding. A storm water outlet is required.
- k) Sites should not be adversely affected by noise (e.g. traffic from major roads).

Appendix 4: Minimum Site Areas

Key Formulae are based on Building Bulletins 98 and 99 – Briefing Framework for Secondary and Primary School Projects. Minimum site areas for different size primary and secondary schools are shown below:

| <----- Minimum Site Areas (sqm) -----> | | | | | | | | | | | | | |
|--|------------------|-------------------------|---------------|---------|--------------------|------------------------------|--------------------|---------|-------|---------------------|--------------|--------------------|------------------------------------|
| | Admission Number | Capacity (excl Nursery) | Nursery (FTE) | Pitches | Soft Play (Social) | Games Courts (Hard Surfaces) | Hard Play (Social) | Habitat | Float | Total Net Site Area | Non-Net area | Nursery Attachment | Total Gross Site Area incl Nursery |
| Primary | 15 | 105 | 13 | 2100 | 1063 | 810 | 558 | 305 | 525 | 5360 | 1340 | 163 | 6863 |
| | 30 | 210 | 26 | 4200 | 1325 | 1020 | 715 | 410 | 1050 | 8720 | 2180 | 325 | 11225 |
| | 45 | 315 | 39 | 6300 | 1588 | 1230 | 873 | 515 | 1575 | 12080 | 3020 | 488 | 15588 |
| | 60 | 420 | 52 | 8400 | 1850 | 1440 | 1030 | 620 | 2100 | 15440 | 3860 | 650 | 19950 |
| | 90 | 630 | 78 | 12600 | 2375 | 1860 | 1345 | 830 | 3150 | 22160 | 5540 | 975 | 28675 |
| Upper | 120 | 720 | | 35200 | 2600 | 2040 | 1480 | 920 | 4600 | 46840 | 11640 | | 58480 |
| | 150 | 900 | | 41500 | 3050 | 2400 | 1750 | 1100 | 5500 | 55300 | 13800 | | 69100 |
| | 180 | 1080 | | 47800 | 3500 | 2760 | 2020 | 1280 | 6400 | 63760 | 15960 | | 79720 |
| | 210 | 1260 | | 54100 | 3950 | 3120 | 2290 | 1460 | 7300 | 72220 | 18120 | | 90340 |
| | 240 | 1440 | | 60400 | 4400 | 3480 | 2560 | 1640 | 8200 | 80680 | 20280 | | 100960 |
| | 270 | 1620 | | 66700 | 4850 | 3840 | 2830 | 1820 | 9100 | 89140 | 22440 | | 111580 |
| | 300 | 1800 | | 73000 | 5300 | 4200 | 3100 | 2000 | 10000 | 97600 | 24600 | | 122200 |
| Grammar | 120 | 840 | | 39400 | 2900 | 2280 | 1660 | 1040 | 5200 | 52480 | 13080 | | 65560 |
| | 150 | 1050 | | 46750 | 3425 | 2700 | 1975 | 1250 | 6250 | 62350 | 15600 | | 77950 |
| | 180 | 1260 | | 54100 | 3950 | 3120 | 2290 | 1460 | 7300 | 72220 | 18120 | | 90340 |
| | 210 | 1470 | | 61450 | 4475 | 3540 | 2605 | 1670 | 8350 | 82090 | 20640 | | 102730 |
| | 240 | 1680 | | 68800 | 5000 | 3960 | 2920 | 1880 | 9400 | 91960 | 23160 | | 115120 |
| | 270 | 1890 | | 76150 | 5525 | 4380 | 3235 | 2090 | 10450 | 101830 | 25680 | | 127510 |
| | | 300 | 2100 | | 83500 | 6050 | 4800 | 3550 | 2300 | 11500 | 111700 | 28200 | |

An area greater than the minimum will usually be required for each category. The overall recommended net and gross area allows for the average area required under each category, through the provision of a 'float'. The float can be used to provide additional accommodation where it is most needed by each school.

Games Courts (hard surfaced) count towards the current Education (School Premises) Regulations 1999 requirement for team game playing fields (see below) only if it is used for team games. All weather pitches can be counted twice as they can be used for significantly more than seven hours a week required of team game playing fields.

Non-net area for buildings includes kitchens, toilets and circulation. Non-net area for sites include (i) the footprint of all buildings (ii) delivery access (iii) refuse areas (iv) entrance paths (v) car parking and may vary depending on the position and layout of the site or buildings. They also ensure flexibility and adaptability to allow for change (such as the governments promotion of access and inclusion of pupils with SEN, developments in the Early Years and 14 to 19 curriculum and the DfE requirement to introduce hot school meals) or short term peaks in pupil numbers typical of all major development.

The Government is encouraging the provision of healthy school lunches by ensuring that all children have access to at least one hot school meal each day. Government guidance recommends that these meals are freshly cooked and where possible prepared on the premises from local ingredients; and served, presented and consumed in surroundings which encourage children to use the schools' catering facilities. In accordance with this aspiration, our estates policy requires building plans for all new schools to include the provision of kitchen and dining areas.

Area guidelines exclude facilities not available to the school for more than 80% of the school day that would normally require supplementary net area such as children centres, specially resourced provision or community facilities.

Building and site areas for special schools will be based on building bulletin 102 and will depend on the age and type of SEN of the pupils.

The table below shows the statutory minimum area required for team game playing fields:

| <i>Total number of pupils who have attained the age of 8 years (i.e. Year 4 and above) including post 16 pupils</i> | <i>Minimum total area in m²</i> | |
|---|--|--------------------------|
| | <i>Primary Schools</i> | <i>Secondary Schools</i> |
| 100 or fewer | 2,500 | 5,000 |
| 101 to 200 | 5,000 | 10,000 |
| 201 to 300 | 10,000 | 15,000 |
| 301 to 400 | 15,000 | 20,000 |
| 401 to 500 | 20,000 | 25,000 |
| 501 to 600 | 25,000 | 30,000 |
| 601 to 750 | 30,000 | 35,000 |
| 751 to 900 | 35,000 | 40,000 |
| 901 to 1,050 | 40,000 | 45,000 |
| 1,051 to 1,200 | 45,000 | 50,000 |
| 1,201 to 1,350 | 50,000 | 55,000 |
| 1,351 to 1,500 | 55,000 | 60,000 |
| 1,501 to 1,650 | 60,000 | 65,000 |
| 1,651 to 1,800 | 65,000 | 70,000 |
| 1,801 to 1,950 | 70,000 | 75,000 |

- Team game playing fields are playing fields (i.e. open air recreational space) having regard to their configuration are suitable for the playing of team games and are laid out for that purpose. Their location, size and shape should be based on a number of considerations including the statutory requirements, safety considerations, gradient, relationships between winter games pitches and summer athletics and cricket provision, orientation of pitches and accessibility.
- For a playing field to count towards the minimum requirement, it should be able to sustain the playing of team sports for at least 7 hours a week during term time;
- Any part of team game playing fields which has an all weather surface, (that is to say a hard porous surface, a synthetic surface or a polymeric surface) may be treated as if it were twice its actual area.
- Regulations do allow for a 'reasonable' reduction in the minimum area if suitable alternative facilities are available either at the school or elsewhere locally.