

**TCP/11/16(312)**

**Planning Application 14/00079/FLL – Installation of a flue forming part of a biomass heating system, Tayside Hotel, 51-53 Mill Street, Stanley, Perth, PH1 4NL**

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**TCP/11/16(312)**

**Planning Application 14/00079/FLL – Installation of a flue forming part of a biomass heating system, Tayside Hotel, 51-53 Mill Street, Stanley, Perth, PH1 4NL**

**PAPERS SUBMITTED  
BY THE  
APPLICANT**







Pullar House 35 Kinnoull Street Perth PH1 5GD

Tel: 01738 475300

Fax: 01738 475310

Email: onlineapps@pkc.gov.uk

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000093017-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

## Applicant or Agent Details

Are you an applicant, or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

### Agent Details

Please enter Agent details

Company/Organisation:	Cockburn's Consulting
Ref. Number:	
First Name: *	Brent
Last Name: *	Quinn
Telephone Number: *	07708971120
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address: *	cockburnsconsultants@gmail.com

You must enter a Building Name or Number, or both:\*

Building Name:	
Building Number:	29
Address 1 (Street): *	Ryehill Terrace
Address 2:	
Town/City: *	Edinburgh
Country: *	UK
Postcode: *	EH6 8EN

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title: *	<input type="text" value="Mr"/>
Other Title:	<input type="text"/>
First Name: *	<input type="text" value="William"/>
Last Name: *	<input type="text" value="Twaddle"/>
Company/Organisation:	<input type="text"/>
Telephone Number:	<input type="text"/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text"/>
Fax Number:	<input type="text"/>
Email Address:	<input type="text"/>

You must enter a Building Name or Number, or both:\*

Building Name:	<input type="text" value="Per Agent"/>
Building Number:	<input type="text"/>
Address 1 (Street): *	<input type="text" value="Per Agent"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="Per Agent"/>
Country: *	<input type="text" value="Per Agent"/>
Postcode: *	<input type="text" value="Per Agent"/>

## Site Address Details

Planning Authority:	<input type="text" value="Perth and Kinross Council"/>
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Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="Tayside Hotel"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="51 - 53 Mill Street"/>	Town/City/Settlement:	<input type="text" value="Perth"/>
Address 3:	<input type="text" value="Stanley"/>	Post Code:	<input type="text" value="PH1 4NL"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="733279"/>	Easting	<input type="text" value="310875"/>
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## Description of the Proposal

Please provide a description of the proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*

(Max 500 characters)

## Type of Application

What type of application did you submit to the planning authority? \*

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Grounds of Appeal Statement

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? \*

☐ Yes ☒ No

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

All Plans  
Original Supporting Statement  
Application Covering letter  
Grounds of Appeal Statement  
Application Form  
EXODRAFT MANUAL  
CERTIFICATE OF ASSURANCE  
IO ORLINGNO 200 MANUAL  
MANUFACTURER CERTIFICATE  
TEST REPORT ANGUS ORLINNO 200  
TAYSIDE HOTEL ODOUR MANAGEMENT PLAN JAN 2014

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

14/00079/FLL

What date was the application submitted to the planning authority? \*

14/01/14

What date was the decision issued by the planning authority? \*

18/03/14

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☐ Yes ☒ No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be conducted by a combination of procedures.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? \* (Max 500 characters)

A round the table discussion would be most advantageous in this context on account the need for a clear interpretation of the facts of the case, in particular to clarify the changes since the last application, the Court case and the impact of the proposal in terms of odour and residential amenity.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? \*

☒ Yes ☐ No

## Checklist - Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and drawings) which are now the subject of this review \*

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## **Declare - Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Brent Quinn

Declaration Date: 18/06/2014

Submission Date: 18/06/2014





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## **Grounds of Appeal (Local Review Body) Statement:**

**Against Refusal of Planning Permission (Ref:  
14/00079/FLL) for Installation of a Flue forming  
part of a Biomass Boiler at Tayside Hotel,  
Stanley, Perthshire**

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Prepared by:  
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Cockburn's Consultants  
June 2014

