Town and Country Planning Act 1990

1990 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Secretary of State’s powers as respects planning applications and decisions

78 Right to appeal against planning decisions and failure to take such decisions.

(1) Where a local planning authority—
   (a) refuse an application for planning permission or grant it subject to conditions;
   (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission or grant it subject to conditions; or
   (c) refuse an application for any approval of that authority required under a development order\[^{F1}\], a local development order or a neighbourhood development order\[^{F1}\] or grant it subject to conditions,

the applicant may by notice appeal to the Secretary of State.

(2) A person who has made such an application\[^{F2}\] to the local planning authority\[^{F3}\] may also appeal to the Secretary of State if the local planning authority have\[^{F3}\] done none of the following\[^{F4}\]—
   (a) given notice to the applicant of their decision on the application;
   (f) given notice to the applicant that they have exercised their power under section 70A\[^{F5}\] or 70B\[^{F5}\] or 70C\[^{F5}\] to decline to determine the application;\[^{F5}\]
   (b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77, within such period as may be prescribed by the development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

(3) Any appeal under this section shall be made by notice served within such time and in such manner as may be prescribed by a development order.
(4) The time prescribed for the service of such a notice must not be less than—
   (a) 28 days from the date of notification of the decision; or
   (b) in the case of an appeal under subsection (2), 28 days from the end of the
       period prescribed as mentioned in subsection (2) or, as the case may be, the
       extended period mentioned in that subsection.

(4A) A notice of appeal under this section must be accompanied by such information as
   may be prescribed by a development order.

(4B) The power to make a development order under subsection (4A) is exercisable by—
   (a) the Secretary of State, in relation to England;
   (b) the Welsh Ministers, in relation to Wales.

(4C) Section 333(5) does not apply in relation to a development order under subsection (4A)
   made by the Welsh Ministers.

(4D) A development order under subsection (4A) made by the Welsh Ministers is subject
   to annulment in pursuance of a resolution of the National Assembly for Wales.

(5) For the purposes of the application of sections 78(9)(1) and (3), 253(2)(c), 266(1)(b)
   288(10)(b) and 319A(7)(b)] in relation to an appeal under subsection (2), it shall
   be assumed that the authority decided to refuse the application in question.
Modifications etc. (not altering text)

C1  S. 78 modified by S.I. 1989/670, reg. 15 as amended by S.I. 1990/1562, regs. 2, 3, 6
S. 78 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, Sch. 2 Pt. I
S. 78 applied (with modifications) (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 7, Sch. 2 Pt. II
C2  S. 78 applied (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 89, 121, Sch. 4 para. 5(3) (with s. 111); S.I. 2006/1281, art. 2
C3  Ss. 78, 79 applied (with modifications) (6.4.2007) by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2004/783), reg. 17, Sch. 4
C4  S. 78 restricted (22.7.2008) by Crossrail Act 2008 (c. 18), ss. 10, Sch. 7 para. 31
C5  S. 78 applied (22.7.2008) by Crossrail Act 2008 (c. 18), ss. 49, Sch. 16 para. 2(7)
C6  S. 78 applied (26.9.2012) by The Network Rail (Ipswich Chord) Order 2012 (S.I. 2012/2284), arts. 1, 35(a) (with art. 26(2))
C7  S. 78 applied (in part) (6.11.2012) by The Network Rail (North Doncaster Chord) Order 2012 (S.I. 2012/2635), arts. 1, 7(1)(a) (with art. 35(2))
C8  S. 78 applied (with modifications) (28.2.2013) by The Rookery South (Resource Recovery Facility) Order 2011 2013 (S.I. 2013/680), art. 4(1)(a)
C9  S. 78 applied (13.3.2013) by The Brechfa Forest West Wind Farm Order 2013 (S.I. 2013/586), arts. 1, 4(1)
C10 Ss. 78, 79 applied (15.6.2013) by The Galloper Wind Farm Order 2013 (S.I. 2013/1203), arts. 1, 6(1) (with arts. 11, 12)
C11 Ss. 78, 79 applied (31.7.2013) by The East Northamptonshire Resource Management Facility Order 2013 (S.I. 2013/1752), arts. 1, 5(1)(a)
C12 Ss. 78, 79 applied (15.8.2013) by The North Blyth Biomass Power Station Order 2013 (S.I. 2013/1873), arts. 1, 4(a) (with art. 30)
Changes to legislation:
The Town and Country Planning Act 1990 (c. 8) changes have not yet been made by the legislation.gov.uk editorial team. Any changes that have already been made appear in the content and are referenced with annotations.

