

SCHOOL SITES AND COMMUNITY SPORTS PROVISION

PLANNING BULLETIN 16



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INTRODUCTION



On the 8 November 2004, new guidance was introduced by the Department for Education and Skills to protect school playing fields and land for academies. This guidance relates to obtaining consent from the Secretary of State for Education and Skills for the disposal or change of use of school playing fields. This is a separate consent framework to requirements under the planning system concerning developments on playing fields, which is covered in Planning Policy Guidance Note (PPG) 17, which was revised in July 2002.

Whilst the protection of school playing fields is strengthened, the Government has also introduced programmes aimed at renewing school sites, upgrading facilities and encouraging schools to branch out their role to the community. The dual use of facilities outside of school hours is encouraged, including schools' sports facilities – something Sport England has long been advocating.

This bulletin explores the requirements for schools to extend their range of activities on offer in the context of a general presumption against development on school playing fields.

BUILDING SCHOOLS FOR THE FUTURE (BSF)

BSF is a 15-wave Government programme, with the principal aim of transforming secondary education through providing funding for rebuilding and renewing secondary schools to 21st-century standards. Funding is considerable, with £2.1 billion being allocated to the programme for capital investment in 2005-2006 alone. To oversee the programme, a new non-departmental public body called Partnerships for Schools, a joint venture between the Department for Education and Skills (DfES) and Partnerships UK has been set up. Further waves will be announced every two years, with the last wave due to receive funding in 2015. In addition to the secondary school programme, there is substantial new investment being provided to improve primary school buildings. In total, £5.2 billion of capital funding will be available for schools in 2005-06.

The DfES's document 'BSF Local Authority Education Vision – Policy Guidelines for Wave 1', (2004) document summarises the thinking as follows:

“SCHOOL BUILDINGS ARE VITAL TO PUPILS’ EDUCATION. IMPORTANTLY, THEY SHOULD SUPPORT OUR EDUCATIONAL VISION OF HIGH EXPECTATIONS, DIVERSITY, SPECIALISM AND EXCELLENCE, LOCAL COLLABORATION, COMMUNITY INVOLVEMENT AND HIGH-QUALITY TEACHING AND LEARNING.”



New or refurbished buildings can help motivate and influence school staff and pupils. This, in turn, can have a direct effect on teaching and learning. BSF will also contribute towards wider regeneration efforts in many local authorities.

The Government is seeking to improve project/programme management and procurement in the public sector, including in the BSF programme. In central Government this is covered by the Office of Government Commerce and their Gateway review process and in local government by the 4ps. All BSF projects are expected to undergo 4ps Gateway Reviews at certain stages of their development.

In practice, three main statutory permissions may be required in any BSF proposal:

- Planning Permission
- Consent from the Secretary of State for Education and Skills, under Section 77 of School Standards and Framework Act 1998 (SSFA), may be required if the BSF proposal involves the disposal or change of use of school fields. Revised guidance on the protection of school playing fields: “The Protection of School Playing Fields and Land for Academies” was issued on 8 November 2004 (DfES 2004 Local Authority Education Vision – Policy Guidelines for Wave 2) playing
- School Organisation Committee approval to any statutory proposals required in relation to school organisation changes.



THE EXTENDED SCHOOL

An extended school is one that provides a range of services and activities often beyond the school day to help meet the needs of its pupils, their families and the wider community.

The Education Act 2002 enables governing bodies to provide family and community services and facilities. The 2002 Act also allows governing bodies the flexibility to enter into agreements with partners to provide services on school premises and to charge for the services offered.

According to DfES guidance on The Protection of School Playing Fields and Land for Academies, school premises are a resource for both pupils and the wider community. Schools and Local Education Authorities (LEAs) can build on this role to create a sense of belonging to the school among parents and local people. This can be achieved by giving priorities to activities which support pupils’ learning and provide for the wider community generally, such as: schemes for homework; after school clubs; study support activities and; adult learning and family learning opportunities. In doing this, schools should seek to develop their premises and facilities, which have the capacity to enhance links with the local communities. Indeed, in many locations the