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## EXECUTIVE SUMMARY

- The appellant has amended the biomass boiler, its management and its output since the previous refusal and also, significantly, following the well documented Sheriff Court in respect of the Abatement Order. It is critical to be clear that the proposal as part of this LRB case is very different to the case that was first considered and upheld at the Sheriff court.
- Overall, this is a very modest proposal for a small installation that is very important to the ongoing viability to a very significant contributor to the local economy, the Tayside Hotel in Stanley.
- Should planning permission be refused, on account of the monies both expended and lost through consenting process and the resultant impact on the business, the owners of the hotel would likely seek to convert the property to residential use. This would result in the lamentable loss of a significant community facility and tourist use that is central to amenity in Stanley.
- To put the modesty of the proposal in context, a typical domestic gas installation would be for a 20kw boiler, whilst this is a commercial biomass operation with a capacity of only 40kw, thus it is only twice the size of the average household installation in Stanley. The only reason the proposal even requires the benefit of planning permission is because the protrusion of the associated flue for the boiler exceeds the threshold allowed under Permitted Development regulations. The boiler itself does not actually require the benefit of planning permission.
- There were only eight letters of representation that were in objection to the proposal whilst some twenty of those making representation supported the proposal. Out of all representations this represents some 60% in favour of the development. Further, all of the perceived issues in respect of air quality, odour and the resultant impact on residential amenity can be fully ameliorated by suitably worded planning conditions, as suggested in this statement.
- The revised proposal meets all planning policy and there are no planning issues of merit arising. The key issue has arisen through Environmental Health, who unfortunately have misinterpreted the information submitted and have made unreasonable requests of the appellant, complete out of scale with the size of the project at hand. Indeed, it is very important to point out that Environmental Health has no locus whatsoever to make any comment on the application. This is because in their role as the competent Local Authority body, whilst they are obliged to review and assess air quality within their area and they must only consider biomass boilers within the range of 50kW-20MW. This proposal will now fall under that 50kw threshold. Overall, Environmental Health has drawn incorrect conclusions and are acting outwith their legislative powers.

## SECTION 1: INTRODUCTION

This Local Review Body (LRB) appeal statement relates to a retrospective application for planning permission (ref. 14/00079/FLL) for the installation of a biomass boiler to the rear of the premises at Tayside Hotel.

An application was originally submitted by Cockburn's Consultants on behalf of the appellant (the owner of the Tayside Hotel) to Perth & Kinross Council on 31 July 2012, resulting in a refusal of planning permission by the Council (Ref: 12/01396/FLL).

The previous application was refused on grounds of amenity as a result of perceived smoke outputs. The LRB may or not be aware that an Abatement Order in respect of the (60kW) biomass boiler that was subject of the previous application was subsequently upheld at the Sheriff Court in Perth. However, the appellant has subsequently made the following key changes since both of these judgements:

- a manual reduction in the KW output of the unit of a third (from 60 to 40),
- increase in height and inclusion of a fan within the flue to assist with dispersal of smoke, and
- Preparation of a management plan and monitoring of weather conditions.

The application to which this LRB relates is therefore for a revised application for a reduced capacity boiler (from 60kW to 40kW) that was submitted on the 14th of January 2014. The Decision Notice and Application form pertaining to the original application have been submitted as part of this Appeal submission.

The Decision Notice that is the subject of this LRB appeal was issued on 18th March 2014 and the refusal element cited only one reason only:

The installation and operational use of the flue as part of the biomass system will have a detrimental impact on nearby/neighbouring residential properties with regards to smoke/odour nuisance and is therefore contrary to Policies RD1 and ER1A of the Local Development Plan 2012; where the retention and/or improvement of residential amenity is a key planning objective

This Grounds of Appeal statement describes the site and surroundings, the proposed development and makes an assessment against planning policy, paying particular regard to amenity and public safety. It provides additional information beyond that required by statute and explains the background to the proposal, the policy context and outlines the reasons why it is considered to be acceptable so that this planning application should be ultimately be approved by Perth and Kinross Council.

Scaled drawings and accompanying photographs were submitted with the planning application to fully illustrate their style, context and appearance. These have also been included with this Appeal submission.

The report is divided into the following sections:

Section 2 - describes the proposal, the site and surrounding area;

Section 3 - outlines relevant planning policy;

Section 4 - assesses and discusses the proposal against relevant planning policy and guidance;

Section 5 - outlines suggested planning conditions; and

Section 6 - sets out the conclusion of the report.

This LRB appeal in its entirety has been submitted using the e-planning system, along with the following documents:

- Completed appeal forms prepared by Cockburn' Consultants (through the e-planning system);
- Appendices;
- Site photographs; and
- Architectural drawings, prepared by Slorach Wood Architects;

For the reasons stated further in this report it is considered that the proposed development is acceptable for this location. Suitable planning conditions, as suggested, can address any objections that may remain.

