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2. Chris Leslie

From: Dr Les Fothergill  
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submission for Parts B and E\Final  
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13 November 2002

## **The Building Regulations 2000 and the Building (Approved Inspectors etc.) Regulations 2000**

### **Amendments to Part B (Fire safety) and Part E (Resistance to the passage of sound) and the supporting Approved Documents**

#### **The issue**

#### **1. This submission asks you to:**

- a) make the enclosed Regulations (**Flag A**) which amend the Building Regulations 2000;
- b) make the enclosed Regulations (**Flag B**) which amend the Building (Approved Inspectors etc.) Regulations 2000;
- c) sign the enclosed Regulatory Impact Assessment (**Flag C**);
- d) formally approve "Amendments 2002 to Approved Document B (Fire safety)" (at **Flag D**): this supplements the 2000 Edition of Approved Document B
- e) formally approve the 2003 Edition of Approved Document E (Resistance to the passage of sound) (at **Flag E**) which provides guidance on how to comply with the new Part E in Schedule 1 of the Building Regulations, and on the new requirements for sound insulation testing;
- f) agree to the issue of the enclosed ODPM Circular (**Flag F**)

The amendments apply to England and Wales. The Welsh Assembly Government are content with the amendments.

#### **Timing**

2. As soon as possible to ensure the new Approved Document E can be published at least six months before it comes into force on 1 July 2003.

#### **The Building (Amendment) (No. 2) Regulations 2002**

3. The Building (Amendment) (No. 2) Regulations 2002 substitute revised text for Parts B and E of Schedule 1 to the Building Regulations 2000.

4. As regards amendment of Part B (Fire safety) the only change relates to Requirement B2 (Internal fire spread (linings)) of Schedule 1. The background here is explained in **Appendix 1** to this submission.
5. The changes in relation to Part E (Resistance to the passage of sound) are more extensive. They:
  - introduce the concept of *Rooms For Residential Purposes* (RfRPs) to cover hotel rooms and hostel types of accommodation,
  - apply Part E to new RfRPs and amend Regulations 5 and 6 of the Building Regulations 2000 to apply Part E to RfRPs formed by material change of use of buildings,
  - introduce a new Regulation 20A into the Building Regulations 2000 to require builders of houses, flats and RfRPs to arrange appropriate testing of their sound insulation by an approved procedure, whether they are newly built or formed by conversion of buildings,
  - extend Building Regulation controls to cover the sound insulation between rooms within a house, flat or RfRP (up to now, Part E has applied only to party walls and floors),
  - extend Building Regulation controls to limit reverberation of sound in the common parts of buildings containing flats or RfRPs, and
  - extend Building Regulation controls to the acoustic conditions in schools
6. You have already agreed to all but the last three of these amendments - see submission dated 19 June attached as **Appendix 2**; your preferences on the rate of testing have been incorporated in the Approved Document.
7. These three remaining amendments were strongly supported by the public consultation and by BRAC, and there were no significant objections. The amendment on controlling acoustic conditions in schools has the full support of DfES, as part of their policy of assimilating school building projects into the normal Building Regulations system.

More background on Part E is given in **Appendix 3** to this submission.

#### **The Building (Approved Inspectors etc.) (Amendment) Regulations 2002**

8. The Building (Approved Inspectors etc.) (Amendment) Regulations 2002 make changes to the Building (Approved Inspectors etc.) Regulations 2000 only in support of the revision of Part E. In particular, these Amendment Regulations add a new Regulation 12A to the Approved Inspectors Regulations 2000, to create a requirement on builders to arrange sound insulation testing, corresponding to that created by the new Regulation 20A in the Building Regulations 2000. Regulation 12A applies in cases where building control is being done by an approved inspector.

