

# Local Government and Planning (Parkland and Windfall Development) Bill

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## CONTENTS

- 1 Sale of parkland by local authorities
  - 2 Parkland associations
  - 3 Guidance to local planning authorities on proposed development in gardens of private houses
  - 4 Right to appeal against grant of planning permission
  - 5 Power of local planning authority to decline to determine subsequent application where similar applications have been refused
  - 6 Guidance to local planning authorities on protection of trees
  - 7 Expenses
  - 8 Regulations
  - 9 Interpretation
  - 10 Short title, commencement and extent
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Impose conditions on the sale of parkland by local authorities; to make provision about the circumstances in which a planning application may be rejected by a local authority and about rights of appeal in such circumstances; to prohibit repeated planning applications in certain circumstances; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Sale of parkland by local authorities**

- (1) This section applies to land owned by a local authority which is—
- (a) an area of scattered mature or ancient trees overlying pasture or arable land, which may (but need not) be of particular landscape or historic significance; 5
  - (b) laid out as a public garden;
  - (c) used for the purposes of public recreation;
  - (d) a disused burial ground; or
  - (e) an area of open space which particularly benefits wildlife and biodiversity. 10
- (2) A local authority may not sell a piece of land to which this section applies with a view to the land's being developed (whether by the purchaser of the land or by a subsequent purchaser) unless—
- (a) a local referendum has been held in the area of the local authority, and
  - (b) the majority of the voters in the referendum have voted in favour of the proposed sale. 15
- (3) The Secretary of State may make regulations about local referendums under this section.

**2 Parkland associations**

- (1) A local authority may establish a parkland association in respect of a piece of land to which section 1 applies to carry out such functions in respect of the management of the land as it considers appropriate.
- (2) The local authority must ensure that the parkland association is properly representative of the local community. 5
- (3) The Secretary of State may make regulations about parkland associations.

**3 Guidance to local planning authorities on proposed development in gardens of private houses**

The Secretary of State must issue guidance to local planning authorities to the effect that— 10

- (a) the gardens of private houses should be regarded for development control purposes as greenfield sites, and
- (b) applications for planning permission for significant developments in such locations should normally be refused. 15

**4 Right to appeal against grant of planning permission**

- (1) Section 78 of the principal Act (right to appeal against planning decisions and failure to take such decisions) is amended as follows.
- (2) After subsection (2) insert—
  - “(2A) Where a local planning authority grant an application for planning permission which is inconsistent with— 20
    - (a) the development plan, or
    - (b) any guidance issued under section 3 of the Local Government and Planning (Parkland and Windfall Development) Act 2006 (guidance to local planning authorities on proposed development in gardens of private houses), 25
 any person who is affected by the application, or any society sufficiently representing local amenity interests, may by notice appeal to the Secretary of State.”

**5 Power of local planning authority to decline to determine subsequent application where similar applications have been refused 30**

- (1) Section 70A of the principal Act (power to decline to determine subsequent application) is amended as follows.
- (2) In subsection (2) for “two years” substitute “three years”.

**6 Guidance to local planning authorities on protection of trees 35**

The Secretary of State must issue guidance to local planning authorities on the use of their powers under section 197 of the principal Act (planning permission to include appropriate provision for preservation and planting of trees) in order to ensure the protection of large or mature trees in urban or suburban areas. 40

**7 Expenses**

*There shall be paid out of money provided by Parliament –*

- (a) *any expenses incurred by a Minister of the Crown in consequence of this Act, and*
- (b) *any increase attributable to this Act in the sums which under any other Act are payable out of money so provided.*

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**8 Regulations**

- (1) The power of the Secretary of State to make regulations under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

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**9 Interpretation**

In this Act –

“local authority” means –

- (a) in relation to England –
  - (i) a county council,
  - (ii) a district council,
  - (iii) a London borough council,
  - (iv) the Common Council of the City of London,
  - (v) the Council of the Isles of Scilly, and
  - (vi) a parish council; and
- (b) in relation to Wales –
  - (i) a county council,
  - (ii) a county borough council, and
  - (iii) a community council;

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“local planning authority” has the same meaning as in section 1 of the principal Act;

“the principal Act” means the Town and Country Planning Act 1990 (c. 8).

**10 Short title, commencement and extent**

- (1) This Act may be cited as the Local Government and Planning (Parkland and Windfall Development) Act 2006.
- (2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales only.

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To impose conditions on the sale of parkland by local authorities; to make provision about the circumstances in which a planning application may be rejected by a local authority and about rights of appeal in such circumstances; to prohibit repeated planning applications in certain circumstances; and for connected purposes.

*Ordered to be brought in by Lorely Burt,  
John Barrett, Mr Colin Breed,  
Mr Paul Burstow, Mr Nick Clegg,  
Tim Farron, Sandra Gidley,  
Mark Hunter, Mark Williams  
and Stephen Williams.*

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*Ordered, by The House of Commons,  
to be printed, 19th July 2005.*

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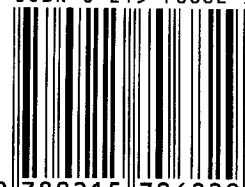
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