

Number: WG23680



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Consultation Document

Subordinate Legislation Relating to Certain Internal Operations (Mezzanine Floors)

Date of issue: **21 November 2014**

Action required: Responses by **13 February 2015**

Overview

Section 49 of the Planning and Compulsory Purchase Act 2004 introduces new sections 55(2A) and (2B) into the Town and Country Planning Act 1990. This will bring under the meaning of development operations which increase the internal gross floor space of a building. This consultation is seeking views on the proposal to introduce subordinate legislation which will define that this will only apply where additional floorspace for the purpose of the retail sale of goods is proposed in the existing footprint of a building, and to prescribe a threshold of 200sq metres or more where this will be brought under planning control.

How to respond

The closing date for responses is **13 February 2015**. You can respond in any of the following ways:

Email:

Please complete the consultation response form and send it to:

planconsultations-i@wales.gsi.gov.uk

(Please include 'Mezzanine Consultation WG23680' in the subject line)

Post:

Please complete the consultation response form and send it to:

Mezzanine Consultation
Planning Policy Branch
Planning Division
Welsh Government
Cathays Park
Cardiff CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information about the **Mezzanine** consultation:

e-mail: planconsultations-i@wales.gsi.gov.uk
telephone: Richard Spear on 029 2082 1673

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Introduction

1. Section 49 of the Planning and Compulsory Purchase Act 2004 (“PCPA”) which is partially in force in relation to Wales, introduces new sections 55(2A) and (2B) into the Town and Country Planning Act 1990 (“TCPA”). These provisions provide the power to bring under the meaning of “development”, operations which increase the internal gross floor space of a building by a specified amount and in prescribed circumstances.
2. This consultation is seeking views on the proposal to introduce subordinate legislation which has the effect that where additional floor space for the purpose of the retail sale of goods is proposed in the existing footprint of a building, and it is proposed to be over a threshold of 200sq metres, it will be “development” and therefore subject to planning control.
3. We are proposing to amend the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 to achieve this.

What is the current position?

4. At present internal works do not fall within the definition of development. Planning permission is therefore only required if the original permission for the building or subsequent variation was granted subject to a planning condition restricting the maximum amount of floor space allowed or if the installation of a mezzanine floor is expressly not permitted.

Why are we proposing change?

5. With the recent renewed focus¹ on seeking ways to support and enhance² established town centres and to protect their viability the introduction of this subordinate legislation is complementary to the wider review of retail planning policy which the Minister for Natural Resources announced in October 2014³.
6. Uncontrolled retail floor space increases may impact on the vitality and viability of existing centres which in turn can also undermine national planning policy aimed at promoting vibrant town centres. This may occur, for example, in out of centre locations by the installation of mezzanine floors within retail units where need for new retail space has not been established or does not exist, or where sequentially preferable sites for additional retail provision have not been considered.
7. Uncontrolled increases in retail floor space may also lead to additional car use where locations are poorly served by public transport, causing a need for more parking, and social exclusion for those without access to a car. Whilst many larger stores will have already created mezzanine space it is possible that there are still retailers who are not

¹ <http://wales.gov.uk/topics/housing-and-regeneration/regeneration/vibrant-and-viable-places/?lang=en>

² <http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/town-centres-and-retail-dynamics/?lang=en>

³ <http://wales.gov.uk/about/cabinet/cabinetstatements/2014/retailtowncentres/?lang=en>

restricted by a planning condition and who could, if they wish, create additional floorspace without recourse to the planning system.

8. Whilst uncontrolled increases in retail floor space could have negative impacts as described above, the purpose of the proposed provisions is not to halt retail mezzanines and other internal floor space increases, it is to bring such developments which are above the specified size within planning control, and therefore subject to the same planning considerations as other retail extensions. Local planning authorities would still require sound planning reasons for not permitting such development.
9. Local planning authorities currently have the discretion to attach conditions to restrict mezzanines on new retail developments. We are seeking to build on this power to ensure a consistent approach across Wales and apply these provisions to existing developments also.
10. Introducing this provision would support the aims of Planning Policy Wales (PPW)⁴ of promoting established town, district, local and village centres as the most appropriate locations for retailing. Applications for mezzanine development would need to take in to account the tests set out in PPW such as impact on existing centres, need for the development, accessibility and impact on travel patterns.
11. In the right locations determined through the development management system, such development can contribute to the Welsh Government's planning policy objectives. The construction of additional floor space within an existing building may bring benefits to retailers such as better use of buildings, improved productivity from the existing building footprint, and more efficient use of land. Mezzanines may also reduce the need for new stores by improving performance and increasing return from an existing consent.

What are the main changes we are proposing?

12. To assist in addressing the issues outlined above, the commencement of section 49 PCPA for all remaining purposes is proposed. New sections 55(2A) and (2B) TCPA allow for the amendment of the definition of development in section 55(2) of the 1990 Act to bring the creation of additional floor space within existing buildings under planning control. The provisions enable the Welsh Ministers to prescribe in subordinate legislation the circumstances, or description of circumstances, in which additional floorspace in existing buildings require planning permission.
13. We therefore propose to change the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 to bring proposals for additional floor space over 200 square metres within the existing footprint of a building used for retail purposes within the control of the planning system.
14. As a result, a proposal to create additional retail floorspace in an existing building above this threshold would require the submission of a planning application to the local planning authority where they would need to assess and determine the application in the context of national and local planning policies. This ensures that this form of development is subject to the same planning policy considerations as other retail extensions.

⁴ <http://wales.gov.uk/topics/planning/policy/ppw/?lang=en>

15. The threshold of 200 square metres, which has been introduced in England, is considered appropriate to capture larger retail developments, such as out of town retail parks and supermarkets, but should not stifle the expansion of smaller retailers located in town centres.
16. Changes to the development order would only apply to new retail developments or proposals for additional internal floor space in an existing retail unit. It will not apply to mezzanine floors in place prior to the date on which the development order is made, or where construction of a mezzanine has commenced prior to that date.

What are we asking for your views on?

17. Questions relating to this part of the consultation paper are set out below. If you wish to respond please complete the Consultation Response Form.

Q1 Do you agree with the proposal to bring additional internal floor space within a retail building under planning control? Should this apply to any other uses?

Q2 Do you agree that the proposed floor space threshold of 200sqm (or above) before planning permission is required is appropriate? If no, please provide evidence to justify an alternative threshold.

Q3 Do you think the provisions should include any exceptions to those described above? If so, please can you explain why.

Q4 Do you consider that these proposals will have any costs to you? If so, please can you identify what these are?

Q5 We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please let us know