



Department for Levelling Up,
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Date: **29 September 2023**

Dear Phillip Sacre

Thank you for your letter of 13 June 2023. You wrote to dame Judith Hackett and provided additional copies to other named recipients. Your message has been passed to me to reply. I work in the DLUHC Building Assurance team dealing with policy relating to Building Regulations and the statutory guidance (Approved Documents) that support them, so I will limit my response to commenting on Building Regulations, Approved Documents and British Standards. You may know much of this material already, but I ask you to bear with me if I use this letter to set out a narrative so that you can share my understanding of the situation you described.

I have read your letter and sensed that you are motivated by high standards in the construction industry. You recognised that the Building Act 1984 is primary legislation and The Building Regulations 2010 derived from that Act. I agree with you on this point. The Building Regulations set standards for the design and construction of building work, but the Building Regulations do not tell a developer how those standards should be met. Principal responsibility for compliance with the requirements in the Building Regulations lies with the person carrying out the building work.

Approved Documents are statutory guidance that sets out what, for common building situations, would normally be accepted as reasonable provision for compliance. There is no obligation to adopt any solution described in an Approved Document, but if the guidance in the Approved Document has not been followed the person carrying out the building works must demonstrate that the Building Regulations requirements have been met by some other acceptable means. The Approved Documents should be useful for most domestic projects, but may not be relevant for all situations, especially if a project is unusual in design, setting, use, scale or technology, encounters difficult ground conditions, unusual occupancies or involves high levels of complexity. All development

projects are different and need to consider the design of the building and its relationship to the environment in which it is being constructed; following the Approved Documents may not be a guarantee of compliance with the Building Regulations and it is important that a developer should agree with the Building Control Body that the construction techniques and materials are right for the project and will meet the technical requirements of the Building Regulations.

British Standards are referenced in the Approved Documents. When an Approved Document refers to a named standard, if work complies with the guidance referred to in the Approved Document that makes it likely that the work conforms with the relevant requirements of the Building Regulations but, as with the Approved Documents themselves, working to a British Standard technical specification may not be a guarantee of compliance with the Building Regulations. The test, applied by a Building Control Body, will be compliance with relevant technical requirements set out in the Building Regulations, rather than meeting guidance in the Approved Document or a named standard.

In your letter, you described the Building Regulations 2010 giving power to BS8102 (“Code of practice for protection of structures from water from the ground”). I disagree with you on this. BS8102 is referenced in Approved Document C as a technical standard that might be used as an alternative method of meeting the test set by the Building Regulations. That test is set out in Schedule 1 Part C of the Building Regulations and says the walls, floors and roof of the building shall adequately protect the building and people who use the building from harmful effects caused by ground moisture; precipitation including wind-driven spray, interstitial and surface condensation; and spillage of water from or associated with sanitary fittings or fixed appliances. Adequate sub-soil drainage shall be provided, if it is needed, to avoid the passage of ground moisture to the interior of the building. It is not a test forbidding a basement to ever be anything other than dry; although there is nothing in the Building Regulations or an Approved Document preventing a developer from adopting higher standards than those tested by a Building Control Body.

Yours sincerely,

Richard