**Transitional provisions** (applicable to



both sets of amendment Regulations)

9. The amendments in the new Part B, and "Amendments 2002 to Approved Document B", are to allow for alternative European fire test methods, and the original national methods remain acceptable. There are no transitional provisions in relation to the new Part B, as building work that complies with the existing Part B will also comply with the new Part B. The coming into force date for these changes is 1 March 2003, so as to give early recognition to the new test methods, whilst still allowing a lead time for the industry to take note of the changes in Part B and Approved Document B.
10. For Part E, the main coming into force date is 1 July 2003. This should allow the customary six clear months between publication of the new Approved Document and the coming into force of the changes in Part E. There is, however, a second coming into force date, of 1 January 2004, for the sound insulation testing requirements insofar as they apply to newly built houses and flats (see below). The coming into force of the new Part E, and the associated other changes, to the extent that they apply from 1 July 2003, is subject to transitional provisions in the two sets of Amendment Regulations, based on those used for a major set of amendments that took effect on 1 April this year. Those amendments included substantial upgrades of the energy efficiency requirements (Part L) which - as in the case of Part E - had a significant impact on house design.
11. These transitional provisions mean that:
  - a) the amendments to Part E will not apply to work that is in progress on the coming into force date of 1 July 2003;
  - b) the amendments to Part E will not apply, either, to work started after 1 July 2003, if it is done in accordance with plans that have been *fully approved* by a local authority or an approved inspector before 1 July 2003;
  - c) for new-build houses and flats, the coming into force date for sound insulation testing is postponed until 1 January 2004.

This two-stage coming into force arrangement for the amendments of Part E is to allow the House Builders Federation time to develop and make a case for Robust Standard Details, as you announced on 5 July 2002 (copy of Parliamentary Written Answer at Flag G). However, under the transitional provisions applying to the later coming into force date, only new houses and blocks of flats actually in progress on that date will be exempt from testing. All new-build attached houses and flats started after 1 January 2004 (and to which the amended Part E applies) will be subject to the sound insulation testing requirement, regardless of whether or not plans were approved before that date - unless you decide to amend the Regulations before 1 January 2004, to allow the use of Robust Standard Details as an alternative to testing.

12. The style of transitional provision incorporated into the SIs at Flags A and B was first used for some 1998 Amendment Regulations that applied Part M - *Access and facilities for disabled people*, to new homes. The previous form of transitionals was simpler, and gave exemption to developments for which a building control notice or set of building control plans had been lodged with the local authority before the coming into force date. It was necessary to change it because some builders were lodging notices covering hundreds of new homes, to avoid having to comply with Part M. To prevent similar avoidance action, the new-style transitional provisions were subsequently used for the revision of Part L (and the simultaneous revisions of Part H (Drainage and waste disposal) and Part

Chris Leslie



J (Combustion appliances and fuel storage systems)).

13. The NHBC have raised objections to these transitional provisions, and these are set out in **Appendix 4**, along with the views of officials.

- 14. Are you content to continue with the new form of transitional provisions for the Part E Amendments?** If so, and if you are content with the Regulatory Impact Assessment at **Flag C** (see below) and the substantive provisions in the Amendment Regulations:

- *Please make the enclosed Regulations at Flag A that amend the Building Regulations 2000.*
- *Please make the enclosed Regulations at Flag B that amend the Building (Approved Inspectors etc) Regulations 2000.*

#### REGULATORY IMPACT ASSESSMENT

15. Each consultation was accompanied by a Regulatory Impact Assessment (RIA). The two RIAs were amended in the light of responses to the consultations, and have subsequently been approved by BRAC, the Small Business Service and the Cabinet Office Regulatory Impact Unit (CORIU). The two RIAs have now been combined to form one consolidated RIA for the purpose of these regulatory amendments, and a copy is at **Flag C**.
16. For Part B, as no sensitive issues are proposed, no proposals have a disproportionate impact on a particular group (e.g. small businesses), and there are no significant costs associated with any of the proposals, CORIU considered that a Regulatory Impact Statement was unnecessary.
17. for Part E, CORIU have agreed the following regulatory impact statement, to be used in any correspondence on the RIA:

*A Regulatory Impact Assessment (RIA) has been produced to cover this package of amendments, and the Cabinet Office Regulatory Impact Unit and the Small Business Service have been consulted, and their views taken into account. The RIA indicates that the proposals do have significant costs (estimated to be up to £157 million per year), although there are also significant benefits which are difficult to cost, but have been estimated to be between £40 Million and £480 Million per year.*

