

PLANNING ACT 2008

EXPLANATORY NOTES

COMMENTARY

Part 7, Chapter 3: General

Section 154: Duration of order granting development consent

257. This section provides that after a development consent order is granted, the development must be begun before the end of the period prescribed by the Secretary of State or such other (shorter or longer) period as is specified in the order. Failure to begin development within this timescale leads to the order ceasing to have effect. The section also sets time limits for taking prescribed steps where the order authorises the compulsory acquisition of land. If the steps are not taken within the time limits the authority to compulsorily acquire the land ceases to have effect.

Section 155: When development begins

258. This section states that development is taken to begin as soon as any material operation comprised in, or carried out for the purposes of, the development begins to be carried out. There is a power for the Secretary of State to prescribe operations which do not constitute a “material operation”.

Section 156: Benefit of order granting development consent

259. This section explains that the development consent order will generally have effect for the benefit of the land mentioned in the order and all those for the time being interested in the land. It is possible for the order to make provision to the contrary. Subsection (3) has the effect of restricting the benefit of a development consent order authorising underground gas storage facilities to a (licensed) gas transporter.

Section 157: Use of buildings in respect of which development consent granted

260. This section clarifies that where an order granting development consent grants consent for the erection, extension, alteration or re-erection of a building, the order may specify the purposes for which the building may be used. If it does not do so, the consent is presumed to authorise the use of the building for the purpose for which it is designed.

Section 158: Nuisance: statutory authority

261. This section provides a defence of statutory authority in proceedings for nuisance if a person carries out development for which consent is granted by an order granting development consent. Such a defence is available in respect of anything else authorised by an order granting development consent.

*These notes refer to the Planning Act 2008 (c.29)
which received Royal Assent on 26 November 2008*

Section 159: Interpretation: rights over land

262. This section clarifies that in Part 7 of this Act, the word “land” includes any interest in or right over land, and that acquiring a right over land includes creating a new right and not just acquiring an existing right.