

# Buildings and structures for agriculture —

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

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# Committees responsible for this British Standard

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- ADAS UK Ltd
- British Commercial Glasshouse Manufacturers' Association
- British Precast Concrete Federation Ltd
- British Veterinary Association
- Cold Rolled Sections Association
- Department of the Environment, Food and Rural Affairs
- Environment Agency
- Fibre Cement Manufacturers' Association Ltd
- Galvanizers' Association
- Health and Safety Executive
- Institution of Structural Engineers
- Royal Institute of British Architects
- Royal Institution of Chartered Surveyors
- Rural Design and Building Association
- Silsoe Research Institute
- Scottish Executive — Environment and Rural Affairs Department
- Steel Construction Institute
- Co-opted members

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## Foreword

This Part of BS 5502 has been prepared by Technical Committee B/549. It supersedes BS 5502-11:1996, which is withdrawn. This new edition has undergone some restructuring and it takes account of new legislation, regulations, codes and reference information.

BS 5502 has been structured 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.*

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

More specifically, reference information and legislation is covered in:

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

The object of the 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.

This publication does not purport to include all the necessary provisions of a contract. Users are responsible for its 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 25 and a back cover.

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## 1 Scope

This Part of BS 5502 identifies the statutory instruments and regulations that 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, agency, regulator or local authority.

Organizations that are able to provide information on various aspects in support of this British Standard are given in Annex A.

## 2 Normative references

The following referenced documents are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

BS 6100, *Glossary of building and civil engineering terms*.

## 3 Terms and definitions

For the purposes of this British Standard, the terms and 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 Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 [1].

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 two 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); and
- 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 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 involve the extension, alteration or provision of a dwelling;
- 3) the ground area of any extended building does not exceed 465 m<sup>2</sup>;
- 4) the height of the building or structure is not increased;
- 5) it is not within 25 m of a trunk or classified road;
- 6) 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;
- 7) it does not materially affect the external appearance of the premises;
- 8) the cubic content of the original building is not increased by more than 10 %; and
- 9) it is not within 5 m of any boundary of the unit.

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 in 4.1g).

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 eight 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 eight 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 eight weeks, or the refusal of, or the imposition of conditions to a planning permission.

These exemptions might 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 1997 [2] provides that anyone proposing to develop land, i.e. to carry out any building, engineering, mining or other operation on it, needs to first obtain planning permission. This usually means that an application for planning permission needs to 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 1992 Order [3].

Express planning permission might also be required for any development that could 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 might 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 under certain circumstances, management agreements might be required 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 may 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 two 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 needs to be paid to the legislative requirements covering environmentally sensitive areas, historic monuments, areas of outstanding natural beauty and areas of special scientific interest, which could impose restrictions on farm buildings. Apart from any regulatory requirement, it is desirable in any environmentally sensitive area 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 (Environmental Impact Assessment) (England and Wales) Regulations 1999 [7], for Scotland, the Environmental Impact Assessment (Scotland) Regulations 1999 [8] and for Northern Ireland the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 [9].

These Regulations are likely to affect major agricultural developments only, such as large new pig and poultry units. The Regulations are explained in DETR Circular 02/99 *Environmental impact assessment* [10] or Scottish Executive Development Department (SEDD) Circular 15/99 *Environmental Impact Assessment (Scotland) Regulations 1999* [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 DETR circular indicates 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 can 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. It should be noted that additional environmental impact assessment regulations could apply to agricultural proposals that do not constitute “development” under UK town and country planning legislation.

In Northern Ireland attention is also drawn to the provisions for environmentally sensitive areas:

- a) Mourne Mountains and Slieve Croob Designation Order (Northern Ireland) 1993 [12];
- b) West Fermanagh and Erne Lakeland Designation Order (Northern Ireland) 1993 (as amended) [13];
- c) Antrim Coast, Glens and Rathlin Designation Order (Northern Ireland) 1993 (as amended) [14];
- d) Slieve Gullion Designation Order (Northern Ireland) 1994 (as amended) [15];
- e) Sperrins Designation Order (Northern Ireland) 1994 (as amended) [16];
- f) The Environment (Northern Ireland) Order 2002 [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 that 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 II.

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 and Archaeological Objects (Northern Ireland) Order 1995 [18].

#### 4.6 Habitats and wild birds

The EU Habitats Directive (92/43/EEC) [19] and the EU Wild Birds Directive (79/409/EEC) [20] aim to protect biodiversity via the conservation of natural habitats and wild fauna and flora through the requirement of all EU Member States to establish a coherent network of Special Areas of Conservation (for habitats and species) and Special Protection Areas (for birds), collectively called Natura 2000 sites. Under the Directives, competent authorities are required to determine the impact of all new and existing plans and projects on Natura 2000 sites. Examples include:

- a) local planning authorities dealing with applications for planning permission;
- b) water companies dealing with applications for discharges to sewer;
- c) Environment Agency/Scottish Environment Protection Agency (SEPA) dealing with applications to dispose of agricultural effluents to land (e.g. sheep dip) and to controlled waters (e.g. vegetable washings), and applications to abstract surface and groundwaters.

NOTE More information on the EU Habitats Directive (92/43/EEC) and Wild Birds Directive (79/409/EEC) plus the location of Natura 2000 sites can be found on the JNCC website, [www.jncc.gov.uk](http://www.jncc.gov.uk).

## 5 Building Regulations

### 5.1 England and Wales

The Building Regulations 2000 [21] do not apply to buildings listed in Schedule 2 of the Regulations. Class III of Schedule 2 covers buildings used for agriculture (including horticulture, fruit growing, the growing of plants for seed, and fish farming) and buildings used principally for the keeping of animals, provided that:

- a) no part is used as a dwelling;
- b) no part of the building is less than one and a half times its height from any point of a building containing sleeping accommodation;
- c) has a fire exit no more than 30 m from any point within the building;
- d) the main purpose for which it is used is not retailing, packing or exhibiting.

Where a change of use occurs to an agricultural building (e.g. into a dwelling or light-industrial unit), all building regulations relating to the new use will apply.

### 5.2 Scotland

In Scotland, greenhouses used mainly for commercial growing of plants and single storey detached buildings used for any form of agriculture, fish farming or forestry are exempt from the Building (Scotland) Regulations 2004 [22] except where:

- a) the building is used to any extent for retailing (including storage for retailing) or exhibiting;
- b) the building exceeds 280 m<sup>2</sup> in area;
- c) the building is to be erected within 6 m or the equivalent of its height (whichever is the less) of a boundary;
- d) the building is a dwelling, residential building, office, canteen or visitor centre;
- e) the building is a dungstead or farm effluent tank (including slurry or silage effluent tank);
- f) a paved area or hardstanding exceeds 200 m<sup>2</sup> in area or forms an access to meet a requirement of the regulations;
- g) an independent wall exceeds 1.2 m in height or a fence exceeds 2 m in height.

*Scottish building standards — Technical non-domestic handbook* [23] provides guidance on the system of building standards as set out in the Building (Scotland) Regulations 2004. It covers general issues and sets out how and when the regulations apply to buildings and works. It also gives guidance on how to achieve the standards set by these regulations.