

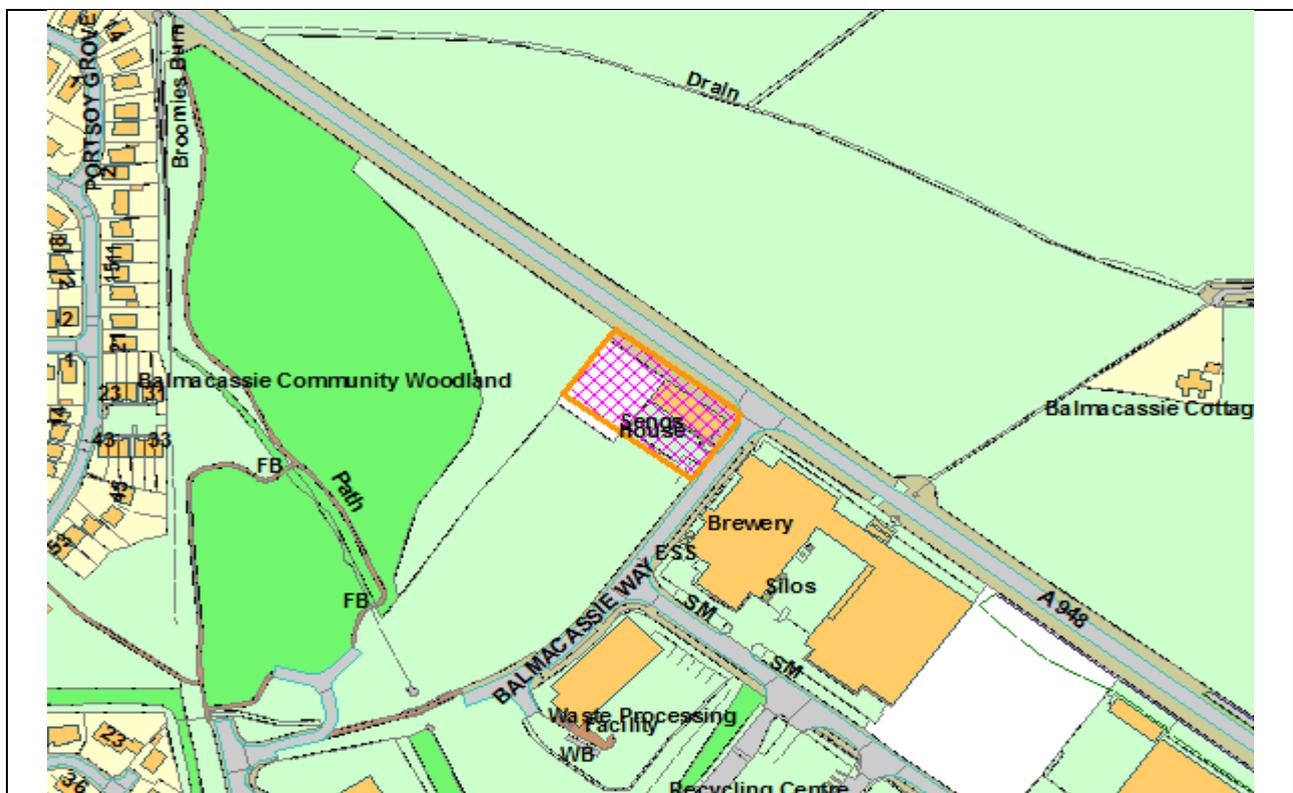
## Formartine Area Committee Report - 9 June 2015

Reference No: APP/2015/0653

**Full Planning Permission for Erection of Office and Production Facility and Installation of LPG Tanks without complying with Condition No. 8 (Hours of Operation) of Planning Permission Reference APP/2013/3039 at Site 11, Balmacassie Way, Balmacassie Commercial Park, Ellon, Aberdeenshire**

