



Department  
for Education

# Education provision in garden communities

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## Summary

This publication provides non-statutory guidance from the Department for Education. It has been produced to help address a number of queries frequently posed to Homes England by local planning authorities and their delivery partners involved in delivering Garden Villages and Garden Towns as part of the government's Garden Communities programme.

## Expiry or review date

This guidance will be reviewed before January 2020.

## Who is this publication for?

This guidance is for:

- Local planning authorities involved in the garden communities programme
- Homes England to facilitate the effective delivery of schools as part of garden communities

## Introduction

1. The Garden Towns and Villages Programme established by the Ministry of Housing, Communities and Local Government (MHCLG) is aimed at supporting the delivery of new garden towns and villages across the country. Some of these are new stand-alone communities, others comprise substantial growth to an existing place to transform it. All share ambitions around delivering great places that people want to live, work and recreate in.
2. The majority of 'Garden Communities' are being planned as distinct, self-contained and sustainable new settlements where the aspiration is to provide for the needs of incoming residents (including new schools) on site and at the right time. New schools are an important place-making component of garden communities where early provision is usually critical in providing core social infrastructure to help a new community thrive, improve social integration and support the creation of sustainable travel patterns and a healthy environment. There is also strong evidence that early provision of key infrastructure such as a new primary school will impact positively on scheme viability and generate faster sales rates and higher values; developers therefore often welcome it. This in turn can significantly speed up the delivery of new housing.
3. The purpose of this note is to address a number of queries frequently raised by local planning authorities and their delivery partners involved in delivering the Garden Villages and Garden Towns as part of the government's Garden Communities programme. The answers below were provided by the Department for Education (DfE) in response to questions highlighted by Homes England.
4. A glossary of key terms and acronyms is included at the end of the document.

# Guidance

## 1. Supporting and facilitating the early delivery of schools within planned new garden communities

### 1.1 Securing the phased provision of primary and secondary schools at a sufficiently early stage in the development

Ensure that the developer engages with the Local Planning Authority (LPA), the Local Authority with education responsibilities (LAEr<sup>1</sup>) and DfE at an early stage to assess the need for new schools (primary, secondary, special educational needs, post-16) and proactively plan for new school provision where required i.e. the LAEr (working with the LPA) should:

- contact the relevant Regional Schools Commissioner (RSC) to ensure that there is a common understanding of action being taken to provide new places and to improve the quality of school places in the area, including whether any alternative free school applications have been made through the central route
- liaise with any groups that are, or are thinking about, applying for a free school via the Department for Education (DfE) central route as part of their review of how best to meet that need
- seek proposals to establish an academy (free school) as part of the new garden community via the presumption route (where there is no free school proposed via the central DfE route which might meet the identified need)<sup>2</sup>
- identify the anticipated number, type and size of schools required (based on a robust assessment of need and capacity), and work with the LPA to allocate sites for these in the local plan and ensure they are identified in the Infrastructure Delivery Plan/ Infrastructure Funding Statement
- consider the option of delivering a two-phase school from the outset (with the initial phase future-proofed for subsequent expansion), where need is anticipated to build up over a significant period (e.g. 5 years or more)
- consider viability constraints and any need to seek out alternative funding (e.g. Home Building Fund) to facilitate early delivery of a school or schools (e.g. where

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<sup>1</sup> Term and abbreviation used here to refer to the local authority that has responsibilities for education and children's services. This will be a county council in two tier local government areas, or in other areas a unitary authority, metropolitan district or London borough.

<sup>2</sup> For further details see:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/501328/Free\\_school\\_presumption\\_guidance\\_18\\_february.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501328/Free_school_presumption_guidance_18_february.pdf)

cash flow constraints and borrowing costs make forward funding from early stage developer contributions problematic)

