

# Buildings and structures for agriculture —

## Part 11: Guide to regulations and sources of information

# Committees responsible for this British Standard

The preparation of this British Standard was entrusted to Technical Committee B/549, Agricultural buildings and structures, upon which the following bodies were represented:

- British Cement Association
- British Commercial Glasshouse Manufacturers' Association
- British Precast Concrete Federation Ltd.
- British Veterinary Association
- Cold Rolled Sections Association
- Department of Agriculture Northern Ireland
- Fibre Cement Manufacturers' Association Ltd.
- Health and Safety Executive
- Local Authority Organizations
- Ministry of Agriculture, Fisheries and Food
- National Farmers' Union
- National Rivers Authority
- Royal Institute of British Architects
- Royal Institution of Chartered Surveyors
- Rural Design and Building Association
- Scottish Office (Agriculture and Fisheries Department)
- Silsoe Research Institute
- Steel Construction Institute
- Transport and General Workers' Union
- Water Services Association of England and Wales

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## Foreword

This Part of BS 5502 has been prepared by Technical Committee B/549. It is a new edition and supersedes BS 5502-11:1990 which is withdrawn.

BS 5502 has been restructured into the following broad subject areas:

- *Part 0: Introduction and consolidated index;*
- *Parts 10 to 19: Reference information and legislation;*
- *Parts 20 to 39: General design;*
- *Parts 40 to 59: Livestock buildings;*
- *Parts 60 to 79: Crop buildings;*
- *Parts 80 to 99: Ancillary buildings.*

More specifically, the reference information and legislation series will comprise:

- *Part 11: Guide to regulations and sources of information.*

A more detailed description of the new structure of BS 5502 is given in Part 0.

The object of the new structure is to allow subject areas to be broadly characterized, and related subject matter, whether in the form of recommendations, guidance or supporting data, to be rationalized and brought together. It will also allow sufficient flexibility to enable BS 5502 to be expanded and developed in a logical way in the future.

It has been assumed in the drafting of this British Standard that the execution of its provisions is entrusted to appropriately qualified and experienced people, for whose guidance it has been prepared.

A British Standard does not purport to include all the necessary provisions of a contract. Users of British Standards are responsible for their correct application.

**Compliance with a British Standard does not of itself confer immunity from legal obligations.**

### Summary of pages

This document comprises a front cover, an inside front cover, pages i and ii, pages 1 to 18, an inside back cover and a back cover.

This standard has been updated (see copyright date) and may have had amendments incorporated. This will be indicated in the amendment table on the inside front cover.

## 1 Scope

This Part of BS 5502 identifies the statutory instruments and regulations which apply to buildings and structures used for agricultural purposes. This guide is not intended to provide an interpretation of the regulations, which is a matter for the appropriate government department or local authority.

Organizations which are able to provide information on various aspects in support of this standard are given in Annex A.

## 2 References

### 2.1 Normative references

This Part of BS 5502 incorporates, by reference, provisions from specific editions of other publications. These normative references are cited at the appropriate points in the text and the publications are listed on page 17. Subsequent amendments to, or revisions of, any of these publications apply to this British Standard only when incorporated in it by updating or revision.

### 2.2 Informative references

This Part of BS 5502 refers to other publications that provide information or guidance. Editions of these publications current at the time of issue of this standard are listed on page 17, but reference should be made to the latest editions.

## 3 Definitions

For the purposes of this Part of BS 5502, the definitions given in BS 6100 apply.

## 4 Planning

### 4.1 England and Wales

A planning application will be required for an agricultural building and/or works unless it benefits from the permitted development rights set out in the Town and Country General Development Order 1988 [1], as amended (see Part 6 of Schedule 2 to the Order).