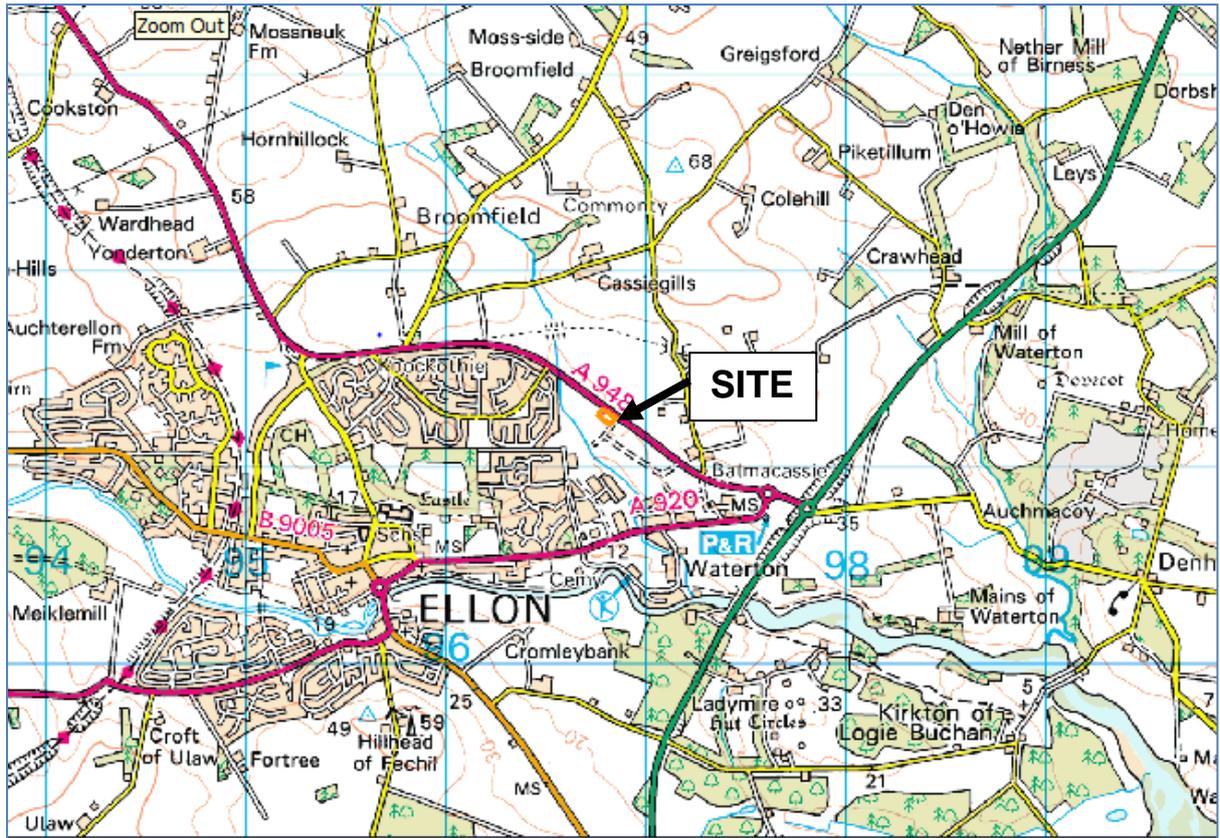
**Applicant:** SengS Subsea Engineering Solutions Ltd  
**Agent:** Robin Sutherland Architecture

Grid Ref:	E:396821 N:831255
Ward No. and Name:	Ellon And District
Application Type:	Full Planning Permission
Representations:	0
Consultations:	1
Relevant Proposals Map:	Aberdeenshire Local Development Plan
Designations:	AHMA
Complies with Development Plans:	No
Main Recommendation:	Grant



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## **1. Reason for Report**

The application is being referred to Area Committee because there is an unresolved objection from the Environmental Health Service. In addition the application is being referred to Area Committee because if approved the proposed development would be a departure from the development plan.