### Changes and effects yet to be applied to:
- s. 78 amendment to earlier affecting provision S.I. 2007/783, reg. 17, Sch. 4 by S.I. 2013/2114 reg. 3
- s. 78 amendment to earlier affecting provision SI 1992/666 reg. 15(1)(3) Sch. 4 Pts. 1, 4, 5 by S.I. 2017/553 reg. 2(3)-(5)
- s. 78 amendment to earlier affecting provision SI 1999/1892 Sch. art. 7 Sch. 2 Pt. 1 by S.I. 2017/548 reg. 2(b)
- s. 78 applied by S.I. 2014/2441 art. 4(1)
- s. 78 applied by S.I. 2014/2637 art. 40(1)(a)
- s. 78 applied by S.I. 2014/2950 art. 9(1)(a)
- s. 78 applied by S.I. 2014/3331 art. 32(a)
- s. 78 applied by S.I. 2015/318 art. 61(a)
- s. 78 applied by S.I. 2016/844 art. 33
- s. 78 applied (with modifications) by S.I. 2013/2808 art. 39(1)(a)
- s. 78 applied (with modifications) by S.I. 2014/1796 art. 8
- s. 78 applied (with modifications) by S.I. 2014/1873 art. 61(a)
- s. 78 applied (with modifications) by S.I. 2014/2846 art. 41(a)
- s. 78 applied (with modifications) by S.I. 2014/2935 art. 581(a)
- s. 78 applied (with modifications) by S.I. 2016/166 art. 41(a)
- s. 78 applied (with modifications) by S.I. 2017/330 Sch. 7 para. 5(2)
- s. 78 applied in part by S.I. 2014/909 art. 45(1)(a)
- s. 78 applied in part (with modifications) by S.I. 2013/2809 art. 37
- s. 78 modified by S.I. 2014/1599 art. 35(3)
- s. 78(1) applied (with modifications) by S.I. 2014/1599 art. 35(2)
- s. 78(2) applied (with modifications) by S.I. 2014/3328 art. 3(2)
- s. 78(1)(c) words inserted by 2015 c. 7 Sch. 4 para. 12
- s. 78(4B)-(4D) omitted by 2015 anaw 4 Sch. 7 para. 7(2)
- s. 78(5) words substituted by S.I. 2014/2773 Sch. 1 para. 3

### Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
- Act applied (with modifications) by S.I. 2015/780 Sch. 11 para. 1
- Act applied in part by 2017 c. 7 s. 22(7)s. 22(8)50(6)(7)
- Act applied in part (Isles of Scilly) (with modifications) by S.I. 2013/2148 art. 3Sch. 1 (Words “83, 84,” in 1990 c. 9, s. 92(2)(a) repealed (7.6.2006) by 2004 c. 5, Sch. 9; S.I. 2006/1281, art. 2(f)(iv))
- Act construed as one with S.I. 2017/1012, Pt. 6 Ch. 2 (except regs. 84, 85) by S.I. 2017/1012 reg. 86
- Act modified by S.I. 2017/1012 reg. 78(3)(a)
- Act modified by S.I. 2017/1214 Sch. 7 para. 1
- Act modified by S.I. 2016/54 art. 3(2)
- Act modified by S.I. 2016/56 Sch. 7 para. 1(2)
- Act modified in part by S.I. 2016/684 Sch. 8 para. 1

### Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- Pt. 9 applied by S.I. 2016/1267 art. 8(4)
- Pt. 9 applied by S.I. 2017/126 art. 21(4)
- Pt. 9 applied by S.I. 2017/430 art. 9(2)
- s. 2A(6)(aa) and word substituted for words by 2016 c. 22 s. 149(1)
- s. 9(1) s. 9 renumbered as s. 9(1) by 2015 anaw 4 s. 42(2)
s. 9(2) inserted by 2015 anaw 4 s. 42(3)
- s. 58A and cross-heading inserted by 2016 c. 22 s. 150(1)
- s. 59(4) inserted by 2015 anaw 4 Sch. 7 para. 5
- s. 59A inserted by 2016 c. 22 s. 150(2)
- s. 59A(4)(a)(b) excluded by S.I. 2017/402 art. 5
- s. 60(1A) inserted by 2016 c. 22 s. 152(1)
- s. 61B(7A) inserted by 2013 c. 27 s. 5(4)
- s. 61F(8A)(8B) inserted by 2017 c. 20 s. 5(2)
- s. 61G(6A)-(6D) inserted by 2017 c. 20 s. 5(3)
- s. 61G(6D) applied (with modifications) by 2004 c. 5, s. 38C(5A) (as inserted) by 2017 c. 20 s. 5(8)
- s. 61I(12)(13) inserted by 2016 c. 22 s. 139
- s. 61J(5A) inserted by 2017 c. 20 s. 5(4)
- s. 61M(4A) inserted by 2017 c. 20 s. 4(2)
- s. 61Z and cross-heading inserted by 2015 anaw 4 s. 17(2)
- s. 61DA-61DE inserted by 2015 c. 7 Sch. 4 para. 1
- s. 61EZ161ZZ2 inserted by 2015 anaw 4 s. 18
- s. 62(9)-(11) inserted by 2015 anaw 4 s. 17(3)
- s. 62A(1A) inserted by 2016 c. 22 s. 153(2)
- s. 62B(1A) inserted by 2016 c. 22 s. 153(5)
- s. 62C(2) words inserted by 2017 c. 20 s. 2(11)
- s. 62C(3) words inserted by 2017 c. 20 s. 2(12)
- s. 62D-62E and cross-heading inserted by 2015 anaw 4 s. 19
- s. 62F-62H inserted by 2015 anaw 4 s. 20
- s. 62I-62K inserted by 2015 anaw 4 s. 21
- s. 62L inserted by 2015 anaw 4 s. 22
- s. 62M-62O inserted by 2015 anaw 4 s. 23
- s. 62P62Q and cross-heading inserted by 2015 anaw 4 s. 24
- s. 62R inserted by 2015 anaw 4 s. 25
- s. 62S inserted by 2015 anaw 4 s. 26(1)
- s. 62Y heading words inserted by 2016 c. 22 Sch. 12 para. 7
- s. 62ZA-62ZD and cross-heading inserted by 2015 anaw 4 s. 29(2)
- s. 69(1)(aza) inserted by 2016 c. 22 Sch. 12 para. 10
- s. 69(1)(cza) inserted by 2015 c. 7 Sch. 4 para. 8(2)
- s. 69A inserted by 2017 c. 20 s. 17
- s. 70(1A) inserted by 2016 c. 22 s. 150(3)(a)
- s. 70(2)(aza) inserted by 2017 c. 20 s. 1(2)
- s. 70(2)(aa) inserted by 2015 anaw 4 s. 31(2)
- s. 70(2ZA) inserted by 2015 anaw 4 s. 31(3)
- s. 70(2ZZA)-(2ZZC) inserted by 2016 c. 22 s. 150(3)(b)
- s. 70(3A) inserted by 2017 c. 20 Sch. 3 para. 2
- s. 70(3B)-(3F) inserted by 2017 c. 20 s. 1(3)
- s. 70A(5)(aa) inserted by 2016 c. 22 Sch. 12 para. 12(2)
- s. 70A(9) inserted by 2016 c. 22 Sch. 12 para. 12(4)
- s. 71ZA inserted by 2015 anaw 4 s. 33(2)
- s. 71ZB inserted by 2015 anaw 4 s. 34
- s. 72(6) inserted by 2017 c. 20 Sch. 3 para. 3
- s. 73(2A) inserted by 2017 c. 20 Sch. 3 para. 4
- s. 74(1BA)(1BB) inserted by 2016 c. 22 s. 149(3)
- s. 74A inserted by 2015 c. 7 s. 29
- s. 75A and cross-heading inserted by 2015 anaw 4 Sch. 4 para. 7
- s. 75ZA and cross-heading inserted by 2016 c. 22 s. 155
- s. 75ZB inserted by 2016 c. 22 s. 156
- s. 76C(2A)(2B) inserted by 2016 c. 22 Sch. 12 para. 18
- s. 77(6A) inserted by S.I. 2014/2773 Sch. 1 para. 2
- s. 78(1)(aa) inserted by 2016 c. 22 Sch. 12 para. 21
- s. 78(4AA)(4AB) inserted by 2015 anaw 4 s. 45
- s. 78(4BA)(4BB) inserted by 2015 anaw 4 s. 47(1)