## 1.2 Funding an under-provision if there are fewer pupils in the initial years of a new school

- The LAEr or free school trust (or third party on their behalf) must fund the under-provision (underwrite it). A financial plan is needed before DfE signs the school's funding agreement (tends to happen between 1 year and 6 months prior to opening). The plan will identify the minimum number of pupils required for the school to be viable. If this is 50 pupils, but only 45 will attend, the trust or LAEr will make up the difference. The Education and Skills Funding Agency (ESFA) may approach a LAEr and offer the option of deferring opening of the school for a year or the LAEr underwriting the undersupply.
- The PAN (pupil admission number) can be restricted, as long as the school can demonstrate financial viability. For example, the PAN could be restricted to 60 pupils for the first two years and then increased to 90 pupils after that. This could be stipulated in the school's funding agreement and/or potentially secured via planning condition or s106 obligation. However, LAEr's should be aware that opening a school below its full capacity (while it awaits pupils moving to the development) will have an effect on their basic need grant. LAEr's may prefer to deliver the school in phases using modular construction methods, linking capacity more closely to emerging need.
- Suitable Admission Arrangements must also be developed. For example, the Admission Arrangements might set a distance limitation when a school is over-subscribed (e.g. priority given to children living within a certain distance of the school) but must comply with the Schools Admissions Code, which requires that they are clear, fair and objective, and do not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special needs. In accordance with the Admissions Code, if a school is under-subscribed, any parent that applies must be offered a place. Parental demand for new schools can help to fill the school at an early stage (improving the school's viability and avoiding the need for under-writing of surplus places). However, out-of-catchment admissions could then prevent children from the development being able to access a place at the school, at least temporarily while the initial pupil cohort moves through the school.
- If a period of reduced need will be 5 years or more, stakeholders should consider building a school in two phases with the design of the initial phase future-proofed for subsequent expansion (e.g. oversized assembly hall, dining area and corridors), though it would be important to ensure a commitment to build out the second phase was secured appropriately.

### **1.3 Information to consider including in a site allocation policy or masterplan on school provision**

- Types and size of school(s) required
- Location(s) for school(s) and minimum site area(s) required (with reference to Building Bulletin 103 & 104).
- Any requirements for delivering a two-phase school from the outset (with initial phase future-proofed for subsequent expansion), and/or safeguarding of additional land for potential future expansion
- Anticipated trigger point for provision, where known (e.g. delivery to take place before a specific number of homes have been occupied)
- If schools are intended to share facilities with the community, this should be reflected in the masterplan
- Access/parking arrangements, where known
- Any site specific issues effecting the design e.g. flood risk, biodiversity protection/enhancement, air quality, local plan policy constraints

LPAs should make clear that any land allocated for a school must be safe and fit for purpose. Issues which will need to be assessed include: ground conditions; topography; contamination; flood risks and the proximity of incompatible land uses. Land should be transferred fully serviced and fit for use at nil cost.



## 2. Calculating education needs for new communities

### 2.1 Factoring in the demographic profile of new communities

- There is evidence that new build developments have higher child yields on average than the housing stock as a whole in early years (e.g. a larger number of families with young children moving in during the early stages) so this needs to be taken into account when setting child yield factors. There may also be value in developing site-specific profiles of the change in school place need over time for large, multi-phase residential developments. DfE is currently conducting research on this issue with a view to producing a recommended pupil yield methodology. Key stakeholders should consider the value of commissioning specific demographic modelling for the proposed new community at an early stage to help inform infrastructure delivery in the planning process.
- Guidance for the School Capacity Survey 2018 [here](#) made clear that pupil forecasts should only include expected pupil yields from housing developments that have a high probability of being delivered within the timeframe of the forecasts. In most cases such developments will have full planning permission. If a development that does not have full planning permission is expected to yield pupils within the forecasts timeframe, we expect that development to be present in the relevant planning authority's latest five year housing land supply. Wherever this is the case we may test the suitability of inclusion of such housing developments in SCAP forecasts by reviewing evidence on the site's deliverability and assessing delivery against previous five year housing land supplies plans in the relevant planning authority.

### 2.2 Basic need funding and early provision

- The DfE recognises that new schools can support community building and help to accelerate housing delivery. Basic need funding (the money we give LAERs each year to help them fulfil their duty to make sure there are enough school places for children in their local area) is not ring-fenced, allowing LAERs discretion on the timing of new school place delivery. It is of course important that schools are financially viable, and therefore providing places too far in advance of demand can create excessive risks to that, and reduce subsequent basic need funding allocations.
- It is also right that we allocate available resources fairly between LAERs, based on well-evidenced need for places, using a consistent methodology. Basic need allocations are driven by LAER forecasts. Therefore, it is important that these forecasts accurately reflect pupil yields from new housing developments which have planning permission or where there is a high degree of certainty they will proceed within the forecasting window. DfE does not think developments with less certainty than this should be included in LAER forecasts. Bear in mind that basic

need funding is adjusted to take account of school places being funded by developer contributions, to avoid double funding of school places. DfE expects developer contributions to be secured for education where appropriate and has produced guidance for local authorities on this.