18. *As required in the Better Regulation Guide, could you please sign the declaration at the end of the Regulatory Impact Assessment at Flag C to signify your agreement to it. The RIA will be published when the Amendment Regulations are laid.*

#### Approved Documents

19. Section 6 of the Building Act provides for the approval by the Secretary of State of documents for the purposes of giving practical guidance with respect to the requirements of any provision in Building Regulations. ***If you are content with the amendments related to Parts B and E set out in this submission and its appendices, please give your formal approval for the purposes of Section 6 of the Building Act to the proofs of "Amendments 2002 to Approved Document B",***

*at Flag D; and of the 2003 Edition of Approved Document E, at Flag E.*

#### **Departmental Circular**

20. Section 6 of the Building Act provides that the approval of an Approved Document or of an amendment of an AD takes effect in accordance with a notice issued by the Secretary of State. Past practice had been to issue this notice as an annex to a Departmental circular. A draft circular in relation to these amendments is at **Flag F**. This includes, as Annex C, a section 6 notice relating to the supplement to the AD for Part B, and to the new AD for Part E. It also includes, as Annex D, notices of the approval of a sound insulation testing procedure and of a manner of recording the results of sound insulation tests. These approvals are for the purposes of the new Regulation 20A of the Building Regulations and the new Regulation 12A of the Approved Inspectors Regulations.
21. The draft circular explains the amendments to the procedural provisions of the Building Regulations and Approved Inspectors Regulations. It also explains the transitional provisions for the two statutory instruments. The circular will be a TSO publication and will be available on the ODPM web site. It will not be sent to local authorities and approved inspectors. Instead, a circular letter will be sent to local authorities and approved inspectors advising them of the circular and how to obtain it.
22. *If you are content please give your approval to the draft ODPM Circular at Flag F, so that it can be finalised for printing.*

#### **Timetable for publication**

23. We are still awaiting the final proofs of the Approved Documents. However, these cannot be sent for final printing until the Regulations have been laid and we are able to incorporate references to the SI numbers into the ADs. It takes some three weeks for the final Documents to be ready for publication once we give the green light for printing. Thus if the SIs are made in November the Approved Documents and Circular should be printed and ready for publication in December.

#### **Presentation**

24. The News Release and briefing will be the subject of a further submission (from the Media Centre) in due course.

**Les Fothergill**

**Copies – submission only (by e-mail)**

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P/S DPM  
P/S Nick Raynsford  
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Paul Davies (Parliamentary)  
Building Regulations HoBs  
Anthony Burd  
Darren Hobbs  
Kathy Morris  
Nicola Shearman

**Appendix 1 – detail on Part B amendments**

**Appendix 2 – submission dated 19 June 2002**

**Appendix 3 – detail on Part E amendments**

**Appendix 4 – NHBC's views on the transitional provisions**

### **Flags**

- A Amendments to Building Regulations 2000
- B Amendments to AI Regulations 2000
- C RIA for Parts B & E
- D Approved Document B
- E Approved Document E
- F ODPM Circular
- G Written Answer on Sound Insulation Testing

## APPENDIX 1

### AMENDMENTS TO PART B

#### Background

A1.1 Approved Document B gives guidance on fire safety measures that, in common situations, will meet the requirements of Part B (Fire safety) of the Building Regulations. The main objective of the review that has resulted in the amendments of Part B and its AD is to facilitate implementation of the Construction Products Directive (CPD). Two actions are needed:

- a) the issue of a "European" amendment to Approved Document B; and
- b) amendment of Requirement B2 (Internal fire spread (linings)) in Part B of Schedule 1 to the Building Regulations, to reflect new European test procedures for reaction to fire testing (see below).

A1.2 The proposals for consultation on the draft "European" supplement to Approved Document B and its supporting Regulatory Impact Assessment were issued for public consultation on 16 November 2001. An invitation to comment was sent to 470 bodies. In addition, a further 940 copies were distributed in response to requests and it was made available on the Internet. The consultation closed on 15 February 2002, and 82 responses were received (a 6% return).

