

# Protection of Garden Land (Development Control) Bill

---

---

## CONTENTS

- 1 Guidance to local planning authorities on proposed development in gardens of private houses
- 2 Right to appeal against grant of planning permission
- 3 Power of local planning authority to decline to determine applications where similar applications have been refused
- 4 Guidance to local planning authorities on protection of trees
- 5 Interpretation
- 6 Short title, commencement and extent

A  
**B I L L**

TO

Protect private gardens from development which is out of character with the surrounding area; 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 Guidance to local planning authorities on proposed development in gardens of private houses**

- (1) The Secretary of State shall, within 12 months of the date on which this Act is passed, issue guidance to local planning authorities.
- (2) The guidance issued under subsection (1) shall include provision that— 5
- (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 be refused where they are out of character with the surrounding area. 10

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

- (1) Section 78 of the Town and Country Planning Act 1990 (c. 8) (“the 1990 Act”) (right to appeal against planning decisions and failure to take such decisions) is amended as follows.
- (2) After subsection (2) insert— 15
- “(2A) Where a local planning authority grants an application for planning permission which is inconsistent with—
- (a) the development plan, or
  - (b) any guidance issued under section 1 of the Protection of Garden Land (Development Control) Act 2009 (guidance to local 20

- planning authorities on proposed development in gardens of private houses),  
any person who is affected by the application, or any society representing local amenity interests, may by notice appeal to the Secretary of State.” 5
- 3 Power of local planning authority to decline to determine applications where similar applications have been refused**
- (1) Section 70A of the 1990 Act (power of local planning authority to decline to determine applications) is amended as follows.
- (2) In subsection (2) for “two years” substitute “three years”. 10
- 4 Guidance to local planning authorities on protection of trees**
- The Secretary of State must issue guidance to local planning authorities on the use of their powers under section 197 of the 1990 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. 15
- 5 Interpretation**
- In this Act—
- “local planning authority” has the same meaning as in section 1 of the 1990 Act;
- “the 1990 Act” means the Town and Country Planning Act 1990 (c. 8). 20
- 6 Short title, commencement and extent**
- (1) This Act may be cited as the Protection of Garden Land (Development Control) Act 2009.
- (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. 25
- (3) This Act extends to England and Wales only.

# Protection of Garden Land (Development Control) Bill

---

---

A

## B I L L

To protect private gardens from development which is out of character with the surrounding area; 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.

*Presented by Mr Paul Burstow  
supported by  
Tom Brake, Lorely Burt, Andrew George,  
Susan Kramer and Mr Edward Davey.*

---

*Ordered, by The House of Commons,  
to be Printed, 3 February 2009.*

---

© Parliamentary copyright House of Commons 2009  
*Applications for reproduction should be made in writing to the Information Policy Team,  
Office of Public Sector Information, Kew, Richmond, Surrey TW9 4DU*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON – THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by  
The Stationery Office Limited  
£x.xx