- Basic need funding is paid out in the financial year before the September that places are needed. But allocations are announced in advance to provide LAERs with more certainty and stability in planning new school provision. Generally these allocations have been announced 3 years ahead of need, but this is subject to Spending Review timings. It is not possible to vary the Basic Need methodology for certain LAERs or projects.
- If a LAER is in doubt about how their circumstances will be taken into account for funding purposes, we suggest that they raise this with their DfE Pupil Place Planning (PPP) advisor, who can liaise with the Basic Need allocations team if necessary.

### **2.3 Guidance for LAERs on calculating pupil yields from new garden communities**

- DfE is currently conducting research on this issue and is looking to develop a recommended pupil yield methodology (see 2.1 above). Details will be shared when available.

### **3. Engaging the Local Authority with education responsibilities on planning and securing education provision for new communities**

- The LPA should begin engagement as soon as possible, so that the LAEr is made aware of the emerging proposals when considering other school projects as part of their duty to secure sufficient schools for their area (Education Act 1996).
- Important decisions on infrastructure are made at the plan making stage; this is when conversations between the LPA and LAEr should start in respect of any particularly large-scale developments likely to come forward through the Local Plan process. Such conversations should aim to inform a shared vision for development including provision of infrastructure such as schools, highlighting any particular barriers to school provision and informing emerging policies and site allocations relating to these developments.
- Engagement will also be particularly important as the development trajectory is refined (i.e. as the number of homes to be delivered in each phase is clarified) so that the LAEr can feed these numbers into its education need/capacity modelling process.
- It typically takes around three years from a free school being approved via the DfE central route to the school opening. Attempting to open in a shorter timescale is extremely challenging. The lead-in time for schools established via the local authority presumption route will depend on the process implemented by the LAEr as they have flexibility to define this according to their needs (for an explanation of these two procurement routes see question 5). The average duration for a presumption school from the time of the announcement that the school is going ahead to completion is 14 months.

#### **4. Engaging with academy trusts and free school promoters on planning and securing education provision for new communities**

- At plan making stage we would expect the LPA to engage with the LAEr, who is likely to be having ongoing conversations with trusts and promoters. The LPA should engage with the LAEr at pre-application and application stages on specific planning applications involving schools.

## 5. Main funding and procurement routes for new education provision in garden communities

### 5.1 Main funding routes

- DfE expects local authorities to secure developer contributions towards the provision of new schools required as a result of housing growth, and has produced guidance for local authorities on this subject<sup>3</sup>. National Planning Practice Guidance also advises on viability assessment for education, including an initial assumption that both land and construction costs will be met by the development. The extent of developer contributions required will depend on viability assessment when plans are prepared and, if necessary, when planning applications are determined. Alternative sources of funding include basic need allocations and centrally delivered free schools, but these should only be considered available to the extent that developer contributions are unable to pay for school infrastructure following viability assessment, or as forward funding when developer contributions must be deferred to maintain viability.
- There are two main routes for establishing a new school: the central DfE wave route and free school presumption route – see Tables 1 and 2 overleaf which set out some of the considerations involved.
- For Garden Communities the presumption route is likely to be the main route for setting up a new school. This is because, where LAERs identify the need for a new school they must, in the first instance, seek proposals to establish a free school through the free school presumption process. In the presumption route the LAER can define the specification for the school, for example: type (e.g. mainstream, faith, special educational needs, alternative provision), age range, gender, capacity, expected cost and date by which it is expected to open. For more information see the weblinks below:
  - [free school presumption route](#)
  - [central wave route](#)
- The DfE delivers the majority of free school capital projects that come through the wave route, however, it is possible for a free school trust or LAER to submit a business case seeking approval to manage delivery of the capital works for a 'wave route' scheme where the procurement for capital works has not commenced.

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<sup>3</sup> See <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>

- If the DfE delivers a school the starting point is the [ESFA Construction Framework](#). If a LAEr delivers a school through the free school presumption route, our preference is for the LAEr to use the ESFA Framework.