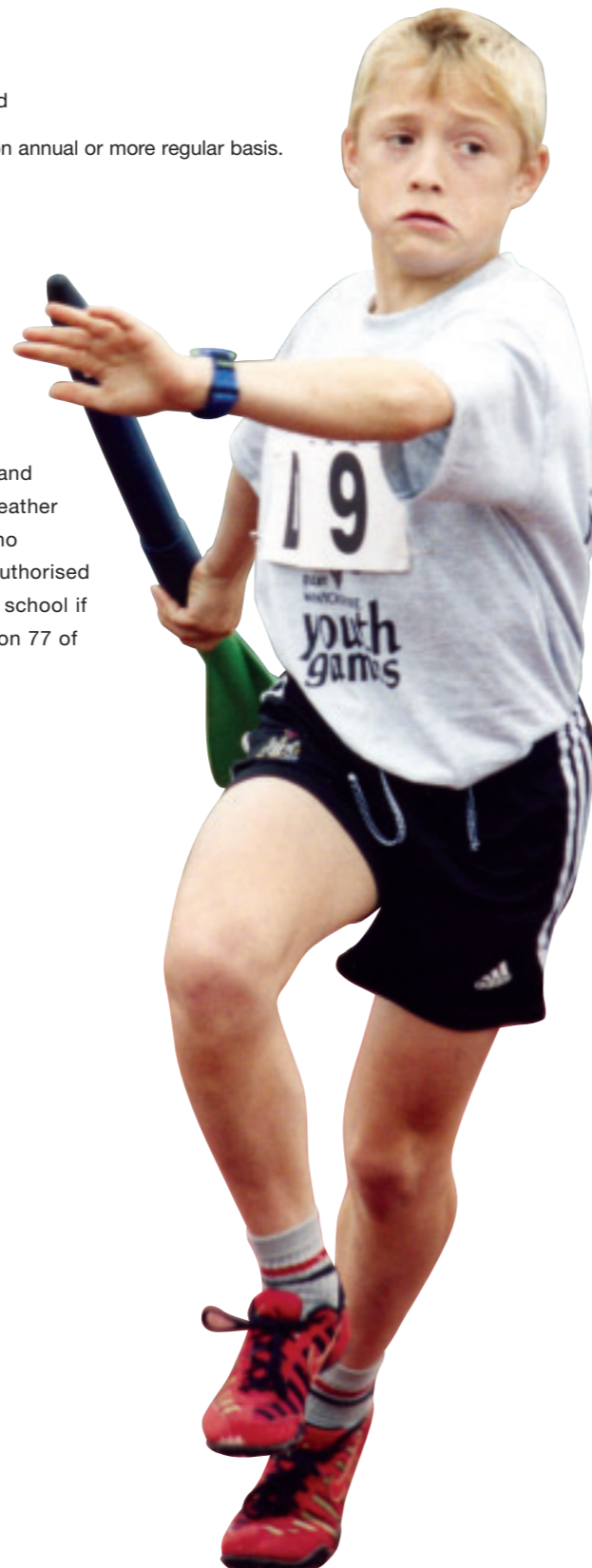


school is the main, or even the only place that can provide for the local community in terms of sports, arts and other facilities, including access to school playing fields.

By developing schemes and links with the local community as part of an extended remit, a school might consider the scope to develop on its land in order to achieve this. Any loss of playing fields however should not be at the expense of any existing after school activity. This could include use by:

- local sports club for practice or playing arranged games;
- local youth and community groups for sport or recreation; and
- charitable groups for fetes, sports days, fund raising events on annual or more regular basis.

The DfES highlight that school playing fields can sometimes be misconceived as accessible public open space in the local community. School playing fields are provided primarily for the physical education and enjoyment of children who attend the school. Nevertheless, schools can make their playing fields available for authorised community use. However, unauthorised use at the weekends and evenings, will affect the grass pitches carrying capacity and over use, particularly during periods of extreme dry or wet weather can lead to the quality of the fields suffering, where there is no management of recovery periods. These authorised and unauthorised uses of school playing fields have different implications for a school if it makes an application to the Secretary of State under Section 77 of the School Standards and Framework Act 1998 (SSFA).