## SECTION 2: SITE DESCRIPTION & PROPOSAL

### Proposal

The installation of the flue as part of the biomass system, the subject of this planning application, is made from galvanised steel and protrudes from the outbuilding to the rear of the hotel.

The installed boiler is a (Eco Angus) Orligno 200, 40kW downdraught gasification biomass boiler which supplies hot water to the hotel and annexes. It has a standard design double skin insulated single stainless steel flue to the rear of the unit of 200mm diameter and exiting at 4.75m above ground level. The boiler house (and wood store) is approximately 2.2m high. The chimney has been fitted with an exhaust fan reported to achieve 5 to 6 m/s vertical efflux velocity.

### Site Description

The property to which this proposal relates is the Tayside Hotel, on 51-53 Mill Street, Stanley, Perthshire. It currently operates as a successful 3\* hotel which is very much an integral part of the village community. The main building is a three/two and a half storey property comprises a 12 bedroom hotel and built predominately of stone in a gothic Victorian style, built in 1898. The operators had previously used oil for their heating purposes, but have instead moved towards the biomass boiler as installed, in the interests of costs and sustainability. In terms of this latter point, the hotel has earned a Silver award from Visit Scotland in recognition of their environmental credentials.

Stanley is a designated village, as defined in the Perth Area Local Plan (1996). The overall character of the area is residential, with residential properties abounding the site on all sides.

The boiler house is located within an existing external outbuilding, within the confines of the car park, to the rear of the main building. The surface treatment for the car park is stone chips and the outbuilding that is approximately 1m in height, has a depth of around 1.2m and extends along the entire western boundary of the property. The flue that is the subject of this planning application is made from galvanised stainless steel and it protrudes approximately 2.5 metres from ground level, some 1.5 metres above the roof height of the outbuilding.

A picture of the site looking from within the car park is illustrated in Figure 1, below:

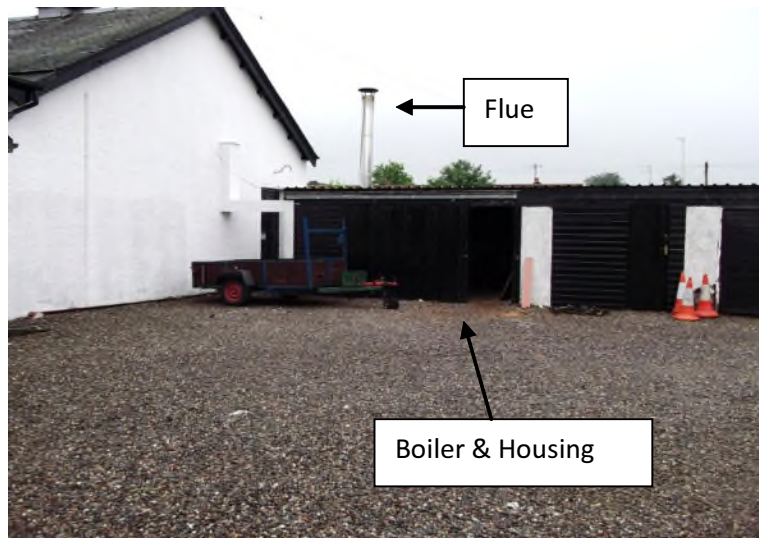


Figure 1: Picture of site, within existing car park.

A further picture showing the protruding flue from an adjacent private garden is illustrated in Figure 2, below:

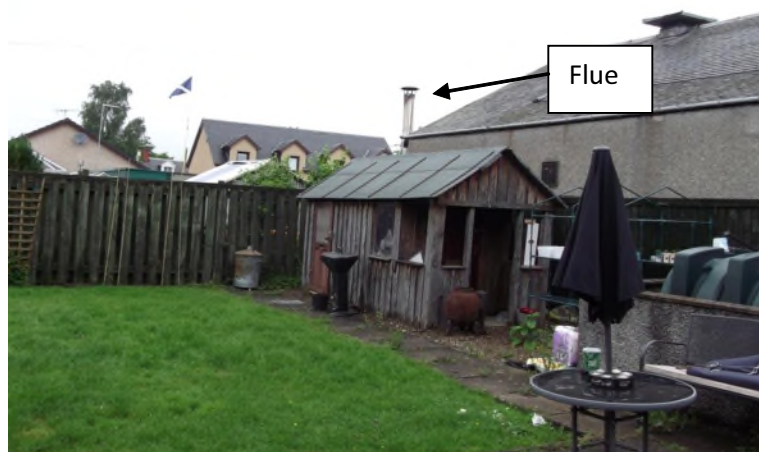


Figure 2: Picture of site, from garden of adjacent property

Both of these photographs illustrate the very small scale of the proposal and the modest nature of the development overall.

