

Date: 04/08/99

Ref: 45/4/26

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.

Surrey Act 1985: Section 19 (Fire Precautions in Large Storage Buildings)

Appeal under Section 19(6) against a decision by the Borough Council to impose a condition relating to the insulation (Fire) of glazing panels in a compartment wall forming part of the extension and fitting out of a warehouse building

The appeal

3. Section 19 of the 1985 Act (Fire precautions in large storage buildings) relates to the use of a building for the purpose of storing or depositing goods or materials where more than 7,000 cubic metres of the volume of the building will be so used, excluding provision for car parking. Section 19(2) provides that where plans are deposited in accordance with the Building Regulations and those plans show that the proposed work will consist of the construction, extension or alteration of a building for - or change of use of a building to - the purpose to which the section applies, then the district council shall reject plans unless they are satisfied, having consulted the fire authority, that they may properly give consent either: unconditionally; or conditionally in respect of the matters contained in Section 19(3) of the 1985 Act. The matters contained in Section 19(3) relate to measures to prevent the outbreak or spread of fire in or from the building and to reducing danger from fire in the building.

4. Section 19(6) of the 1985 Act provides that a person who is aggrieved by the action of a district council which has rejected plans, or imposed conditions, may appeal to the Secretary of State for the Environment, Transport and the Regions. Section 27(3) of the 1985 Act provides that the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination.

The building work

5. Your clients are the lessees of a newly constructed warehouse approximately 46m x 41m with a ground floor area of approximately 1885m² which incorporates existing ancillary offices predominantly located on a mezzanine floor approximately 7m x 38m extending along one of the longer sides of the building. A small existing office is also located beneath the

mezzanine floor structure. The building work to which this appeal relates is the fire rating and fitting out of the existing offices; the provision of additional ground floor offices underneath the mezzanine structure (including provision of a kitchen/dining room, and new toilets and showers); and a fire division (ie, compartment) wall dividing the warehouse into two compartments positioned approximately two thirds along the longer of the sides and parallel with the shorter sides of the warehouse. The building work is now complete.

6. The above formed the basis of proposals which were considered by the Borough Council under the provisions of the 1985 Act. In doing so the Council had regard to the purpose for which conditions may be applied as specified in section 19(2) of the 1985 Act, and concluded that either a sprinkler installation would be required (involving the replacement of the existing sprinkler supply which was considered inadequate) or alternatively the building would need to be subdivided into compartments no greater than 7,000m. A compartment wall was therefore proposed across the building between the two longer sides, leaving the front compartment of 8520m; inclusive of the volume of the original and new offices. In order to try to reduce this volume still further the Borough Council stated that they were prepared to consider the office areas as separate compartments. Excluding the volume of the offices, the remaining volume of the warehouse was 7480m; and in order to ensure that the volume of the warehouse did not exceed this figure, the Borough Council required full compartmentation between the offices and the warehouse. To allow people in the office areas to see into the warehouse, glazed panels were proposed in the compartment wall, with one hour fire resistant wired glass. These glazed panels as installed satisfy the criteria for fire resisting glass with respect to stability and integrity but do not satisfy the criteria for insulation. The total surface area of the enclosed office area is approximately 147m² of which the glazing is approximately 7m² - under 5 per cent of the surface area.

7. The above proposals were the subject of a full plans application which was conditionally approved by the Borough Council. There were a number of conditions, including the need for the glazing panels between the offices and the warehouse to achieve 60 minutes stability, integrity, and insulation. It was the judgement of the Borough Council that all three criteria should be achieved to obtain full compartmentation. However, you took the view that the criterion of 60 minutes insulation is unreasonable and excessive and it is in respect of this particular criterion in the condition No. 2 attached to the conditional approval that you appealed to the Secretary of State under section 19(6) of the 1985 Act.

The appellant's case

8. You consider the Borough Council's demand for the provision of fire resisting glazing that has a 60 minute insulation value in the compartment wall separating the warehouse section of the building and the offices to be unreasonable and excessive. You make the following points in support of your appeal:

(i)the total glazed area is small in relation to the total office wall

(ii)the Borough Councils requirement for glazed panels that have an insulation value is being imposed under a Local Act and would not be required if the building were being erected outside the jurisdiction of the 1985 Act. You also state that your client has already spent £40,000 trying to comply with the 1985 Act and to provide glazed panels that have an insulation value would impose a further £5,000 cost burden

(iii)the means of escape meets the travel distance recommendations given in *Approved Document B (Fire safety)* and the glazed panels would assist the office staff in detecting a fire in the warehouse at an early stage

(iv)You state that the Fire Officer was not insistent on the provision of insulated glass and that the non-provision of such glass will not affect the issue of a Fire Certificate.