SECTION 77 OF THE SCHOOL STANDARDS AND FRAMEWORK ACT 1998 THE PROTECTION OF SCHOOL PLAYING FIELDS AND LAND FOR ACADEMIES 2004



Section 77 of the SSFA requires local authorities or the schools governing body to obtain the consent of the Secretary of State for Education and Skills before taking action to dispose or change the use of any playing fields. It effectively empowers the Secretary of State to protect school playing fields in England from disposal or change of use. The Secretary of State's revised guidance: the "Protection of School Playing Fields and Land for Academies" issued on 8 November, 2004 gives a general presumption against the need to dispose or change the use of school playing fields. The 2004 Guidance continues the presumption introduced by the previous Guidance that only sport pitches surplus to needs of the local schools and their communities may be sold and that all proceeds should be reinvested into improving sport or educational facilities.

Further, the 2004 Guidance ensures that:

- the sale of a playing field must be an absolute last resort, with Authorities having to demonstrate they have exhausted all other sources of funding for the proposed new school sports facility;
- the sale proceeds must be used to improve outdoor facilities wherever possible. Local Authorities will have to provide first class outdoor facilities before introducing new indoor facilities; and
- new sport facilities must be sustainable for at least 10 years, with agreements being required to ensure new facilities will be available to pupils in the long term.



In assessing applications under Section 77 of the SSFA the Secretary of State will need to distinguish between authorised and unauthorised uses of playing fields, as only authorised uses will be taken into account during assessment. Uses of school playing fields will need to be looked at very closely to ascertain whether they are authorised or not and schools therefore need to manage the role they play in providing an extended function to the community. Each Section 77 application will need to detail exactly the existing use of any playing fields that are to be developed. Sport England will assess the potential for additional community use of playing fields through the planning system.

THE TWO SEPARATE FRAMEWORKS OF CONSENT

It is vital for any school to recognise that consent under Section 77 of the SSFA is entirely separate from obtaining planning permission for any development of school playing fields. Consents and permissions under both frameworks may be required. From advice given by Partnerships for Schools, both should be sought at an early stage of any project.

A grant of an application for planning permission will not have a bearing on an application under Section 77 of the SSFA, and vice versa. Both are entirely separate frameworks for different purposes but this may not be immediately obvious to applicants at the outset. Their understanding may be further impaired by generic references to the 'Secretary of State' and 'change of use'. Both terms have separate identities/meanings under each framework, and the differences may cause confusion to both schools and the general public's understanding of the requirements.

This potential confusion is not helped further by the fact that the DfES and The Office of the Deputy Prime Minister (ODPM) also have different definitions for playing fields:

THE ODPM DEFINITION CONTAINED IN THE TOWN AND COUNTY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995:

- (i) "playing field" means the whole of a site which encompasses at least one playing pitch;
- (ii) "playing pitch" means a delineated area which, together with any run-off area, is of 0.4 hectares or more, and which is used for association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo or cycle polo."

In its capacity as a Statutory Consultee, Sport England must be consulted on development which:

- (i) is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field; or
- (ii) is on land which has been:
 - (a) used as a playing field at any time in the 5 years before the making of the relevant application and which remains undeveloped; or
 - (b) allocated for use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement; or
- (iii) involves the replacement of the grass surface of a playing pitch on a playing field with an artificial, man-made or composite surface.

THE DFES DEFINITION OF PLAYING FIELDS AS DESCRIBED IN SECTION 77 OF THE SCHOOL STANDARDS AND FRAMEWORK ACT IS:

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

DFES TAKES THIS TO INCLUDE:

- Grass pitches and artificial surfaced pitches;
- Hard surface games courts;
- Informal and social areas (including playgrounds, outdoor seating, quiet areas, other grassed or paved areas);
- Marginal Areas (areas around playing fields);
- Habitat Areas (gardens, wildlife, nature trails, livestock enclosures);
- Local Authority Parkland (used, or having been used by a maintained school in the last 10 years).

Areas such as car parks, paths and the area directly around buildings are excluded.

DFES THEN GO ON TO DEFINE A 'SPORTS PITCH' AS:

- 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 2,000 m². It should also have a configuration and topography making it suitable for a sports pitch, whether it is laid out or not;
- Synthetic or artificial playing surface, or dedicated hard games court of more than 2,000 m² that is set out for team games.