## SECTION 3: PLANNING POLICY

### Determination

The starting point for the consideration of this appeal is Section 25 of the Town & Country Planning (Scotland) Act 1997. This requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise.

The interpretation of this provision was clarified in a House of Lords' decision in 1998. The House of Lords' judgment set out a specific step by step approach to determining an application:

...identify any provisions of the development plan which are relevant to the decision;  
Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;  
Consider whether or not the proposal accords with the development plan;  
Identify and consider relevant material considerations, for and against the proposal; and  
Assess whether these considerations warrant a departure from the development plan.

The weight to be attached to any relevant material consideration is for the judgment of the decision-maker. Having regard to this, it is considered that the Council did not fully consider the aims and objectives of the Local Plan or the other Non-Statutory documents and arrived at a decision that did not take into account all relevant material considerations.

### NATIONAL GUIDANCE

#### Scottish Planning Policy 2010

This SPP is a statement of Scottish Government policy on land use planning and contains:

- The Scottish Government's view of the purpose of planning,
- The core principles for the operation of the system and the objectives for key parts of the system,
- Statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006, and
- Concise subject planning policies, including the implications for development planning and development management

## DEVELOPMENT PLAN

### Perth Area Local Plan 1995 (now dissolved, but active at time of submission)

In para. 1.3, the Written Statement identifies the purpose of the plan and states various criteria on how it should function. In terms of this planning application, the following criterion is particularly appropriate:

‘To apply principles of sustainable development and anticipate a future with increasing conservation of natural resources.’

### *Policy 41*

Perth Area general residential Proposals Map B identifies areas of residential and compatible uses where existing residential amenity will be retained and where possible improved. Where sites in other uses become available for development, housing will generally be the most obvious alternative use. Some scope may exist for infill development, but only where this will not significantly affect the density, character or amenity of the area concerned. Small areas of private and public open space will be retained where they are of recreational or amenity value to their surroundings. Change of use to hotel, boarding and guest house use will be permitted normally only on the main radial routes in the city

### Perth and Kinross Local Development Plan 2014 – Adopted February 2014

The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

### *Policy RD1 - Residential Areas*

In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private open space to be retained changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

### *Policy ER1A - Renewable and Low Carbon Energy Generation*

Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported where they are in accordance with the 8 criteria set out. Proposals made

for such schemes by a community may be supported, provided it has been demonstrated that there will not be significant environmental effects and the only community significantly affected by the proposal is the community proposing and developing it.



## SECTION 4: DISCUSSION

### Proposed Development

Biomass is an energy source comprising of biological material derived from living or recently living organisms such as virgin wood or other wood feedstock. The plant will use this fuel source to simultaneously generate both electricity and heat. The revised plant capacity will generate up to 40KW of electricity and heat.

### Economic Development & Early Points of Clarification

From an economic policy perspective, the project contributes to Government Economic Strategy, and priorities around a supportive business environment and sustainability objectives, and priorities around realising business priorities around sustainable economic development.

The scheme has received support from the Council's Renewable Energy Officer in terms of the need for such facilities in the Perth & Kinross area and the associated renewable energy environmental benefits it would generate.

For the avoidance of any doubt, the appellant has confirmed that all feedstocks will be virgin wood and that no waste products would be used within the facility; indeed the technology type is incapable of burning such waste materials. This can be controlled through a suitably worded planning condition, as outlined in Section 5, below.

Since the installation of the boiler and the subsequent planning and court cases, the appellant has spent a considerable sum of money on professional and legal fees in upholding what he sees is right and correct. Further, he has had to also spend significant additional money in having to use a far more expensive fuel (oil) to heat the hotel premises. In addition, he has lost revenue from government fiscal incentives for renewable technologies from the boiler not being operational. This is all money that otherwise would have gone into investment in the business, which has suffered as a result. Indeed, should the LRB be minded to uphold the planning officer's decision to refuse planning permission, the situation is so acute that the appellant would consider selling the hotel business to a property developer who is keen to develop the site for a flatted dwellinghouse development. This would lamentably result in a key tourist facility and community hub for Stanley being lost.