## **2. Background and Proposal**

2.1 Full Planning Permission is sought for the removal of an extant planning condition (condition 8) relating to planning consent granted under APP/2013/3039. The application relates to a 2 storey warehouse building and associated car parking facilities. The planning condition states:

“The proposed works carried out at the facility hereby approved shall not operate outwith the hours of 07:00 to 19:00 hours Monday to Friday; 07:00 to 12:00 hours on Saturday and no operations on a Sunday.”

2.2 The applicant’s business serves the oil and gas industry and now seeks the removal of this condition in order to carry out operations outwith normal working hours at times.

2.3 The relevant planning history at the site is detailed below:

- APP/2013/3039 - Full planning permission for erection of office & production facility (Amended Design) & installation of LPG tanks. Granted subject to conditions 31/10/2013
- APP/2013/2133 - Full planning permission for extension to office & production facility (Amended Design) & installation of LPG tanks. Withdrawn 19/09/2013
- APP/2012/3424 - Full planning permission for development of new office & production facility. Granted subject to conditions 11/03/2013
- APP/2008/2903 - Full planning permission for alterations to internal roads. Granted subject to conditions 3/10/2008
- APP/2007/0093 – Reserved matters for amended layout and landscaping. Granted subject to conditions 28/11/2007
- APP/2002/0009 – Proposed industrial development and erection of superstore, filling station and associated car parking. Granted subject to conditions 13/10/2004

## **3. Representations**

3.1 No valid letters of representation have been received.

#### 4. Consultations

- 4.1 **Infrastructure Services (Environmental Health)** cannot support this application and recommend that the application be refused.

#### 5. Relevant Planning Policies

##### 5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

##### 5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

##### 5.3 Aberdeenshire Local Development Plan 2012

Policy 8 Layout, siting and design of new development  
SG LSD2: Layout, siting and design of new development

## 6. Discussion

6.1 The main planning considerations with this application are:

- The appropriateness of removing condition 8 from the recent approved planning permission of APP/2013/3039
- to ensure that the proposed development will not interfere significantly with the existing neighbouring residential properties and
- Economic considerations

6.2 This proposal seeks the removal of a condition which controls the operating hours at Sengs Subsea Engineering Solutions at Balmacassie Way, Ellon. The operating hours are currently over 6 days per week as detailed above.

6.3 At the behest of the Council's Environmental Health Service two planning conditions were attached to the previous planning approval APP/2013/3039. The first condition pertained to the operating hours of the business; the second condition related to the hydrostatic, hydraulic, fabrication testings, including other similar processes associated to the industrial business be carried out inside the building with the doors closed as far as is reasonably practical.

6.4 The applicant's agent has submitted a support letter which confirms that the company business serves the oil and gas industry and now requires the capacity to carry out operations outwith normal working hours at times. As a trial exercise, over a 3 week period during October 2014, the company sought permission from the Planning Service to carry out 24 hour operations at the said premises at Balmacassie Way; this short term request was agreed by the Planning Service at the time.

6.5 No complaints were received by either the Planning Service or Environmental Health Service during this period. The applicant's agent considers that this trial 3 week period supports the case that permanent removal of working hours restrictions would not have any detrimental impact on other properties, residential or otherwise, in the vicinity of the site and now seeks the total removal of condition 8 from the previous planning approval APP/2013/3039.

6.6 On receipt of Environmental Health's objection to the removal of this condition, verbal discussions took place between the Planning Service and the applicant's agent. This was in recognition of the potential economic implications of either approving or refusing the application.

6.7 The Planning Service suggested, as an alternative, that 24 hour operations be carried out in blocks at the site in a more controlled manner, for example, 3 week periods where 24 hour operations are acceptable 6 times per annum and with the agreement of the Planning Service. The applicant's agent has confirmed that his client seeks to remove condition 8 in its entirety to avoid any operational restriction that could potentially impact on the company's ability to secure or carry out new work.

