

# **PLANNING AND COMPULSORY PURCHASE ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4: Development Control**

##### ***Section 50: Appeal made: functions of local planning authority***

77. **Section 50** inserts a new section 78A into the Town and Country Planning Act 1990. Its intention is to allow a short period of dual jurisdiction between the Secretary of State and the local planning authority where an appeal has been made against non-determination of a planning application by that authority.
78. This provision applies where an applicant appeals to the Secretary of State on the grounds that the local planning authority have not determined his planning application within the prescribed period (8 weeks). Once an appeal has been made, jurisdiction to decide whether to grant planning permission passes to the Secretary of State. The local planning authority cannot determine the application, even in circumstances where the local planning authority would have been in a position to do so shortly after the prescribed period.
79. The purpose of this new section is to allow an additional period of time (to be prescribed by the development order) in which the local planning authority could still issue its decision even though an appeal has been lodged. The period of “dual jurisdiction” would have effect where an appeal against non-determination has been lodged after the 8 week deadline.
80. In such cases the appeal will progress under the usual procedures - for example if the local planning authority refuse planning permission, then the appeal (against non-determination) would become an appeal against refusal. If the local planning authority grant permission, the appellant may withdraw the appeal, proceed with the appeal or revise the grounds of appeal (for example, an appeal against conditions which may have been imposed).