

CONSIDERATION OF A DISPUTE RESOLUTION CASE - CONSULTATION TEMPLATE

CONSULTATION PROCESS FOR USE WITH BSD TECHNICAL and PROCEDURAL GROUP, WITH LABSS CONSORTIA GROUPS OR WITH SFRS (IF APPROPRIATE)

COMPLIANCE DETERMINATION READ WITH SITE SPECIFIC CONDITIONS WHERE APPROPRIATE –
STAGE 1 MAKING THE CASE

Regulation 3 Schedule 1 Provisions on which determination is sought Regulation/Guidance Clause reference and relevance	Case Submitted by Complainant Describe evidence for decision	Local Authority Recommended Decision
<p>Buildings or work not frequented by people Type 5. A building into which people cannot or do not normally go. Type 6. Detached fixed plant or machinery or a detached building housing only fixed plant or machinery, the only normal visits to which are intermittent visits to inspect or maintain the fixed plant or machinery</p>	<p>No formal case was submitted in this case but Siemens requested that in the interest of consistency a national perspective was provided. A copy of the plan is attached to the application. They were of the opinion that the building was exempt as detailed in type 5 and 6 of Regulation 3 Schedule 1</p>	



Local Authority Building Standards Scotland [LABSS]



PROCEDURAL COMPLIANCE RECOMMENDATIONS –
STAGE 2 CONSULTATION WITH 7 CONSORTIA

Comments sought from Other Consortium and confirmation of LABSS Position

This area to be completed by Consortium Lead (include all comments from other consortia)

Group 1: Southwest Scotland Building Standards Consortium (SWSBSC)

Exempt query re Siemens

Further to the consultation regarding the above, the collective responses from the SWSBSC are as follows:

Dumfries & Galloway Council

We have had several wind farm projects in recent years, and we have always requested a warrant on the same reasoning as Bill, although I cannot recall having one from Siemens in D & G

It is my understanding that although these buildings are not manned on 365 day a year basis, they are used fairly frequently by staff for many other purposes, and it is not just for the maintenance crews. Personnel can be based in the buildings for several days at a time. The provision of the office, meeting room, canteen and toilet/washing facilities would imply that Type 5 does not apply.

While the buildings do contain fixed plant and machinery, they also contain essential control and monitoring equipment for the windfarms. On this basis, I would also conclude that type 6 also does not apply.

Note, I have received no such complaints from other electricity generating companies.

I would also suggest any comparison with the English standards needs to be disregarded.

East Ayrshire Council

East Ayrshire Council have had various applications for control buildings associated with the wind farms within East Ayrshire.

It is our opinion that these buildings would not fall within the exempt classes detailed in Regulation 3, Schedule 1, Type 5 and 6. In the whole these buildings are permanently manned and if not the occupation of these buildings goes beyond

	<p>intermittent visits to inspect or maintain the fixed plant.</p> <p><u>South Ayrshire Council</u> South Ayrshire Council have also received Building Warrant applications for the control buildings at the wind farms as they are manned on a more permanent basis and would therefore not fall under Regulation 3, Schedule 1, Type 5 and 6 of the Technical Handbook</p> <p><u>North Ayrshire Council</u> In terms of Regulation 3, Schedule 1, Table 0.1 Exempted buildings and services, fittings and equipment, North Ayrshire council do not consider the proposed building exempt in terms of building types 5 or 6. Our justification for which is based on facilities such as, welfare accommodation, meeting rooms, offices, control rooms etc forming part of the building, clearly demonstrates the building will be one in which people occupy for purposes other than just intermittent visits for inspections or maintenance.</p> <p>If I can be of any further assistance please let me know. Regards</p> <p>John Rintoul Building Standards Surveyor</p>
<p>Group 2: Highlands and Islands consortium (H&IC)</p>	<p>Highland</p> <p>I'd previously responded to Bill that a warrant would be required for the control building due to the extent of the welfare facilities in it. The SVC building would be exempt.</p> <p>Orkney</p> <p>Our view is that the SVC building may be exempt under Schedule 1 Type 6, as it contains only fixed plant or machinery.</p> <p>On the other hand, the Control Building contains welfare facilities (for use by people). On that basis, it is not clear to us that the Control Building is exempt under Schedule 1 Type 5 or Schedule 1 Type 6.</p>

Shetland

We have considered this and can see that there could be a case made for both sides however we have recently had a similar instance here and didn't request a warrant (although the buildings were much smaller in scale). In that particular case, we accepted reasonable justification that the building is of a specialist nature, infrequently entered, and if so only by trained personnel.