- 6.8 It is acknowledged that the application site is located within an industrial site where there are a number of other industrial premises operating, including neighbouring Brewdog Brewery located 15 metres to the east. To the west of the application site is a residential development where the residents of Portsoy Crescent are located approximately 220 metres away; in addition Balmacassie Cottage is also located approximately 220m metres to the east of the site. It is also recognised that an area of woodland does separate the application site from the residential site to the west. Notwithstanding this it is considered by the Planning Service that the 3 week trial period exercised by the company in October 2014 is not a sufficient time period to establish whether 24 hour operations at the site would or would not have a detrimental impact on other properties in the vicinity and no noise impact assessment has been submitted to demonstrate the suitability of the site for 24/7 working. Contrary to this the applicant has been requested to submit a noise impact assessment and has, thus far, indicated no willingness to do this.
- 6.9 Accepting that the business is one of an industrial nature where noise issues may impact on nearby properties, particularly the residential properties to the west it is considered it would be imprudent to grant planning permission to remove condition 8 of APP/2013/3039 in its entirety, as by doing so 24 hour operations at this industrial site may potentially cause noise nuisance in the long term and may result in undue loss of amenities for the surrounding residential properties. That said, and on balance, the potential economic issues are worthy of consideration. Refusing this application has the potential to hinder the growth of this local business and employer. This is not an aim the Planning Service would seek to achieve and, therefore, it is considered that a grant of permission is appropriate as detailed below.
- 6.10 In the event Members agree the recommendation below this will give the developer the comfort of a 12 month period in which to operate 24/7 and also give the opportunity to prepare a noise impact assessment which, if acceptable, would allow a permanent granting of the application 27/7 – subject to any required mitigation.
- 6.11 The “fall back” position after the temporary period is that the developer would be limited to the hours in the condition above. However this “fall back” will only be activated should (a) Members agree the recommendation below; (b) the application fails to submit a satisfactory noise impact assessment and (c) no subsequent approvals are granted.
- 6.12 Notwithstanding that the proposal is considered contrary to policy it is considered that there are material planning reasons for supporting the temporary relaxation of the operating hours. Notwithstanding this should nuisance be proven the Environmental Health Service has powers to take action under the appropriate legislation independent of the planning system.

## **7. Area Implications**

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

## **8. Equalities and Financial Implications**

- 8.1 An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.
- 8.2 There are no financial implications arising from this report.

## **9. Sustainability Implications**

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

## **10. Departures, Notifications and Referrals**

### **10.1 Strategic Development Plan Departures**

None

### **10.2 Local Development Plan Departures**

Policy 8 Layout, siting and design of new development  
SG LSD2: Layout, siting and design of new development

- 10.3 The application is a Departure from the valid Local Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

## **11. Recommendation**

- 11.1 **GRANT subject to the following conditions:-**

01. The proposed works carried out at the facility eg. hydrostatic testing, hydraulic testing/repair/manufacture, fabrication testing/flushing and similar processes associated with the occupants business, as far as is reasonably practicable, shall be carried out inside the building with the doors closed.

Reason: To ensure that noise from the development does not result in undue loss of amenity for surrounding properties.

02. The hereby approved removal of condition 8 of APP/2013/3039 shall be limited for a period of not longer than 12 months from the date of this permission unless a satisfactory noise assessment has been submitted to and approved, in writing by the Planning Authority.

Reason: In order to allow the applicant the opportunity to submit an acceptable noise impact assessment in the interests of the amenity of local residents.

### **Informative**

01. In the event that a noise impact assessment identifies mitigation measures or the Council consideration of the noise impact assessment indicates mitigation a further planning permission will be required to permanently vary condition 8.

### **11.2 That the Committee agree the reason for departing from the Aberdeenshire Local Development Plan.**

The economic considerations resulting from supporting this development warrant a departure from policy and a temporary justification for the granting of the removal of the condition.

Stephen Archer  
Director of Infrastructure Services  
Author of Report: Darren Ross  
Report Date: 29 May 2015