The key differences are:

- Definition of a Playing Field. The DfES' definition is wider than that of the ODPM and can include wildlife areas, playgrounds, paved areas and informal seating areas. This goes beyond the ODPM's definition, which focuses on a playing field including at least one marked out pitches used for a particular sport.
- Length of time since a playing pitch was last used. ODPM's definition is that a playing field must have been used or allocated in a development plan, for that purpose in the last five years. In contrast, DfES will consider land to be playing field if used as such within the last ten years.
- Minimum size of a playing pitch. ODPM states a pitch's minimum size to be 0.4 ha, the equivalent of a junior soccer pitch whilst the DfES states is 0.2 ha, the equivalent of the Football Association's standard mini soccer pitch.
- Hard Games courts. These are included in the DfES definition of a 'sports pitch' but excluded from ODPM's.



Publicity surrounding the publication of the revised DfES guidance in November 2004 made little reference to the need for a planning application. Equally, no reference is made in PPG 17 published July 2002 to the need to obtain the approval of the Secretary of State for Education in development proposal affecting playing fields. Understanding of both statutory frameworks will not be assisted by this lack of cross-referencing.

POLICY – EDUCATION

The Secretary of State for Education and Skills' policy for assessing applications under Section 77 is summarised under three main headings.

1. Schools' Needs

The applicant will be expected to demonstrate that the school in question can still meet the minimum needs requirements as set out under the Department for Education and Skill's recommendations. Minimum team game playing field areas are prescribed in The Education (School Premises) Regulations 1999. Further guidelines are set out in Building Bulletins 98 and 99: *Briefing Framework for Secondary School Projects* and *Briefing Framework for Primary School Projects*, respectively (these supersede Building Bulletin 82: Area Guidelines for Schools).



In some cases, where two schools share a campus, applicant schools will have to demonstrate the other schools can also meet the minimum requirements for team game playing fields. Where a pitch is shared it needs to be capable of sustaining 7 hours of use per week by each school that uses it.

The applicant will also be expected to demonstrate that the needs of other local schools are met, if it is applying for permission to sell land that is suitable for use as a sports pitch.

2. Community Needs

The extended school concept will be applied to assessing Section 77 applications. Each application should detail the existing community use for playing fields. Community users should be consulted where they are likely to be affected by proposals and when it is proposed to move users to alternative venues.

3. Finance

Each application must set out the proposed financial implications including the expected proceeds. Proceeds should be ring fenced to enhance or improve on site sports facilities, particularly outdoor facilities. Improvements of other school sites will be expected where the disposing school has sufficient high quality indoor and outdoor facilities for both school and community uses. In individual circumstances, proceeds may be used to improve educational facilities in line with local School Development and Asset Management Plans.

Alongside the three criteria above, a consultation exercise is also necessary. Consultation should therefore include staff and parents of pupils of the school in question, other local schools, parish/town councils, any user group and community groups together with the wider community generally. Planning Policy Statement 1 Delivering Sustainable Development (January 2005) sets out five principles for effective community involvement. Although PPS1 is a planning policy, the five principles can apply equally to consultation under section 77 of the SSFA.



The five principles are:

- tell communities about emerging policies and proposals in good time;
- enable communities to put forward ideas and suggestions and participate in developing proposals and options. It is not sufficient to invite them to simply comment once these have been worked-up;
- consult on formal proposals;
- ensure that consultation takes place in locations that are widely accessible; and
- provide and seek feedback.



POLICY – PLANNING

The contents of PPG 17 will be familiar to readers of previous editions of the Planning Bulletin. Paragraph 10 of PPG 17 requires developers to show that the land for development is surplus to requirements for open space, sport or recreation. Developers are then required to show that their proposals are widely supported through consultation with the wider community.

Paragraph 15 of PPG 17 addresses playing fields. It explains that in the absence of a need assessment, planning permission should only be allowed for development involving a playing field where:

- development is ancillary to the use and would not affect the quantity or quality of the pitches and use;
- development affects land which is incapable of forming a playing pitch (or part of one);
- the playing field lost would be replaced by a playing field of equivalent or better quality;
- the development proposed is for an outdoor or indoor sports facility of sufficient benefit to the development of sport to outweigh the loss of the playing field.



Paragraph 15 of PPG 17 closely follows Sport England’s own policy statement on playing fields (*A Sporting Future for the Playing Fields of England*, 1998), which will oppose any planning application if it would lead to the loss of, or prejudice the use of, all or any part of a playing field unless it meet one of five exceptions.

