REPORT OF DIRECTOR OF PARK DIRECTION AND PLANNING

SUBJECT: PCNPA RESPONSE TO WELSH GOVERNMENT CONSULTATION ON MEZZANINE FLOORS

Purpose of Report

To approve the draft response to the consultation (attached at Appendix A) as the PCNPA’s response to this Welsh Government Consultation on Subordinate Legislation Relating to Certain Internal Operations (Mezzanine Floors) (attached as Appendix B).

Introduction

At its meeting on 17 December 2014, the National Park Authority delegated consideration of this consultation to the Development Management Committee.

Comments are required by 13th February 2015.

The consultation is considered to be straightforward in that it proposes the commencement of Section 49 of the Planning and Compulsory Purchase Act 2004, which allows secondary regulations to be introduced bringing the formation of 200sqm or more of additional internal floorspace within retail premises (mezzanine floors) within the meaning of ‘development.’

On this basis, planning permission would now be required for such increases (as in England). The only specific comment that is recommended concerns the fact that in sensitive areas such as National Park or conservation areas a smaller threshold for the meaning of development may be more appropriate.

Financial considerations

This effectively means that mezzanine floors over a certain size will now require planning permission which will now attract a planning application and fee.

Recommendation

That the draft response attached as Appendix A is approved as the PCNPA’s response to this consultation.

Background Documents

(For further information, please contact Jane Gibson)

Author: Alan Southerby
Consultees: Jane Gibson, Liam Jones
Consultation Response Form

Subordinate Legislation Relating to Certain Internal Operations (Mezzanine Floors)

Please submit your comments by 13th February 2015.

If you have any queries on this consultation, please email:

planconsultations-i@wales.gsi.gov.uk

Please include ‘Mezzanine Consultation WG23680’ in the subject line.

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<th>Data Protection</th>
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<td>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.</td>
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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 or tick the box at the end of this form. We will then blank them out.

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Consultation Response Form  
Subordinate Legislation Relating to Certain Internal Operations (Mezzanine Floors)  
Consultation reference: WG23680

Mezzanine Consultation

21 November 2014 – 13 February 2015

Name                Jane Gibson
Organisation        Pembrokeshire Coast National Park Authority
Address             Llanion Park  
Pembroke Dock      
Pembrokeshire      
SA72 6DY
E-mail address      janeg@pembrokeshirecoast.org.uk

Type (please select one from the following)

- Businesses/ Consultants
- Local Planning Authority [X]
- Government Agency/Other Public Sector
- Professional Bodies/Interest Groups
- Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)
- Other (other groups not listed above) or individual

Questions

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?

- Yes
- Yes (subject to further comment) [X]
- No

Comments: 
**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.

<table>
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<tr>
<th>Yes</th>
<th>Yes (subject to further comment)</th>
<th>No</th>
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Comments:
A reduced threshold is worthy of further consideration in areas such as National Parks and Conservation Areas (Article 1(5) land) on the basis that a threshold less than 200sqm as currently proposed could still have significant implications in such sensitive areas due to the potential requirement for additional car parking space, etc. which could impact on character and visual amenity. In such areas, a reduced threshold would be more appropriate, of 100sqm for example.

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

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<th>Yes</th>
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Comments:
See comment above in relation to Q2.

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

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<th>Yes</th>
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Consultation Response Form
Subordinate Legislation Relating to Certain Internal Operations (Mezzanine Floors)

Consultation reference: WG23680

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.

Comments:
No further comments to make.

I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete this 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 form and send it to:

Mezzanine Consultation WG23680
Planning Policy Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
Consultation Response Form
Subordinate Legislation Relating to Certain Internal Operations (Mezzanine Floors)

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<tr>
<td>For further information about the Mezzanine consultation: e-mail: <a href="mailto:planconsultations-i@wales.gsi.gov.uk">planconsultations-i@wales.gsi.gov.uk</a></td>
</tr>
<tr>
<td>telephone: Richard Spear on 029 2082 1673</td>
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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

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.

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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 focus\(^1\) on seeking ways to support and enhance\(^2\) 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 2014\(^3\).

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

\(^3\) [http://wales.gov.uk/about/cabinet/cabinetstatements/2014/retailtowncentres/?lang=en](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 into 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 |