It is acknowledged that this particular building 'could' be frequented by people on a regular basis not too dissimilar to an office and for this reason, it is hard to accept that no warrant is required.

Notwithstanding, our views and reasoning are similar to that of John's [Western Isles] below however we would probably classify the control building as exempt under Type 5, schedule 1.

Western Isles

Having discussed this amongst our team, our overall view is that both buildings could be considered exempt for the following reasons:

- 1) SVC Building – This building contains only fixed plant and machinery and is only accessed by authorised personnel in order to maintain that plant.
- 2) Control Building
 - i) It is an unmanned facility;
 - ii) the welfare facilities are only intended to be used during intermittent inspection and maintenance periods only;
 - iii) a meeting room is provided, alongside welfare facilities, but if it is the case, as Siemens seem to suggest, that facilities of this size may require additional accommodation for the purposes of compliance with the Workplace (Health, Safety and Welfare) Regulations, then it is requisite for them to provide this, even where there is no intention to use the building other than for intermittent visits for inspection and maintenance. The meeting room may be require for Health and Safety briefings etc.

	<p>We arrived at our decision on the basis that the control building met the spirit of the exemption of Type 6, Schedule 1, even with the additional accommodation.</p>
<p>Group 3: Southeast Scotland Building Standards Consortium (SESBSC)</p>	<p>East Lothian Comment.</p> <p>Hi David we have accepted a BW for similar buildings in the past all of which included private waste water treatment plants . Regards Andy Banks</p> <p>Edinburgh comment</p> <p>We would echo the sentiment here; where there are welfare facilities then a warrant would be required. Type 5 & 6 is where the building or work is not frequented by people.</p> <p>Fife comment</p> <p>I am of the view the building falls within type 9 of schedule 1.</p> <p>A similar view was taken (admittedly quite a few years ago) of a Scottish Water sewage treatment works at Pathhead in Kirkcaldy. It too had welfare and office facilities within it.</p> <p>Craig Ritchie Lead Professional Surveyor</p>
<p>Group 4: Tayside consortium (TC)</p>	<p><u>Dundee City –</u></p> <p>Due to the presence of welfare facilities we would not deem the building to fit into the exempted classes for the following reasons:</p> <p>Type 5 is not applicable as people will frequent the building albeit / presumably on an intermittent basis.</p> <p>Type 6 is not applicable the building houses more than just fixed plant and machinery</p>

Angus –

Our view is that a building warrant would be required for the control building as the layout showing the amount of welfare facilities, rooms and office would indicate that use would be more than intermittent access to inspect or maintain the fixed plant/machinery.

Perth and Kinross –

Our view is that this needs a warrant as the welfare rooms/offices suggest it is not intermittent access for maintenance of the plant only. We have had a number of these types of buildings associated with wind farms, hydro dams etc and ask for a warrant.

Group 5: Clyde Valley consortium (CVC)	Authority	Response
	<i>Argyll and Bute</i>	We have had a look at the proposals and due to the extent of 'ancillary' uses such as offices, meeting rooms and mess rooms we would expect a building warrant application to be submitted for the proposals
	<i>East Renfrewshire</i>	East Renfrewshire are of the same opinion [As Argyll and Bute] East Renfrewshire had a similar situation regarding on of the wind farm areas. Due to additional welfare facilities a Building Warrant was requested
	<i>East Dunbartonshire</i>	
	<i>Glasgow</i>	The Switchgear & Control Building should not be regarded as exempt as the building contains a meeting room office, mess room etc and therefore does not meet the description in Schedule 1, Types 5 and 6.

	<i>Inverclyde</i>		
	Renfrewshire	<p>The building should not be classed in two types it either has to be type 5 or type 6. In my own opinion it should be type 6 detached building containing fixed plant and machinery, the only visits to which are intermittent visits to inspect or maintain the fixed plant or machinery and is therefore exempt from requiring a warrant. If this is the case then they are no exception apart from the 1 meter to boundary. It does not say if the building contains welfare facilities that it suddenly requires a warrant. When I worked for Falkirk we had a similar situation were the building contained a toilet which we classed exempt for the above reason.</p>	
	West Dunbartonshire	<p>The building as a whole is either exempt or not. Cannot separate ground from first floor and consider them separately.</p> <p>Before we would confirm if a building was exempt we would ask the applicant to provide details on usage of the buildings (i.e How often is the building used? (Daily/Weekly/Monthly etc.) and how long do these visits take?)</p> <p>“Control” Building Ground Floor Drawing number: E0193-SIE-V2-220-EP-0001 indicates a meeting room, office and mess room. These rooms do not suggest the building will contain only fixed plant or machinery with the normal visits are intermittent. (type 6) Local Control room (OFTO) and local control room (MOWELL) indicates 3 stations with seating provided –</p>	