**Table 1: Central mainstream free schools programme**

<b>Who initiates the process?</b>	Government invites applications from groups to establish high quality new schools.
<b>What types of school can be opened through this route?</b>	Mainstream primary, secondary, all-through or 16-19 free schools, including those with SEN units or resourced provisions. 16-19 free school provision, including proposals for a sixth form as part of a secondary school, is likely to be approved by exception only. Trusts submit bids to the department to open a school. We welcome applications from experienced and new providers, including from universities and independent schools partnering with the state sector. We are not currently accepting applications from independent schools that wish to become state-funded.
<b>Who provides the capital?</b>	The department can provide the capital for land and construction for these free schools. To secure best value for money, where possible we look to supplement this funding with other contributions. This includes the provision of a site from local authorities or contributions from developers.
<b>Where can I find more information?</b>	More information on setting up a free school can be found on the <a href="#">GOV.UK</a> website. Guidance on how to apply to open a new mainstream free school can also be found on the <a href="#">GOV.UK</a> website. <a href="#">New Schools Network</a> (NSN) provide support on applications to set up a new free school in this way.

**Table 2: Presumption free schools**

<b>Who initiates the process?</b>	Local authorities, who have a legal duty to ensure there are sufficient school places in their area. Where local authorities identify the need for a new school they must seek proposals to establish a free school through this process.
<b>What types of school can be opened through this route?</b>	Mainstream primary, secondary, all-through, 16-19, special and alternative provision (AP) free schools can be opened through this route. The local authority decides what type of school is needed and produces the specification for the school, which it will use to seek proposals from sponsors to establish the new school.
<b>Who provides the capital?</b>	The local authority is responsible for providing the site for the new school and meeting associated capital costs, principally using basic need capital funding provided by the department and any contributions from developers.
<b>Additional information</b>	<p>Once the deadline for submitting proposals to the local authority has passed, the local authority will assess the proposals and recommend its preferred approved academy sponsor to the relevant Regional Schools Commissioner (RSC) who will make the final decision on behalf of the Secretary of State.</p> <p>Once a sponsor has been appointed, the local authority will work directly with the sponsor to open the school. While the school is in the pre-opening stage, the department tailors the support it provides to the needs and experience of both the local authority and the sponsor. The department offers guidance, support and challenge, as required, to ensure that the school will operate successfully once open. The final decision to open the new school depends on the Secretary of State entering a legal contract (a funding agreement) with the academy trust.</p> <p>Only approved academy sponsors can apply to local authority presumption competitions. Information on how to become an academy sponsor can be found on <a href="https://www.gov.uk">GOV.UK</a>.</p>
<b>Where can I find more information?</b>	Presumption competitions are published on both the local authority's website, alongside the school specification, and on the <a href="https://www.gov.uk">GOV.UK</a> website. For more information, see <a href="#">the free school presumption guidance</a> for local authorities and sponsors. Sponsors interested in establishing a presumption free school can find <a href="#">a list of local authorities seeking proposers</a> on the <a href="https://www.gov.uk">GOV.UK</a> website. Additional support is also available from <a href="#">NSN</a> .

## 5.2 Funding a new school through the presumption route when there is a surplus of places at other local schools

- The Secretary of State will not enter into a funding agreement for a new presumption free school without adequate assurances that the school will be financially viable in its initial years as it builds up to capacity, and once operating at steady-state. In determining the financial viability of the school, the local authority and sponsor will need to consider the minimum viable number (MVN) for the school; i.e. the minimum number of pupils required in order to be financially viable. This will need to be understood in the context of any post-opening diseconomies funding and financial underwriting arrangements that the local

authority will provide. When the local authority and sponsor have reached agreement on the school's MVN, this information (along with the background to the decision) should be provided to the department, which may provide constructive challenge to ensure that the local authority and successful sponsor are confident in their agreed MVN for the school.

- The DfE expects LAERs to provide sustainable underwriting arrangements for presumption schools in support of the pupil forecasts agreed between the trust and the LAER. This can provide the necessary reassurance of the financial viability of the new school ahead of the funding agreement. This can be achieved by the LAER agreeing to underwrite the per-pupil numbers in the Authority Proforma Tool.



## **6. Limitations on the provision of and minimum/maximum sizes of new schools (including all-through schools)**

- Primary schools: The DfE recommend a minimum of two forms of entry (2FE) due to financial viability. It may be possible to deliver a smaller school if it can demonstrate financial viability.
- Secondary schools: 4FE is the minimum acceptable for ESFA for a secondary school, due to viability (breadth of curriculum means need to employ a number of specialist teachers). Potential alternative: share staff between schools.
- All-through schools: Generally 4FE minimum for the secondary school element, while the primary school element could be 2FE. The minimum acceptable size will ultimately depend on the viability of the school. Where a requirement has been identified for both primary and secondary schools, there may be cost efficiency, space saving and educational benefits in providing an all-through school.