Exemption from the need to apply for specific planning permission is allowed by the Order for the erection, extension or alteration of an agricultural building to be built on agricultural land comprised in an agricultural unit of 5 ha or more provided that:

- a) the development is not carried out on a separate parcel of land forming part of the unit which is less than 1 ha in area;
- b) it does not include the erection, extension or alteration of a dwelling;

c) the ground area of any building and associated works does not exceed 465 m<sup>2</sup> and it is not less than 90 m away from any other building or works built within the preceding 2 years;

d) the building and associated works is not higher than 12 m, or 3 m if within 3 km of the perimeter of an aerodrome;

e) the building and associated works is more than 25 m from a trunk or classified road;

f) it is not to be used for the accommodation of livestock or for the storage of slurry or sewage sludge, if the building is within 400 m of the curtilage of a protected building (i.e. a dwelling or other permanent building normally occupied by people other than a dwelling within the unit, or one or another agricultural unit);

g) the landowner has applied to the local planning authority and has received a negative response for a "determination" as to whether their prior approval will be required over details of the siting, design and external appearance of the building.

**NOTE** In National Parks and some adjoining areas the local planning authority has to be informed of all proposed extensions and alterations, but outside these areas the requirement applies only to "significant" extensions and alterations, i.e. where the cubic content of the original building would be exceeded by more than 10 % or the height of the original building would be increased. Significant extensions and alterations may only be carried out once under permitted development rights.

Exemption from the need to apply for specific planning permission is also allowed by the Order for the extension or alteration of an agricultural building on agricultural land comprised in an agricultural unit of not less than 0.4 ha but less than 5 ha, provided that:

- 1) the development is not carried out on a separate parcel of land forming part of the unit which is less than 0.4 ha;
- 2) it does not materially affect the external appearance of the premises;
- 3) it is not within 25 m of a trunk or classified road;
- 4) it does not involve the carrying out of works to a building or structure used or to be used for the accommodation of livestock or the storage of slurry or sewage sludge where the building is within 400 m of the curtilage of a protected building;
- 5) the height of the building or structure is not increased;
- 6) the cubic content of the original building is not increased by more than 10 %;
- 7) it does not involve the extension, alteration or provision of a dwelling;
- 8) it is not within 5 m of any boundary of the unit;

9) the ground area of any extended building does not exceed 465 m<sup>2</sup>.

While new buildings are permitted in certain circumstances on units of less than 5 ha, they are treated as extensions to existing buildings. Such an additional building within the curtilage of another building is not to be more than 30 m from it and is not to be treated as an original building. Where two or more original buildings are within the same curtilage and are used for the same undertaking they are to be treated as a single original building in making any measurement in connection with the extension or alteration of either of them. On smaller agricultural units in National Parks and some adjoining areas these rights to extend or alter a building are subject to the “determination” procedure referred to above.

Under the “determination” procedure, the local planning authority has 28 days for initial consideration of the proposed development. If they give notice that prior approval is required they will then have the normal 8 week period from receipt of the submitted details to issue their decision, or such longer period as may be agreed in writing. Those required to submit details for approval will have the right of appeal to the Secretary of State for the Environment if approval is refused or is granted subject to conditions with which they disagree, or if notice of a decision is not given within the normal 8 week period. There is no right of appeal against the decision of a local planning authority to require approval of details. Similarly, where a specified planning application for development not permitted by the Order is made to the local planning authority, there is a right of appeal against the failure to issue a decision within 8 weeks or the refusal of or the imposition of conditions to a planning permission.

These exemptions may not apply in areas subject to an Article 4 Direction imposing full planning control on agricultural buildings.

## 4.2 Scotland

The Town and Country Planning (Scotland) Act 1972 [2] provides that anyone proposing to develop land, i.e. to carry out any building, engineering, mining or other operation on it, should first obtain planning permission. This usually means that an application for planning permission should be made to the planning authority. However, in the case of most agricultural buildings, planning permission is deemed to be granted under the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 [3], and express planning permission is not therefore required.

The main exclusions from the scope of this deemed consent are:

- a) development on agricultural land, comprising one piece of land of less than 0.4 ha, except within the districts of the former Crofting Counties where the minimum area of 0.4 ha may be calculated by adding together the areas of separate parcels of land;
- b) dwellings;
- c) any development not designed for agriculture;
- d) any building over:
  - 1) 465 m<sup>2</sup> ground area or,
  - 2) 12 m in height or,
  - 3) 3 m in height, if within 3 km of the perimeter of an aerodrome;
- e) any development within 25 m of the metalled portion of a trunk or classified road; and
- f) any building used for housing pigs, poultry, rabbits or animals bred for their skin or fur or for the storage of slurry or sewage sludge, where that building is within 400 m of a protected building.