– s. 79(1A)(1B) inserted by 2015 anaw 4 s. 29(3)
– s. 79(3A) inserted by S.I. 2014/2773 Sch. 1 para. 4
– s. 79(6ZA) inserted by 2016 c. 22 Sch. 12 para. 23(3)
– s. 83(1A)-(1C) amendment to earlier affecting provision 2004 c. 5, s. 45(2) by 2011 c. 20 Sch. 8 para. 14(4)(5) Sch. 25 Pt. 16
– s. 83(1A)-(1C) inserted by 2004 c. 5 s. 45(2)
– s. 83(2)-(2B) amendment to earlier affecting provision 2004 c. 5, s. 45(3) by 2011 c. 20 Sch. 8 para. 14(4)(5) Sch. 25 Pt. 16
– s. 83(2)-(2B) substituted for s. 83(2) by 2004 c. 5 s. 45(3)
– s. 83(3A) inserted by 2015 anaw 4 s. 7(2)
– s. 83(4) inserted by 2004 c. 5 s. 45(4)
– s. 85(1A) inserted by 2004 c. 5 s. 45(6)
– s. 87(5) inserted by 2015 anaw 4 Sch. 4 para. 8
– s. 88(11) inserted by 2015 anaw 4 Sch. 4 para. 9
– s. 90(2ZA) words inserted by 2017 c. 4 s. 39(13)
– s. 91(3ZA)-(3ZD) inserted by 2015 anaw 4 s. 35(4)
– s. 91(5) inserted by 2015 anaw 4 s. 35(6)
– s. 92(2)(b)(c) substituted for s. 92(2)(b) by 2015 anaw 4 s. 36(2)
– s. 92(3A)-(3E) inserted by 2015 anaw 4 s. 36(4)
– s. 93(5)(6) inserted by 2017 c. 20 Sch. 3 para. 6
– s. 96A(5A) inserted by S.I. 2014/1770 art. 2(4)
– s. 96A(9)(10) inserted by S.I. 2014/1770 art. 2(6)
– s. 100A and cross-heading inserted by 2015 anaw 4 s. 37
– s. 100ZA and cross-heading inserted by 2017 c. 20 s. 14(1)
– s. 102(2A) inserted by 2015 anaw 4 s. 33(4)
– s. 106ZA inserted by 2016 c. 22 s. 158(1)
– s. 106ZB inserted by 2016 c. 22 s. 159(1)
– s. 107(4A) inserted by 2016 c. 22 Sch. 12 para. 28(6)
– s. 108(1A)(1B) inserted by 2015 c. 7 Sch. 4 para. 15(4)
– s. 108(2B) inserted by 2016 c. 22 Sch. 12 para. 29(3)
– s. 108(3A) inserted by 2004 c. 5 Sch. 6 para. 6
– s. 108(3B)(ba) inserted by 2015 c. 7 Sch. 4 para. 15(6)
– s. 108(3F) inserted by 2013 c. 24 Sch. 17 para. 3
– s. 108(3F) transitional provisions for effects of 2003 c. 24 s. 63 Sch. 17 para. 1-6 by S.I. 2013/2148 art. 5(4)(b)
– s. 108(3DA) inserted by 2015 c. 7 Sch. 4 para. 15(7)
– s. 141(6) inserted by 2017 c. 20 Sch. 3 para. 7
– s. 153(4A) excluded by S.I. 2017/1150 art. 22(3)
– s. 153(4A) excluded by S.I. 2017/1202 art. 29(3)(c)
– s. 153(4A) excluded by S.I. 2017/1214 art. 30(3)(c)
– s. 153(4A) excluded by S.I. 2018/446 arts. 21(4)22(3)
– s. 153(4A) excluded by S.I. 2018/574 art. 27(4)(c)
– s. 153(4A) excluded by S.I. 2018/923 art. 22(3)(c)
– s. 153(4A) excluded by S.I. 2018/994 art. 27
– s. 153(4A) excluded by S.I. 2019/359 art. 26(3)(c)(4)
– s. 153(4A) excluded by S.I. 2019/578 art. 24(3)(c)
– s. 153(4A) excluded by S.I. 2017 c. 7, s. 7(2) (as amended) by 2017 c. 7 Sch. 14 para. 2
– s. 153(4A) excluded by S.I. 2017 c. 7, s. 8(2) (as amended) by 2017 c. 7 Sch. 14 para. 3
– s. 153(4A) inserted by 2016 c. 22 s. 200(2)
– s. 164A inserted by 2015 anaw 4 s. 10(7)
– s. 169(1)(a) words renumbered as s. 169(1)(a) by 2017 c. 20 s. 26(5)(a)
– s. 169(1)(b) inserted by 2017 c. 20 s. 26(5)(b)
– s. 170(2A) inserted by 2015 anaw 4 s. 10(8)(b)
– s. 170(8BA) inserted by 2017 c. 20 s. 26(6)
– s. 171A(2)(aa) inserted by 2015 anaw 4 s. 43(3)
– s. 171B(2A) inserted by 2013 c. 24 Sch. 17 para. 4
– s. 171B(2A) transitional provisions for effects of 2003 c. 24 s. 63 Sch. 17 para. 1-6 by S.I. 2013/2148 art. 5(4)(b)
– Sch. 13 para. 24A inserted by 2017 c. 20 s. 26(7)