## **7. Interim uses of school buildings in the early stages of a development while the population builds up**

- There is no objection to this in principle - it will depend on the landowner, leases and viability. The ESFA would not want to manage the leasing of the community space so would encourage others to take this on, for example the local council.
- If the interim uses coincided with use of part of the school building as a school, the design and layout of the school would need to take account of safeguarding issues.
- Planning permission may need to be obtained for a temporary change of use of part/all of the school to allow interim uses.
- We suggest you take independent legal advice with regard to the interim use of school buildings and the possible consequences of doing this.

## 8. Measures needed to secure the shared use of school facilities where appropriate

- Where a school decides that it wants to make some of its facilities available for community use, it is useful to agree how this will operate in a Community Use Agreement (CUA). This should cover such matters as hours of availability of specified facilities, management and booking arrangements, pricing policy, monitoring and review, duration of agreement, etc. The use of a CUA should help secure well-managed and safe community access to facilities on educational sites. It should be drafted in consultation with the parties to the agreement, which may include the school, the local council and the landowner (if different from the aforementioned). Sport England have developed a [template for a CUA relating to school sports facilities](#). DfE can provide examples of CUAs on request.

## **9. Ensuring high design and environmental standards are included within schools to meet local aspirations on quality in garden communities (e.g. introducing innovative design solutions which form an integral part of a new village/ town centre; maximising opportunities for outdoor learning using school buildings/ grounds and local greenspaces)**

Mechanisms for ensuring high design and environmental standards include:

- Adoption of robust planning policies in Local Plans that specify (and justify) clear design and environmental requirements.
- Developing concept plans, masterplans and design codes, all of which are useful means of establishing and communicating aspirations on design quality.
- Meeting all requirements as set out in the ESFA output specification<sup>4</sup> and accommodation schedule.
- Through the proposer shaping the School Specific Brief (SSB) for the school. The SSB reflects project-specific factors identified during discussions with the school's representative. While the Generic Design Brief (GDB) contains the generic requirements for all schools, the SSB contains additional requirements specific to the school (including those reflecting the nature of the site and the school's educational and organisational requirements), and which impact on the capital works. The SSB requirements should not contradict the GDB<sup>5</sup>.
- Where a LAEr is delivering a school through the presumption route it is funded by Basic Need Grant which is not ring-fenced, providing LAEr's with the flexibility to manage their capital programmes in the way they deem fit. However, as part of fulfilling their duty to provide sufficient places, we look to LAEr's to deliver capital projects efficiently and effectively. ESFA is now working closely with the sector to support high cost local authorities to increase value for money.

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<sup>4</sup> For further details see [Output Specification 2017](#).

<sup>5</sup> For further information on the SSB and GDB see [Output Specification 2017](#).

## Glossary of terms and acronyms

**Basic need funding** – The money DfE allocates to local authorities each year to help them fulfil their duty to make sure there are enough school places for children in their local area.

**DfE** – [Department for Education](#) - responsible for children’s services and education, including early years, schools, higher and further education policy, apprenticeships and wider skills in England.

**ESFA** – [Education and Skills Funding Agency](#) - brings together the former responsibilities of the Education Funding Agency (EFA) and Skills Funding Agency (SFA) to create a single agency accountable for funding education and skills for children, young people and adults. ESFA is an executive agency, sponsored by the DfE.

**Free school** – DfE term for any new provision academy. An ‘academy’ is the legal term for state-funded schools that are independent of local authority control and receive their funding directly from the government. They are set up by sponsors from business, faith or voluntary groups. Free schools can be established via two routes, as explained under question 5.

**Free school trust** - Every free school is established and run by an academy trust: a charitable company limited by guarantee.

**LAer** – Local Authority with education responsibilities. This will be a county council in two tier local government areas, or in other areas a unitary authority, metropolitan district or London borough.

**LPA** – Local Planning Authority

**MHCLG** – [Ministry of Housing, Communities and Local Government](#)

**Published Admission Number (PAN)** - The number of school places that the admission authority must offer in each relevant age group of a school for which it is the admission authority. Admission numbers are part of a school’s admission arrangements.

**Regional Schools Commissioner (RSC)** - RSCs take decisions regarding academies and free schools on behalf of the Secretary of State in their region. RSCs provide expertise and local knowledge for the management of the academy system.

**Trust** – see ‘Free school trust’ above.



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for Education

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