A1.3 The responses to the consultation have been fully considered by the BRAC Working Party, and the proof AD amendment document at Flag D incorporates amendments following consideration of all responses received. The text was approved by main BRAC on 3 July 2002.

A1.4 The text was notified in draft to the European Commission on 16 November 2001 in accordance with Directive 83/189/EEC. The deadline for comments was 18 February 2002, and no substantive comments were received.

#### Main content of the new European Supplement to Approved Document B

A1.5 Approved Document B (*Fire safety*), 2000 edition, refers to a large number of British Standards (BSs), in relation to Codes of Practice and fire test methods. To allow use of the new European technical specifications and their supporting test standards, it is necessary to provide new guidance in the form of a document amending the existing guidance given in Approved Document B (*Fire safety*). It is also necessary to adjust the wording of Requirement B2 - Internal fire spread - linings, to fit in with the approach adopted in the European test procedures. The effect is to allow designers and builders the option of using components tested in accordance with the harmonised European procedures as an alternative to components tested in accordance with BS procedures.

A1.6 The Members of the Part B Working Party agreed that the scope of the "European" amendment to Approved Document B should be limited to accommodating the new European test procedures. The Members also agreed that as the current edition of Approved Document B (*Fire safety*) only came into force on 1 July 2000 there would not be a need to reconsider any of its general technical guidance.

A1.7 The "European" amendment to Approved Document B specifically provides guidance for the appropriate use and/or specification of a product bearing CE marking in accordance with the CPD. It allows for the fact that the new test methodology



embodied in the new European tests, while similar in general principle, will affect the results of many products tested under the BS regime.

### Consideration

A1.8 In order to facilitate the production of this new guidance the then Department let a number of research contracts, which involved back to back testing of our current national fire test methods and the newly published, and developing European Standards, ENs. These contracts are part of the former DTLR's Partners in Innovation (PII) scheme (now taken over by DTI), and thus industry were involved in the research and its funding. The research work was divided into three distinct projects, Fire Resistance; Reaction to Fire; and Roofing Tests. The research into the roofing tests is not yet complete and so it is envisaged that it will be included in a further AD B amendment document at a later date. A further submission will be put to you on this in due course.

### Fire Resistance

A1.9 Fire resistance is a measure of the ability of a component or construction of a building to satisfy for a stated time, some or all of the criteria specified in the fire resistance test standard, with the performance classified in terms of time. For example, a fire door could be constructed to have 30 minutes fire resistance, which is a measure of its performance when subjected to the relevant fire resistance test standard.

A1.10 Under the harmonised fire resistance tests, most products have shown a reduction in performance of 5-20%, therefore gaining a comparatively lower rating than under the current British testing methods. This indicates that the proposed harmonised fire resistance tests are more severe than the existing British tests. It was agreed that a direct transposition, in relation to the periods of fire resistance that are suggested within Approved Document B, should be made. That is to say, a period of fire resistance of 60 minutes under the BS 476 test should remain 60 minutes within the "European" supplement which refers to the new ENs. Due to the greater severity of the actual EN test methods this direct transposition of fire resistance periods effectively amounts to an *increase* in the actual performance called for. This is a very important point as it was the wish of the Working Party that whilst the "European" supplement should facilitate harmonisation, it should not be perceived to be lowering our current fire safety standards. It should be noted that the majority of industry that were involved with the PII fire resistance contract also wanted to see a direct transposition, as they felt anything else would probably cause confusion in the market place.

### Reaction to Fire

A1.11 The Working Party could not adopt the same approach with regard to the reaction to fire tests, as the situation is more complex. Transposition is more difficult as the British Standard includes tests for "spread of flame", "fire propagation" and "non-combustibility" and these are not criteria directly tested for under the harmonised European tests. The new European reaction to fire test methods will enable a product to be provided with a full classification which indicates its likely performance generally and in terms of smoke production (s) and burning droplets (d). The reaction to fire performance classifications possible are A1 through to F, with A1 indicating the best performance. Whilst smoke production and burning droplets can be classified by suffixes in the ranges of s1-3 and d0-2 respectively. For example, a product could be classified 'B-s3, d2'.