NOTE A protected building is a building normally occupied by people, other than one within an agriculture unit or a building as defined in Part 6 of the Order [3].

Express planning permission may also be required for any development which may be the subject of direction under Article 4 of the 1992 Order [3] restricting the scope of the deemed consent granted by the Order.

Developments may still require to be notified to Scottish Natural Heritage (SNH) if they are within a Site of Special Scientific Interest (SSSI) designated under the Wildlife and Countryside Act 1981 [4] and are listed as Potentially Damaging Operations. The landowner and occupier will be notified by SNH of any land designated as an SSSI, and may in certain circumstances enter into management agreements to protect nature conservation interests.

In addition to the foregoing exclusions etc., anyone, intending to build or significantly alter or extend a building, even if the development is deemed permitted, is required to notify the planning authority of their intention to carry out such development, for a determination as to whether planning authority prior approval will be required over details of the siting, design and external appearance of the building.

Under the “determination” procedure, the planning authority has 28 days for initial consideration of the proposed development. If no notice is given by the authority within 28 days that prior approval is required, then the development can proceed as permitted development. If, however, notice is given that prior approval is required, then the developer will be required to seek planning permission.

### 4.3 Northern Ireland

Under the Planning (Northern Ireland) Order 1991 [5], the control of farm building development on agricultural land of more than 0.5 ha depends on the size of the building development and the distance from the nearest part of a group of principal farm buildings as follows.

#### a) *Building development within 75 m distance*

Farm building development is exempt from planning control except:

- 1) where the building is over 12 m in height; or
- 2) where the building is over 3 m in height within 3 km of the perimeter of an aerodrome; or
- 3) where the building is within 24 m from the nearest part of a special road, i.e. motorway or certain major trunk roads; or
- 4) where the building is within 24 m from the middle of a trunk road or first or second class road; or
- 5) where the building is within 9 m from the middle of an unclassified road; or
- 6) where the building is within 75 m of a dwelling house which is not the dwelling house of the farmer or a person working on the farm, and is in conjunction with any other building less than 75 m away erected within the last 2 years and over 300 m<sup>2</sup> in ground area.

#### b) *Building development at greater than 75 m distance*

Farm building development is subject to planning control:

- 1) where the building is over 300 m<sup>2</sup> in ground area; or
- 2) where the circumstances listed in items 1) to 5) of item a) apply.

Refer also to the Planning (General Development) Order (Northern Ireland) 1993 [6] for “permitted development” on agricultural land.

### 4.4 Environment

Particular attention should be paid to the legislative requirements covering environmentally sensitive areas, historic monuments, areas of outstanding natural beauty and areas of special scientific interest, some of which may impose restrictions on farm buildings. Apart from any regulatory requirement it is desirable in any environmentally designated area, e.g. areas of outstanding natural beauty, to ensure that the building is in keeping with the countryside.

The legislation relating to the assessment of agricultural developments is, for England and Wales, the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 [7], for Scotland, the Environmental Assessment (Scotland) Regulations 1988 [8] and for Northern Ireland the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 [9].

These Regulations are only likely to affect major agricultural developments, such as large new pig and poultry units. The Regulations are explained in Department of the Environment (DoE) Circular 15/88 [10] or Scottish Development Department (SDD) Circular 13/88 [11]. They require an “environmental statement” which involves a detailed appraisal and report on the likely effect of the proposed development on the environment. The DoE and SDD circulars indicate threshold criteria of unit sizes that will require an environmental assessment. These are 400 sows; 5 000 fattening pigs; 100 000 broilers; or 50 000 layers or other poultry. Local planning authorities may call for an assessment on smaller units. It is advisable to consult the local planning authorities on the need for an environmental assessment at an early stage when considering a development.