In addition to being a statutory consultee on planning applications that affect playing fields, further protection is given under Circular 12/98 which states that, where local planning authorities are minded to approve a planning application against Sport England’s advice on land owned by a local authority, or used by an educational establishment, they must notify the local government office. The Government Office then decides whether the application should be called in by the Secretary of State. Schools therefore need to gain the support of Sport England in any planning application they submit.



Consultation will also be different under the planning system, with the school having to consult wider than the current users, to include potential users of the playing field as set out in paragraph 15 of PPG 17. PPG 17 under paragraph 10 requires consultation to be with the local community and to demonstrate the proposals to be widely supported by that community. Although the companion guide to PPG 17 gives detailed guidance on undertaking local needs assessments, it does not provide guidance on the consultation exercise required for planning applications. In this respect, the five principles on consultation as set out in PPS1 would be useful here.

REQUIREMENTS FOR SCHOOLS

Schools may therefore be caught in a conflict. On one hand they are encouraged by initiatives to develop and modernise facilities; on the other had they are restricted by protection measures in place against development on playing fields.

The emphasis on consultation in the community will require this potential conflict to be resolved locally where possible.

Schools will need to engage the advice of the organisations involved: Partnerships for Schools; Sport England and; local education and planning authorities at an early stage if they are to successfully balance their responsibilities. In many cases under BSF, because the local education authority is not selling any of the land, the proposal to build on the playing field area may fall under General Consent and therefore be fast-tracked under Section 77. The likelihood under BSF is that in many cases, new school building schools will be built on the existing school's playing field, with the playing field being re-instated on the site of the existing school buildings once the new school has been opened.

A holistic approach is required with applicant schools providing facilities for community use as part of a local sport and recreation strategy and playing pitch strategy. In terms of BSF projects, this will need to be done as early as possible in the development process, prior to procurement. Having decided on which facility to enhance and develop, it will then be necessary to secure formal agreements to allow access to that facility. Community use, out of school hours, can be formalised through Community Use Agreements secured under Section 106 of the Town and Country Planning Act 1990. Such agreements have legal status and implications and the whole planning permission could be in jeopardy if the terms of the agreements are not complied with.

It therefore follows that community use of school facilities will form a major part of any case for development affecting school playing fields. This will particularly be the case where applications seek to rely on one of the exceptions (in paragraph 15 of PPG 17 and Sport England's specific circumstance) where it is indicated that the proposed development has sufficient benefit to the development of sport to outweigh the loss of the playing field.

Applicant schools will also need to be aware of the site planning constraints for their proposals. An example discussed in Planning Bulletin 14 is floodlighting. Floodlighting is essential for maximising the potential of new outdoor sport facilities particularly during out of hours use by community groups. Their use however may be restricted, often by planning conditions, where they are sited in Green Belts, or close to houses or other sensitive locations. Again, advice should be sought at an early stage of the design process.

CASE STUDY 1: HENBURY SCHOOL PFI PRE BSF PROPOSAL

Location: Henbury School, Bristol

Proposal: Demolition of existing school and rebuild new school; provision of new sports facilities and residential development of 2.5 ha of existing school playing fields.

Applicant: Bristol City Council/HBG Construction

Summary:

- One of 4 Bristol Schools PFI project – Government allocated £57.3m
- Proposal involves building new secondary school on existing playing fields, followed by demolition of existing school and laying out new pitches, with residential on 2.5 ha.
- Sport England pre-application advice was that they would oppose the (then) proposed loss of 4.0 ha of playing fields – loss of 2.5 ha would need to be fully justified in terms of other benefits to sport.
- Existing Sports Facilities:
 - o 7 grass winter pitches of varying quality
 - o 2 cricket pitches + cricket nets
 - o 9 tennis courts, 6 netball courts, long-jump
 - o 2 small one court sports halls, at poor quality, with some limited community use
 - o 20m x 3 lane pool, with some community use
- Sports proposals include:
 - o 4 grass winter pitches (with drainage) + full size floodlit STP
 - o 2 cricket pitches + cricket nets
 - o Grass running track (400m) + long jump, high jump
 - o Floodlit Multi Use Games Area (4 tennis courts)
 - o New 4 court sports hall, with changing (school and community)
 - o Land for new 25m community swimming pool

All to be made available for community use, secured by means of a Community Use Agreement.