### Air Quality, Odour & Impact on Residential Development

Policy RD1 of the recently adopted Local Development Plan – February 2014 seeks to protect existing residential amenities. It is on this policy grounds that the proposal was ultimately refused.

In this context, Environmental Health has no locus to make any comment on the application. This is because in their role as the competent Local Authority body, whilst they are obliged to review and assess air quality within their area and they must only consider biomass boilers within the range of 50kW-20MW. This proposal will now fall under that 50kW threshold. This is consistent with planning applications PK13/01151/FLL, PK10/01267/FLL and PK13/00247/FLL, which were all for developments comprising biomass boilers under this threshold. There is absolutely no reason whatsoever that this application should be treated any differently, although it has been.

There are environmental controls on the operations at the system which mitigate any environmental impacts in terms of noise, air quality and odour. However, there through Environmental Health, there appears to be some extant issues over this, as well as some misunderstanding.

Any development proposals that could adversely affect air quality to a level that could harm human health and wellbeing or the integrity of the natural environment should be accompanied by provisions that the Council is satisfied will minimise such impacts to an acceptable degree.

The appellant, through a suitably qualified body (SEAL Environmental, per planning application 12/01396/FLL) has assessed the potential impact on air quality and odour from the proposed development. The assessment considers the effects of emissions from the development on the local community in terms of air quality standards. Mitigation measures have been considered but on account of the scale of the proposal are inappropriate and unnecessary.

It is important to fully understand that we are discussing a 40kW boiler that under normal operating conditions especially in the summer will be operating well below this level. In the letter dated 14/12/12 we quote the Carbon Trust report which states that the required energy (heat) demand for the hotel is 213,000kWh per year, hence the boiler will operate at an average rate (assuming some inefficiency losses) of around 30kW, that just over half the size that requires assessment under the Local Air Quality Management regime (50kW).

The unit is hence the size of a larger domestic boiler, such as are installed routinely, both outwith and within Smoke Control Areas, and is not an industrial process requiring a Pollution Prevention and Control permit or other high level forms of regulation. Even at its maximum wood burning capacity (15 kg/hour) it won't require Chimney Height Approval under the Clean Air Act 1993 (s. 14) which is only required for solid fuel burning at a rate greater than 45.4 kg/hour.

With respect to the comments supplied in Environmental Health's Memorandum dated 8/01/13 as per previous planning application 12/01396/FLL, we are pleased that the general conclusion with respect to the report is that "Based on the evidence presented on the grounds of local air quality this Service agrees that objectives for PM10 and NO2 will not be breached and therefore have no objections to the application on the grounds of local air quality".

This implies that the method of achieving dispersion via the 4.75m flue on the boiler house is adequate for the dispersion of residual pollutants, and the modelling shows this, it also implies that this has been accepted by the Council. The conclusions state further that “no part of this report addresses the nuisance from smoke odour”, and the next paragraph states “in specific the flue height and location, still cause nuisance conditions”.

The report however does provide information on both the nuisance odour context and smoke. The report describes the background odour conditions as those pertaining to a village where open hearth burning still takes place with the consequent emission of large quantities of smoke, odour and SO<sub>2</sub> (due to the bituminous coal used – ample evidence on this had already been presented to the Environmental Health Department who have allegedly repeatedly refused to take it into consideration).

The report highlights that odour was present outside the Hotel on 5/12/12 (and was present before the start-up of the boiler), namely clearly that of coal burning, and photographs are presented as evidence in the report of local emissions. During 5 minutes of start-up of the boiler, a very light plume of condensed water vapour was observed (incorrectly referred to as steam). This cleared to leave a completely invisible plume (evidence is presented in the report) showing no smoke from the boiler.

The letter dated 14/12/12 also contains clarification on the mass emissions in the local environment; based on data provided to me on the number of smoking chimneys witnessed in the local area immediately adjacent to the hotel. This is unlikely to represent the total number of houses in the area burning coal though such data should be available from the Environmental Health Department in support of their Local Air Quality Management updating and screening or detailed assessment reports. In the letter the mass emission of particulates (smoke) from coal burning is calculated to be 1466kg particulates per year. The mass of particulates (smoke) from the Tayside Hotel boiler is less than 34kg. This figure must be accepted by the Environmental Health Department as they have agreed to the conclusion of the report on PM<sub>10</sub>s. Calculations could also be undertaken on the emissions of other compounds from open hearth coal burning.