A1.12 Notwithstanding this, the reaction to fire research work provided a comparison between our current national reaction-to-



fire tests and the new European standards. Some products do better under this method, whilst some do worse. A table has been formulated which allows the new Euro-classification system to be accommodated into the AD B amendment. As with the Fire Resistance issue, the Working Party agreed that the new Euro-classifications should not allow (or seem to allow) a lowering of our current fire safety standards. Of the 82 responses received approximately 10 of them, primarily those manufacturers producing wall coverings and fire retardant coatings for timber, suggested the reaction to fire transpositions, between the new European and the existing national standards, may distort their current marketplace. It was interesting to note that wall covering manufacturers thought the European transposition was in part too onerous while the fire retardant manufactures thought that in part the transposition was too lenient. However the majority of respondees to the consultation suggested that the transposition as proposed was the correct way to proceed. By utilising this transposition it would also mean that our guidance would be harmonised with Scotland's Technical Standards (See paragraph A1.14 below).

A1.13 Because of the different criteria used in the European test procedures for Reaction to Fire, it is necessary to amend Requirement B2. The current version refers to linings having "a rate of heat release (if ignited)" which is reasonable in the circumstances. The new version of Requirement B2 in the SI at Flag A refers to linings which, if ignited, have "a rate of heat release or a rate of fire growth" which is reasonable in the circumstances. The expression "internal linings" is currently defined in Requirement B2 as meaning "the materials lining any partition wall, ceiling or other internal structure." In the new version of Requirement B2, this is amended to read "the materials or products used in lining any partition wall, ceiling or other internal structure."

A1.14 Due to a very tight Parliamentary timeframe the Scottish Executive has already implemented its new European fire guidance. While the fire safety Requirements of our Building Regulations, and the supporting guidance, are not quite the same as Scotland's Technical Standards, the proposals, in terms of transpositions, within our European amendment are very similar. In the case of Northern Ireland they are still a little way behind the development of their regulations and guidance to include the new European fire test procedures.

## APPENDIX 2

## SUBMISSION DATED 19 JUNE 2002

To: 1. Caroline Cousin  
2. Paul Overall  
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**Revision of Part E - *Resistance to the passage of sound.***

Testing the sound insulation of flats, control of hostel accommodation and protection from external noise

**The issues**

1. At the meeting with officials on 13 June, you agreed that we should invite the House Builders Federation to develop Robust Standard Details (RSDs) as an alternative to pre-completion testing (PCT).
2. Officials also proposed that when testing, the rate of testing should be reduced from one set of tests per ten flats to one set per twenty flats. You asked for statistical information on the effect this would have on the number of tests carried out. This information is below.
3. It was proposed in the consultation that the scope of Part E should be extended to cover hostel and hotel types of accommodation, known as rooms for residential purposes (RfRPs). As these will be subject to testing, it will be necessary to announce the extension (if you agree to it) as part of the forthcoming announcement on testing. You are, therefore, asked to consider this proposal to extend the scope of Part E.
4. The consultation on Part E also included a proposal to transfer the protection of new housing from external noise from the Town and Country Planning System to the Building Regulations system. We have found that there are legal difficulties with doing this and that it is impracticable to make the change as part of this amendment to Part E. It would be helpful to the industry to announce this at the same time as the announcement on testing.

**Recommendation**

4. That you agree:
  - (a) to reduce the rate of testing for flats from one set of tests per ten flats to one set of

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tests per twenty flats;

- (b) that the scope of Part E should be extended to include rooms for residential purposes such as hostel and hotel accommodation.
- (c) that you agree to announce that the proposal in the consultation to transfer the protection of new housing from external noise from the Town and Country Planning System to the Building Regulations system will not be implemented as part of this amendment of Part E.

