

Date: 19/08/99

Ref: 45/3/133

Note: The following letter which has had personal details edited out was issued by our former department, the Department for Environment, Transport and the Regions (DETR). DETR is now Communities and Local Government - all references in the text to DETR now refer to Communities and Local Government.

Building Act 1984 - Section 39

Appeal against refusal by the District Council to relax Requirement A1 (Structure - Loading) of the Building Regulations 1991 (as amended) in respect of the erection of a mezzanine floor in a warehouse

The appeal / the building work

3. The building work to which this appeal relates involves the erection of a mezzanine floor in a warehouse which has been constructed as a storage building in a commercial/industrial estate. The warehouse is let out on a long term lease by your clients with exclusive occupation for the lessee who wishes to use the mezzanine floor for the sole purpose of storing Christmas crackers. The proposed mezzanine floor will provide a raised storage area of 3060 square metres extending over 85 per cent of the ground floor area of the building. According to the District Councils consulting engineers the mezzanine floor has been designed for a superimposed live load of 1.25 kN/square metres.

4. The proposals for this building work were the subject of a full plans application which was rejected by the District Council on the grounds that the imposed loading assumed for the design of the mezzanine floor was not adequate for general storage use. However, you believe that it is common practice to design a mezzanine floor to suit the specific requirements of the current tenant and not to allow for an imposed loading recommended in the relevant British Standard for general storage which would result in significant additional construction costs. You therefore applied to the District Council for a relaxation of Requirement A1 (Structure-Loading) of the Building Regulations and were advised that they had refused your application. It is against that refusal that you have appealed to the Secretary of State.

The appellant's case

5. You contend that the imposed loading of 1.25kN/square metres adopted for the design of the mezzanine floor has been determined from an assessment of the tenants intended use of the floor - ie for the storage of Christmas crackers. You deem this to be adequate despite the magnitude of the design imposed loading being considerably less than that recommended in the *BS6399: Part 1: 1996 Code of practice for dead and imposed loads*.

6. In recognition of the latter disparity you propose to display safe loading notices on the floor structure. You state that the present tenant has also offered to arrange for the floor to be dismantled upon the expiry of the lease so as to avoid any risk of the structure being overloaded by a future tenant. In this regard you have confirmed that the future removal of the mezzanine floor will not compromise the stability of the main building structure.

The District Council's case

7. The District Council is concerned that the safety of the structure when in use will be placed at some considerable risk owing to the design being based on an assumed imposed loading of only 1.25kN/square metres instead of a recommended value derived from BS6399:Part 1.

8. The District Council has drawn attention to the fact that there is no continuing requirement under the Building Regulations to allow the Council to control the day to day operational use of the building. For this reason the Council contends that the floor should be designed for general storage use as applicable to a "storage building".

The Department's view

9. The Department takes the view that the current Building Regulations require the District Council to satisfy themselves that the plans comply with Requirement A1, as applicable to the intended use of a particular building. In the present case the mezzanine floor has been designed for an imposed loading of 1.25kN/square metres, which is only 15 per cent of the recommended value of uniformly distributed loading derived from BS6399:Part 1 for general storage purposes. Moreover, your adopted design imposed loading of 1.25kN/square metres is only some 50 per cent of the lowest recommended value of imposed loading given in the recently published BRE Digest 437 (Industrial platform floors: mezzanine and raised storage) which provides for a range of imposed loadings commensurate with the intended use of the floor and which, of necessity, is subject to the structure being monitored under a suitable management scheme.

10. In addition to the safety of the supporting steel structure, the Department is particularly concerned with the safety of the 18 mm thick chipboard specified for the decking, as this thickness of board is unsuitable for carrying the BS 6399: Part 1 recommended concentrated load of 7kN.

11. The Department accepts the District Councils judgement that they feel unable to relax the imposed loading criteria on the basis of any of the control measures which you have suggested. Such action would involve stipulating a load-carrying capacity for the floor as constructed well below the magnitude stipulated in the BS6399:Part 1; and would require continuing control, during the period of the current and any future tenancies, which is beyond the scope of the Building Regulations and the statutory powers and duty of the District Council. Moreover, even if such continuing control powers did exist, it is the view of the Department that it would be unacceptable on safety grounds to reduce the imposed loading criteria to such a great extent as you envisage.

The Secretary of State's decision

12. You have appealed to the Secretary of State against the refusal by the District Council to relax Requirement A1 in connection with the premises mezzanine first floor imposed loading. The Secretary of State considers that compliance with Requirement A1 is a matter which may have a direct effect on life safety and as such he would not normally consider it appropriate to relax the requirement.

13. The Secretary of State has given careful consideration to the facts of the case and the arguments put forward by both parties. He has concluded that there are no extenuating circumstances which would justify the relaxation of Requirement A1 in this case so as to allow imposed loading criteria other than those of the recommended value for general storage purposes. In his view, the District Council therefore came to the correct conclusion in refusing to relax Requirement A1 in respect of the imposed loading on the premises mezzanine floor. Accordingly, he dismisses your appeal.