In Northern Ireland attention is also drawn to the provisions for Environmentally Sensitive Areas:

- Mourne Mountains and Slieve Croob Designation Order (Northern Ireland) 1988 [12];
- West Fermanagh and Erne Lakeland Designation (Amendment) Order (Northern Ireland) 1994 [13];
- Antrim Coast, Glens and Rathlin Designation (Amendment) Order (Northern Ireland) 1994 [14];
- Slieve Gullion Designation (Amendment) Order (Northern Ireland) 1994 [15];
- Sperrins Designation (Amendment) Order (Northern Ireland) 1995 [16];
- Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 [17].

#### 4.5 Historic buildings and archaeological remains

Local authorities have the statutory function to hold lists of buildings of special architectural and historical interest as well as lists of scheduled archaeological remains.

It is an offence to demolish a listed building or to alter or extend it in any manner which would affect its character, or to build on scheduled remains, without the consent of the local authority.

The majority of buildings erected before 1840 are listed together with a significant number erected between 1840 and 1914, and some of later origin, hence all buildings and sites should be checked.

The three categories of listing, in order of importance, are grades I, II and III.

It is generally considered desirable by local authorities and conservation bodies that historic farm buildings remain in agricultural use.

Changes to non-agricultural use are usually deemed to alter the character to a greater degree.

When extending or altering existing farm buildings care should be taken to use matching traditional materials or new materials of a similar colour and texture.

In Northern Ireland, attention is drawn to the provisions of the Historic Monuments Act (Northern Ireland) 1971 [18].

### 5 Building Regulations

#### 5.1 England and Wales

The Building Regulations 1991 [19] do not apply to buildings listed in Schedule 3 of the Regulations. Class III buildings include greenhouses and agricultural buildings, namely:

- a) a building used as a greenhouse unless the main purpose for which it is used is retailing, packing or exhibiting;
- b) a building used for agriculture which is
  - 1) sited at a distance not less than one and a half times its height from any building containing sleeping accommodation; and
  - 2) provided with an exit which may be used in case of fire which is not more than 30 m from any point within the building;
 unless the main purpose for which it is used is retailing, packing or exhibiting.

#### 5.2 Scotland

In Scotland, buildings erected on agricultural land are exempt from the Building Standards (Scotland) Regulations 1990 [20] except where:

- a) the building is used to any extent for retailing or exhibiting;
- b) the building exceeds 2 000 m<sup>3</sup> capacity;
- c) the building is to be erected within 10 m or the equivalent of its height (whichever is the lesser) of the boundary of a building which is a dwelling or institutional or other residential accommodation;
- d) an independent wall exceeds 1.2 m in height or a fence exceeds 2 m in height; or
- e) the building is a dungstead or farm effluent tank (including a slurry or silage effluent tank).

#### 5.3 Northern Ireland

Buildings used for the purposes of agriculture, other than dwelling houses, are exempt from the Building Regulations (Northern Ireland) 1994 [21] where they are constructed more than one and a half times their overall height from the nearest part of a road (including footpaths and hard shoulders) and the boundary of the land (excluding any abutting street, canal or river) on which the buildings are erected; and where no part of the building is within the notional boundary, as determined by the Regulations, of dwellings, flats, institutions, etc.

### 6 Pollution control

#### 6.1 Water and land

##### 6.1.1 *Water Resources Act 1991*

The principal Act affecting water resources, quality and pollution in England and Wales, is the Water Resources Act 1991 [22]. The Act consolidates the environmental aspects of previous water legislation, particularly the Water Resources Act 1963 [23], Salmon and Freshwater Fisheries Act 1975 [24], Land Drainage Act 1976 [25] and Water Act 1989 [26], the last incorporating the water pollution control provisions previously found in Part 2 of the Control of Pollution Act 1974 [27]. The National Rivers Authority, set up under the Water Act 1989 [26] is responsible for enforcing most of the provisions of the Water Resources Act 1991 [22].

Section 85 of the Act [22] makes it an offence to cause or knowingly permit a discharge of poisonous, noxious or polluting matter or any solid waste matter to enter controlled waters. "Controlled waters" refers to all groundwater, coastal or inland waters including rivers, streams, ditches, land drains and most lakes and ponds.