		<p>again leading to doubts about time spent in these rooms. Therefore, I would not consider this building to meet the requirements to be exempt under Regulation 3 Schedule 1 Type 6.</p> <p>SVC Building Drawing: E0193-SIE-V3-XX-LY-EP-0003 – Building contains only fixed plant. Depending on answers to above questions regarding time and frequency of use, this building appears exempt.</p> <p>We have had an application for a building warrant based on the above similar to the control building in that the facilities provided within the building and not meeting the definition of exempt buildings in Regulation 3 Schedule 1 Type 6.</p>	
<p>Group 6: Central Authorities consortium (CAC)</p>			
<p>Group 7: Grampian consortium (GC)</p>	<p>Feedback from Moray.</p> <p>1. SVC Building (single storey) which houses fixed electrical plant - Exempt on basis that the building is only accessed by authorized personnel under a permit to work system to maintain the aforementioned plant. <i>Detached fixed plant or machinery or a detached building housing only fixed plant or machinery, the only normal visits to which are intermittent visits to inspect or maintain the fixed plant or machinery.</i> We would seek clarity on the level of inspection and visits. If it can be demonstrated it meets the exemption then this would be acceptable.</p> <p>2. A Control / Gas insulated switchgear Building (two storey), which houses fixed electrical plant. This can be manned and when it is the building will be occupied. Building Warrant would be required for these works. As discussed we have had a similar ‘unmanned’ facility in Moray from the same contractor and a warrant was submitted following discussion. They also sought exemption.</p>		

	<p>Aberdeen City comment</p> <p>Having given this some consideration in the office we have a couple of differing views. The first being that you take for granted what Siemens have confirmed in writing with regard to the proposed buildings and their intended use, making both of these buildings exempt from warrant control; Regulation 3, Schedule 1, Type 6. If in the future the control room is found to be used as an office then this would be formalised by a warrant application and if applicable enforcement.</p> <p>However, the more widely supported view is that the level of accommodation provided within the control building indicates the intention to use this building as an office/meeting space thus requiring the need to obtain warrant approval. Furthermore there are concerns about the escape from the first floor and to a lesser extent the removal of waste water not having to comply with the technical guidance if this was to be classed as an exempt building. The SVC building remains exempt in accordance with, Regulation 3, Schedule 1, Type 6.</p> <p>The requirement for warrant approval for the control building is based on what constitutes only normal/intermittent visit to inspect or maintain the fixed plant or machinery and this could be difficult to define but it would be difficult to justify the aforementioned Office and Meeting Room . With this in mind are you aware of this type of building already being classed as exempt in Scotland, or has guidance been sought from the Building Standards Division?</p> <p>Finally it is our opinion that Regulation 3 and 5 in the general section of the technical handbooks needs to be reviewed and updated, we don't believe it was the intention of these regulations to exempt a building of this nature.</p> <p>Aberdeenshire comment.</p> <p>Due to the extent of staff facilities all were in agreement that Building Warrant approval is required for the two storey control building</p>
<p>LABSS Position following Feedback</p>	

A Control / Gas insulated switchgear Building (two storey), which houses fixed electrical plant.
The consensus of opinion regarding this building was it required Building Warrant approval as the building did not solely contain fixed plant and machinery the welfare facilities included Office , meeting room, mess room, control rooms and toilet facilities.

PROCEDURAL COMPLIANCE RECOMMENDATIONS READ WITH SITE SPECIFIC CONDITIONS WHERE APPROPRIATE –
STAGE 3 CONSULTATION REVIEW AND CONFIRMATION OF DECISION

Comments sought from BSD Technical/Procedural group	Comments sought from SFRS (if appropriate)	Final Decision
This area to be completed by LABSS in association with BSD	This area to be completed by Local Authority in association with SFRS	This area to be completed by LABSS in association with BSD This will be confirmed by LABSS and/or BSD Standard Decision Letter
No BSD comments on this specific case.	Not applicable	The LABSS position is that in the particulars of this case, a building warrant is required.