The Borough Council's case

9.In support of their decision the Borough Council state that in consultation with the Surrey Fire Brigade a maximum compartment size of 7000m³; was considered reasonable, although even when the office space was discounted the compartment size was still slightly in excess of this. However in order to ensure that the volume of the warehouse was kept to a minimum the Borough Council insisted on full compartmentation being provided between the warehouse and the offices.

10.To satisfy the full criteria for compartmentation, the Borough Councils view was that any glazing in this compartment wall should be fully fire resisting in terms of all the criteria: ie, stability, integrity and insulation. They point out that *Table A1 of Approved Document B* suggests that for this type of building the period of fire resistance in terms of all three criteria should be 60 minutes for fire resistance. They also point out that the 1985 Act suggests that 120 minutes fire resistance is appropriate for the compartment wall, but that they were prepared to accept the 60 minutes recommendation given in *Approved Document B*.

The Department's views

11.The Department takes the view that it is being asked to consider the omission of the insulation criteria for the glazing in the compartment wall separating the offices from the warehouse and the effect that such an omission will have in terms of the matters to which section 19(3) of the 1985 Act refers, and in respect of which conditions may be imposed under section 19(2) for the purpose of "... preventing the outbreak or spread of fire in or from the building or reducing danger from fire in the building".

12. Where glazing is incorporated in a compartment wall, it is normally appropriate for the glazing to satisfy the same criteria for fire resistance as the wall itself. In this case a period of 60 minutes fire resistance has been accepted by all parties and *Table A1 of Approved Document B* suggests that the elements that make up that wall should satisfy the criteria for fire resistance in terms of integrity, stability and insulation. In your case the glazing satisfies the first two criteria but not that of insulation. The reason for requiring the latter is to prevent fire spread by heat radiation.

13. In considering the risk associated with the non-provision of insulating glass, it is necessary to look at how fire could spread between the two compartments. This could be either by fire spread from the warehouse to the office or vice versa. In the case of the fire starting in the office then the Department notes that the fire load here would be small in relation to that of the warehouse and, as with all offices, they tend to generally be of a low risk and therefore the probability of an office fire starting is small. The Department also notes that the drawing provided indicates that there is a walkway adjacent to the office wall in question. As a consequence it is unlikely that combustible materials will be immediately adjacent to the office windows and therefore fire spread by heat radiation is unlikely to be an issue.

14. In the case of the fire starting in the warehouse, then the Department accepts that this could be fuelled by a large fire load and that warehouses tend to have a higher probability of fire incidence than that for offices. However, you have stated that the purpose of the windows is to provide office staff with a view of the warehouse. If this is to be maintained then the same argument should hold that it is unlikely that combustible material will be located on either side of the glazing, and this would also tend to minimize the risk of fire spread by heat radiation. If this were not the case then the objective for having a clear view from the offices into the warehouse will be negated.

15. In the Department's opinion it is unlikely that fire would spread to the office by heat radiation. However, if that scenario did occur the additional area of conflagration provided by the offices would be small compared to that of the warehouse. Also, as you have pointed out, staff have been provided with adequate means of escape. In these circumstances the Department considers that the risk associated with the non-provision of suitably insulated glazing panels in the compartment wall separating the offices from the warehouse to be small. The Department therefore considers that the condition requiring insulated glazing panels is not necessary to achieve the purpose for which conditions may be imposed as set out in section 19(2) of the 1985 Act; and that the non-insulating glazing as installed in the locations shown is acceptable in terms of the overall safety of the building.

The Secretary of State's decision

16. The Secretary of State has given careful consideration to the facts of this case; the exposition of your grievance; and the representations of the Borough Council. He has come to the conclusion that the omission of suitably insulated glazed panels will not compromise the overall safety of the building and that such a condition in respect of the glazed area specified is not necessary to achieve the purpose for which conditions may be imposed, as set out in section 19(2) of the Surrey Act 1985.

17. Accordingly the Secretary of State upholds your appeal and hereby directs that condition No 2 attaching to the "*Notice that plans have been passed conditionally*" shall have effect only insofar as it refers to 60 minutes of fire stability and integrity.