CASE STUDY 2: LANCASHIRE COUNTY COUNCIL BSF WAVE 1

Current position:

- Lancashire confirmed as a Wave 1 Authority in the Building Schools for the Future programme.
- Proposals subject to gateway reviews and Schools Organisation Committee approval.
- Design briefing to begin in Spring 2005.
- Design framework or space requirements for new Secondary Schools have been established. Guidance allows scope for discretion on size, organisation and location of various spaces to provide added value to meet individual school needs.
- Next stage is to consider particular building and site requirements for new school buildings.

Proposals for Wave 1 in Burnley:

- Replace the existing eight secondary schools, building five new 11-16 schools.
- Build new separate sixth form centre replacing existing school sixth form's.
- Co locate special school provision with one of the proposed new schools.



CASE STUDY 3: NOTTINGHAM CITY COUNCIL BSF WAVE 2

Current position:

- Nottingham confirmed as a Wave 2 Authority in the Building Schools for the Future programme.
- Consultation has already taken place with head teachers on the core elements of the business statement case.
- Strong support expressed for all secondary schools becoming extended schools, giving some educational provision outside of the normal school day.
- The City Council was invited to submit revised proposals for expenditure of approximately £84m under wave 2. A further bid was also invited, and they will be receiving funding under a later wave.
- Special School Reorganisation to be funded through BSF programme.

The programme in Nottingham is to include:

1. One new build school.
2. Three replacement schools.
3. A merger of certain schools and technology colleges.
4. Completion of next phases of existing rebuild schemes.
5. A refurbishment of schools programme.
6. Possible relocation and rebuild of one further school.

APPENDICES

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FURTHER READING

- DfES
Building Schools for the Future.
BSF Overview for Local Authorities.
Nov 2004
- DfES
Building Schools for the Future.
Local Authority Education Vision – Policy Guidelines for Wave 2
draft
London : DfES 2004a
- DfES
Building Schools for the Future.
Guidance for local authorities on improved joined up-planning
and funding.
Nov 2004
- HMSO
The Protection of School Playing Fields and Land for Academies
London : DfES 2004b
- HMSO
Building Bulletin 98 : Briefing Framework for Secondary School
Projects
London : DfES 2004c
- DfES
Building Bulletin 99 : Briefing Framework for Primary School
Projects (first draft)
Available at Lancashire County Council
Building Briefing Guide : Secondary School Projects, 2004
Available at www.lancashire.gov.uk/education/bsf
- HMSO
PPG 17 Planning for Open space, Sport and Recreation
London : ODPM 2002
- HMSO
Assessing Needs and Opportunities : A Companion Guide to
PPG 17
London : ODPM 2002
- HMSO
PPS1 Delivering Sustainable Development
London : ODPM 2005
- Sport England
Planning Policies for Sport
London : Sport England 1999

Sport England
A Sporting Future for the Playing Fields of England
London : Sport England 1998

Staffordshire County Council
Extended Schools – A Policy Guidance Paper
Stafford : Staffordshire County Council 2004



WEBSITES

- Building Schools for the Future
www.bsf.gov.uk
 - Department for Education and Skills
www.dfes.gov.uk
 - 4ps - Public Private Partnership Programme
www.4ps.gov.uk
 - Lancashire County Council
www.lancashire.gov.uk
 - The National Institute of Adult Continuing Education
www.niace.org.uk
 - Office of Government Commerce
www.OGC.gov.uk
 - Partnerships for Schools
www.p4s.org.uk
 - Sport England
www.sportengland.org
 - Teachernet
www.teachernet.govco.uk
- Companion titles in the Planning Bulletin series**
- Issue 1: Playing Fields
 - Issue 2: Strategic Planning for Sport
 - Issue 3: Intensive-use Sports Facilities
 - Issue 4: Planning Obligations for Sport
 - Issue 5: Sport in the Urban Fringe
 - Issue 6: Land-based Motor Sports
 - Issue 7: Stadia, Football Academies and Centres of Excellence
 - Issue 8: Playing Fields for Sport Revisited
 - Issue 9: Planning for Water Sports
 - Issue 10: Sport and Regeneration
 - Issue 11: Commercial Sports Provision
 - Issue 12: Planning for Open Space
 - Issue 13: Sport in the Green Belt
 - Issue 14: Intensive Use Sports Facilities Revisited
 - Issue 15: Strategic Planning for Sport Revisited

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