



# JONES DAY COMMENTARY

## PLANNING AND COMPULSORY PURCHASE ACT 2004/ TOWN AND COUNTRY PLANNING ACT 1990

### CONTROLS ON INTERNAL MEZZANINE INSTALLATIONS

The Office of the Deputy Prime Minister has provisionally set 6 April 2006 as the date for implementation of its control on development involving the installation of internal mezzanine floors for retail use.

The new proposals will mean that operations which have the effect of providing additional gross internal retail floorspace of more than 200 square metres will require planning permission from the local planning authority. At or below the 200-square-metres threshold, internal-only alterations to buildings are still not classed as “development” for the purposes of the Town and Country Planning Act 1990 and, as at present, would not require planning permission.

For the purposes of the new legislation, “retail” means the retail sale of goods other than hot food.

Although it is possible that the implementation date may slip a little beyond this date, if you are proposing

to provide a mezzanine floor with the benefit of the current legislation, then we would strongly encourage you to begin these works before 6 April 2006.

Clearly the new controls are of great importance to developers of out-of-town retail parks and the tenants of such parks.

### BACKGROUND

During the passage of the Planning and Compulsory Purchase Act through Parliament, the government acceded to the concerns of some local planning authorities and other third parties that uncontrolled mezzanine installation, particularly in out-of-centre locations, potentially undermines the government’s key objectives to promote the vitality and viability of town centres. The government noted that in the past, many retail park planning permissions were granted without planning conditions which restricted the

amount of internal floorspace that could be developed. Many developers and retailers have therefore taken advantage of the lack of such conditions to increase significantly the floorspace available to them in retail parks.

## MEANING OF “DEVELOPMENT”

Accordingly, the government agreed to the insertion of a new subsection 2A into Section 55 of the Town and Country Planning Act 1990. This provides for an exception to the general rule that internal-only alterations to a building are not “development” under the Act (and so do not require planning permission), by providing that if those alterations have the effect of increasing the gross internal floorspace of the building by more than 200 square metres, then in certain circumstances planning permission is required.

## RETAIL ONLY

The new controls will apply only in certain circumstances, namely, to buildings used for the retail sale of goods other than hot food and where the effect of the operations would be to provide additional floorspace that can be used for the retail sale of those goods. They do not, therefore, apply to any mezzanine floors installed in industrial or non-retail warehouse buildings.

## LAWYER CONTACTS

If you wish to discuss the implications of the new provisions or have any other queries arising, then please do not hesitate to contact your principal Firm representative or the lawyers in our Planning Group listed below. General e-mail messages may be sent using our “Contact Us” form, which can be found at [www.jonesday.com](http://www.jonesday.com).

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