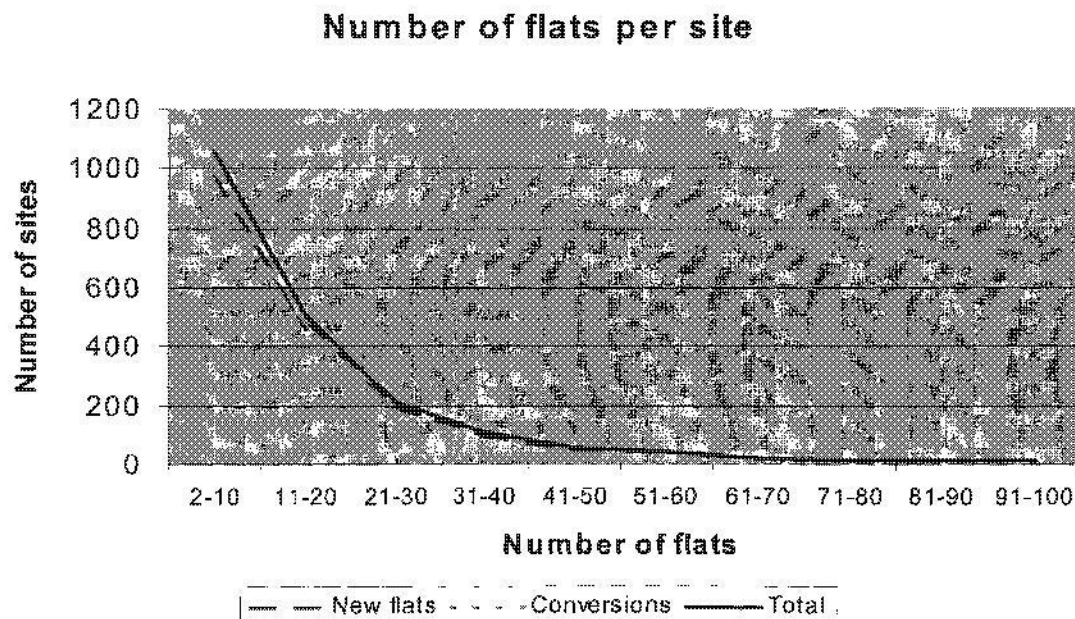
### Timing

- 4. In the normal course of business.

### (a) Rate of testing

#### Background

- 5. In order to decide whether the rate of testing should be reduced from one set of tests per ten flats to one set of tests per twenty flats you asked for details of the distribution of site sizes. This information is shown below. The underlying data were obtained from the National House Building Council (NHBC) which has about 90% of the new-build market; the values have been increased by 10% to give a national estimate. The data cover the period 01/04/01 to 31/03/02.



### The proposal

- 6. Data for new flats and conversions are shown separately on the graph because large scale testing of new flats will only be occur if pre-completion testing (PCT) is adopted instead of Robust Standard Details (RSDs) after you have considered the detailed proposal from House Builders Federation and advice from BRAC and officials. The

flats formed by conversion of other buildings are not included in the HBF proposal, so will be subject to testing.

7. The graph shows that the majority of sites, both new and conversion, are small, with about 75% of sites having 20 or fewer flats. Reducing the rate of testing would have no effect on the smaller developments of up to ten flats, but it would halve the amount of testing on larger sites.
8. This would save time and money for the builder on larger sites, but reduce protection for the occupiers. The level of protection will not be changed for the smaller sites, which are likely to include those being developed by the less well qualified builders. However, as it is the threat of testing, rather than the actual testing, that is expected to focus the builder's mind on the subject, the reduction in protection should be less than the reduction in testing. If this proves not to be the case the rate of testing could be increased when the Regulation is next amended.

#### **(b) Extending control to cover rooms for residential purposes (RfRPs)**

##### **Background**

9. A decision on this issue is necessary because these rooms, whether purpose built or formed by conversion of other buildings, will be subject to testing - and this should be made clear in your forthcoming announcement on testing.

