



The School Playing Fields General Disposal and Change of Use Class Consent (No 7) 2023

1. The Secretary of State for Education, in exercise of the powers conferred by section 77(5) of the School Standards and Framework Act 1998, hereby grants the following consent.
2. This consent comes into force on 15 May 2023 and may be cited as “The School Playing Fields General Disposal and Change of Use Class Consent (No 7) 2023”.
3. In this consent:

‘the 1998 Act’ means the School Standards and Framework Act 1998;


‘change of use’ means a change of use falling within section 77(3) of the 1998 Act;

‘playing fields’ has the same meaning as in section 77(7) of the 1998 Act.
4. Consent is hereby granted to the disposal or change of use of playing fields to which section 77(1) or (3) of the 1998 Act applies, where the disposal or change of use is of a description specified in the Schedule.
5. This consent is granted subject to the condition that a body or trustees disposing or changing the use of playing fields adheres to any relevant guidance published from time to time by the Secretary of State and provides the Secretary of State with:
 - a) details of the location and area (in square metres) of the playing fields to be disposed of or have their use changed;
 - b) the area (in square metres) of the remaining playing field land (not subject to the disposal or change of use);
 - c) details of the total site area of the school (in square metres);
 - d) details of the number of pupils on the school’s roll;
 - e) the date or proposed date of the disposal or change of use;
 - f) an explanation as to why the body considers that the disposal or the change of use is covered by a class consent;

g) a plan clearly identifying the area in question in relation to the whole of the school site; and

h) where the disposal or change of use is at an operating school, the views of the headteacher and governing body.

6. The School Playing Fields General Disposal and Change of Use Class Consent (No.6) 2022 is hereby revoked.

Department for Education  Dated 15 May 2023

Schedule

1. The disposal of an interest in land in favour of a person for the purposes of an academy for no (or nominal) consideration where an Academy Order has effect in respect of a maintained school which uses the land and the school is to be an academy (including free schools, studio schools and university technical colleges).
2. The disposal or appropriation of an area of land less than 50 square metres, where such land is required for the purposes of either:
 - a) constructing, maintaining, or servicing a highway; or
 - b) health and safety requirements; or
 - c) enabling the provision of gas, water, electricity or broadband;subject to the school supporting the proposal.

'broadband' means the provision of broadband internet via underground cables.
3. A disposal which involves the granting of a leasehold interest in the whole school site, including the playing fields, to facilitate an existing agreement under a Private Finance Initiative, provided there is no net loss of school playing fields.
4. Temporary disposal or change of use of a school playing field provided that:
 - a) the temporary disposal or change of use is for no longer than 3 school terms;
 - b) the Secretary of State is satisfied that the school is still able to deliver the curriculum to at least the same extent as it was able to pre-disposal or change of use; and
 - c) the applicant has provided written confirmation to the Secretary of State that the land will be returned to at least the same condition that it was beforehand.
5. The disposal of playing fields to a not-for-profit organisation when the following conditions are met:
 - a) the terms of the disposal agreement provide that any school or community user group using the playing fields in the 6 months immediately before the transfer may continue to do so for at least 10 years following the date of the disposal, during which time they will have access to the playing fields for at least the same periods and on the same, or more favourable, terms as they did before the disposal; and either
 - b) the constitution of the receiving organisation obliges that organisation to maintain them as playing fields; or

- c) the terms of the disposal agreement require that organisation to maintain them as playing fields for at least 10 years from the date of disposal; or
- d) the disposal is to a local authority and the receiving authority has given an undertaking that the playing fields will continue to be used as school/community playing fields for at least 10 years from the date of disposal.

6. The disposal of hard play areas and enclosed social areas and other ancillary social and recreation or habitat areas that surround the buildings at closed or closing school sites provided that either:

- a) no other schools share or border the site; or
- b) the body seeking to dispose of the land can satisfy the Secretary of State that the areas in question are not needed by any other schools which share or border the site

'Hard play area' means incidental recreation area with tarmac, concrete or paved surface. It does not include areas provided mainly for any type of sport.

'Enclosed social area' means social areas, not used for any type of sport, which are enclosed on at least 3 sides by school buildings.

7. The grant of an easement and/or a wayleave over playing fields where such land is required for the purpose of either:

- a) constructing, maintaining, or servicing a highway; or
- b) health and safety requirements; or
- c) enabling the provision of gas, water, electricity or broadband;

subject to the school supporting the proposal.

'broadband' means the provision of broadband internet via underground cables.

8. The disposal or change of use of playing fields ("the original playing fields") where, upon that disposal or change of use, any school which used the original playing fields in the 6 months immediately before the disposal or change of use will have made available to it replacement playing fields, provided that all of the following requirements are met:

- a) the replacement playing fields are of at least the same area as the original playing fields;

- b) the replacement playing fields are capable of sustaining 7 hours use a week per school that will have use of those playing fields;
 - c) the replacement playing fields are immediately available to any schools which used the original playing fields on the same, or more favourable terms as the original playing fields had been;
 - d) the replacement playing fields have the same or better standards of facilities as the original playing fields;
 - e) the location of the replacement playing fields is such that the schools using them are able to carry out the curriculum to at least the same extent as they were on the original playing fields;
 - f) the replacement playing fields do not comprise land at another open school's site; and
 - g) there is no reduction in the amount or type of sports provision currently available to the schools who used the original playing fields.
9. The disposal of playing fields where they are not a school's own provision of playing fields but fall within section 77 only by reason of a school's temporary or occasional use of them.
- 'school's temporary use' means use as a school's main playing fields for a maximum of 3 school terms in the last 10 years or use only whilst the school's own playing fields could not be used by the school for reasons outside the school's or local authority's control.
- 'school's occasional use' means either an infrequent and informal use without prior agreement, or a formal use but only by specific pupils or for a set purpose on an infrequent basis.
10. The change of use of playing fields to allow the reconfiguration of school sites, where the following conditions are satisfied:
- a) after the project is completed the school will have at least the same size and quality of playing fields as it had before - there must be no net loss;
 - b) there is no disposal of playing fields;
 - c) the local authority and/or school ensures that the requirements of the School Premises Regulations 2012 continue to be met.
11. The change of use of playing fields to accommodate an expansion in pupil places at the same school site where the following requirements are met:

- a) the loss of playing fields is either:
 - i) 5% or less of the school's existing amount of playing fields regardless of whether the school will meet 100% of its guideline amount following the change of use; or
 - ii) more than 5% but less than 15% of the school's existing amount of playing fields where the school will continue to meet at least 100% of its guideline amount following the change of use; and
- b) this paragraph 11 has not been relied on for another change of use of playing fields at the same school site within the past three years; and
- c) the school supports the proposal.

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