##### **The proposal**

10. The current Part E only applies to dwellings. In the consultation document, it was proposed that the scope should be extended to include RfRPs. These include rooms in hotels, hostels, boarding houses, halls of residence, and residential homes (but not those used for patient care). This proposal was well received, with 112 respondents supporting it and only 6 opposing it. Two building control bodies felt that hotel rooms should not be included.

#### **(c) Transfer of protection against external noise**

##### **Background**

11. Currently, when a new housing development is proposed in a noisy area, the local planning authority will set conditions to ensure appropriate measures are taken to protect the houses from noise. These measures could include changing the site layout, erection of barriers, or improving the sound insulation of the houses. The main measures that affect the sound insulation of the house are the windows and the ventilation system, and these are both controlled under the Building Regulations. The proposal was to transfer control of the sound insulation of these components to building control so that they could be considered along with thermal insulation and ventilation. The planning aspects, such as site layout and noise barriers would be left with the local planning authority.
12. However, a legal conflict has been found whereby the planning authority has to be responsible for all the sound insulation measures and cannot, in effect, delegate approval to the building control authority.



### **The proposal**

13. BRAC felt that this proposal was worthwhile, and have reluctantly accepted that it cannot be implemented at the present time. BRAC has asked officials to try to find a way forward. As we have not found a way yet, it is impracticable to proceed with the transfer. The industry needs to know this as they may be developing new products to suit the more rigorous Building Regulations regime. It is recommended that you include an announcement with your statement on testing.

### **Presentation**

#### **(a) Reduction in testing**

11. This would be welcomed by the industry, but consumer groups may see it as a climb down. It should be emphasised the threat of testing is still there. The effectiveness would be monitored, and if the situation was found to be unsatisfactory the rate of testing would be reviewed.

#### **(b) Extending the scope of Part E**

12. This would be generally welcomed, and could diffuse any criticism of the above.

#### **(c) Transfer of protection against external noise**

13. As we will be maintaining the status-quo, and the proposed change was of an administrative nature, it will probably not be controversial.

### **Next steps**

14. If you are content with these proposals, we will draft a PQ and News Release for your agreement.
15. We will also prepare the package of amended regulations, Approved Document, and regulatory impact assessment for publication, and then seek your agreement to publish them.
16. We will be happy to discuss any aspect of this.

Les Fothergill

### **APPENDIX 3**

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## AMENDMENTS TO PART E

### Background

A3.1 Guidance on sound insulation between dwellings that will meet the requirements of the Building Regulations is given in Approved Document E - *Resistance to the passage of sound*. A draft revised edition of Approved Document E was issued for public consultation in January 2001, and it was also placed on the website. About 170 responses were received.

A3.2 The responses have been fully considered by a BRAC Working Party, and the proof of Approved Document at Flag E incorporates the amendments agreed in the light of all responses received. The text was approved by main BRAC on 12 December 2001.

A3.3 The text was notified in draft to the European Commission in 2001 in accordance with Directive 83/189/EEC. The deadline for comments was 13 August 2001, and no substantive comments were received.

### Main changes in the revised Approved Document E

A3.4 The main changes are:

- a) The Requirements now cover rooms for residential purposes as well as dwelling- houses and flats. "Room for residential purposes" means hostel types of accommodation and hotel rooms.
- b) Performance standards are given for walls, floors and stairs having a separating function, in new buildings and buildings formed by change of use. Site testing of sound insulation is intended on a sampling basis.
- c) There is a new requirement that sets standards for the sound insulation of walls and floors within dwelling-houses, flats and rooms for residential purposes. Site testing is not intended.
- d) There is a new requirement that sets standards for reverberation in the common internal parts of buildings containing flats or rooms for residential purposes. Site testing is not intended.
- e) All new school buildings are now controlled under the Building Regulations, and a new Requirement covers the sound insulation, reverberation time and indoor ambient noise levels. Guidance on meeting the Requirement is given in Building Bulletin 93, to be published by DfES in 2003.

### Consideration

A3.5 The House Builders Federation were strongly opposed to the introduction of pre-completion testing (PCT) for newly built houses and flats. They asked for the opportunity to develop Robust Standard Details (RSDs) as an alternative. You agreed to this, and made an announcement on 5 July 2002 (**Flag G**). This said that the new Regulations would come into force on 1 July 2003, except for PCT of new houses and flats, which would be introduced from



1 January 2004. This extra time is to allow the HBF to develop RSDs, and if you are satisfied with their proposal, to be presented in May 2003, you agreed to amend the Regulations to make RSDs an alternative to testing for newly built houses and flats. Testing for houses and flats created by conversion work, and for "rooms for residential purposes" (whether new-build or conversions) is compulsory with effect from 1 July 2003.

A3.6 The HBF have appointed Napier University to manage the RSD project, and it seems to be running quite smoothly to date.

A3.7 Beam and block concrete floors are included in the guidance in the old AD E, and have been found to perform poorly. For this reason these systems were not included in the consultation document, and are not included in the new Approved Document E. The manufacturers are concerned about the effect this will have on their sales, and they have started a development programme to improve performance, but officials are not satisfied that enough progress has been made to include the system in the Approved Document.

A3.8 Instead, officials have put them in contact with the HBF and they hope to have the improved system adopted as an RSD.

A3.9 As a concession to the manufacturers, officials have offered to consider including a positive reference to the development programme in the News Release that will accompany the launch of Approved Document E. A separate submission will be put forward to you with a draft News Release.

## APPENDIX 4

### NHBC'S VIEWS ON THE TRANSITIONAL PROVISIONS

#### Background

A4.1 The NHBC, in their capacity as an approved inspector dealing with about 50% of new homes in England and Wales, wrote to Building Regulations Division in May objecting to the further use of the new-style transitional provisions. This was on the grounds that the new style of transitionals distorts the flow of plan checking work for NHBC and for local authorities, as house builders press for plans to be certified or approved before the coming into force date. NHBC argued that this distortion of plan checking work might be detrimental to the compliance of actual work with the regulations if it diverts building control effort from inspecting sites actually in progress in the run up to the coming into force date.

A4.2 NHBC argued that the transitionals for Part E, and other future cases, should allow all housing units on *sites in progress* before the coming into force date to be exempt from the amended regulations. This would mean that some buildings could begin after the coming into force date (perhaps several months after that date) and still be exempt from the changes in the regulations even though building control plans of the buildings had not been approved, or even submitted, before the coming into force date. This would not be so generous to builders as the old-style transitionals referred to in paragraph 10, but it would greatly increase the scope for avoidance of the changes compared with the new-style transitionals incorporated into the SI s at Flags A and B.

A4.3 In reply to NHBC, Building Regulations Division argued in a letter dated 24 May that the total amount of plan checking work should not be affected by the form of the transitionals, and that building control bodies should not allow diversion of resources from site inspection work. We acknowledged that building control bodies might take on extra staff, or pay overtime, to try to respond to a rush of requests for clearance of plans in the run up to the coming into force date. NHBC could pass these costs on directly to applicants. Local authorities might not be able to do so in view of the more rigid charging schemes they work to. We invited NHBC to make further representations, but they have not done so. However, we understand that the Association of Consultant Approved Inspectors (ACAI) and the District Surveyors Association (DSA) are planning a joint approach to ODPM to reiterate an argument for allowing exemption for all housing units on sites that are in progress on the coming into force date.

#### **Official's views**

A4.4. Given that the NHBC have had several months to restate their argument, we do not consider that the making of the SIs and the publication of the new Approved Document for Part E should be delayed, thus threatening either a delay in the coming into force date of 1 July 2003 or a reduction of the lead time from publication of the AD and the coming into force date. In principle, if the ACAI and DSA were to make a very strong case for amendment of the transitionals in the Amendment Regulations for Part E, you could amend the SIs before they come into force. This would be undesirable, and an alternative approach, if the ACAI and DSA were to make a good case, would be to say that you intend to stick to the transitionals in the Amendment Regulations for Part E, in order to avoid confusion and uncertainty, but further modify the transitionals for subsequent amendments.