The issue with open hearths is that combustion is very poor due to the cool air surrounding the fire leaving products of incomplete combustion to pass up the chimney. This doesn't happen in a controlled environment such as a boiler furnace. The comment in the Memorandum regarding the reduction of PM<sub>10</sub> as it is a non-threshold pollutant should also apply to local coal burning.

In addition, having accepted the particulate calculations, the Environmental Health Department must also accept that there is no visible smoke – visible smoke is said to occur at concentration levels greater than around 150mg/m<sup>3</sup> in the plume (as stated in a report<sup>1</sup> prepared by AEA

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<sup>1</sup> <http://www.usewoodfuel.co.uk/media/234619/assessment-of-flue-gas-particulate-abatement-in-wood-burning-boilers-phase-1.pdf>

technology, now Ricardo-AEA, on behalf of the Forestry Commission Scotland), the table is reproduced below.

**Table 1-1 Summary of Clean Air Act exemption particulate emission limits**

Parameter	Limit	Comment
Particulate emission rate	5+ ((Output, kW) ÷ 3) g/hour	Extrapolation of BS PD 6434:1969
Particulate concentration	<150 mg/m <sup>3</sup> dry gas, stack O <sub>2</sub> and STP (0°C, 101.3 kPa)	Concentration value used as indication of 'smokeless' operation.

The concentration measured by the Czech Engineering Test Institute (CETI) report and submitted as in a report submitted as part of the original planning application show that the particulate concentration (described as "dust") in the boiler emission is around 48mg/m<sup>3</sup>. In other words smokeless.

The particulate emission factor provided by CETI of 18g/GJ would also comply with the strictest standard proposed as a CEN standard for manually operated appliances as shown in the following table:

**Table 1-2 : Summary of EN303-5 Emission classes**

Stoking	EN 303 Class				
	Current			Proposed	
	1	2	3	4	5
	Concentrations, mg/m <sup>3</sup> at 10% O <sub>2</sub> , dry and STP (0°C, 101.3 kPa)				
Manual	200	180	150	75	60
Automatic	200	180	150	60	40
	Derived emission factors, g/GJ (net thermal input)				
Manual	103	92	77	38	31
Automatic	103	92	77	31	21

Note: Conversions assume wood combustion and are based on US Environmental Protection Agency stoichiometric flue gas volumes and Digest of UK Energy Statistics calorific values. Proposed classes taken from August 2010 prEN 303-5.

With respect to "smoke odour" or just odour, the prime cause of odour in a combustion process is incomplete combustion and high levels of organic compounds due to this. In the gasification boiler temperatures of 1200oC are achieved, this is higher than is required for secondary chambers of waste incinerators (850 or 1000oC respectively), ensuring excellent combustion of all the gas evolved from the gasification process.

With respect to the alleged nuisance, it is highly unlikely that the boiler would create sufficient odour that can be detected over and above the background of coal smoke. Any modelling (which the Memorandum suggests should have been attempted) would also need to include the

background odour of coal smoke and is hence unlikely to demonstrate a nuisance as it will be completely masked.

The “mitigation” proposed, as required by the notice, would therefore be twofold: by installing the Exodraft RSV fan which increases the vertical discharge velocity of the exhaust gases to that used in the modelling (between 5 and 6m/s) thereby improving dispersion and reducing the potential for local downdraught effects at ground level; and by ensuring that the boiler is maintained correctly, the appropriate moisture content fuel is use, and the boiler is stoked correctly to achieve the best gasification and combustion conditions.

#### Odour Management Plan

The proposed ‘Odour Management Plan’ (January 2014) submitted as part of the planning application that also forms part of this appeal submission, responds directly to the findings of the Sheriff Court case and highlights a full methodology in line with DEFRA recommendations. It contains:

- Control Measures,
- Management Procedures,
- Maintenance & Repair Schedule,
- Monitoring Controls,
- Communication Plan,
- Staff Training, and
- Identification of Receptors

If approved, as per Condition 1, 6 and 10 outlined in Section 5 of this report, the above procedures and controls of this plan would be binding with the planning permission. This is a fundamental difference from the previous planning application that was refused and also the Sheriff Court ruling.

#### Air Quality, Odour & Impact on Residential Development – Conclusion

Overall, given the scale of the boiler and the information we have provided in the foregoing, it is considered that the proposal does not have any undue impact on residential amenity. The perception of smoke and odour has been somewhat misrepresented. The boiler does result in darkened ‘air’ upon start up, but legislation fully allows for this and when it is operational, there is no impact whatsoever.

#### Noise

Noise from the installation, inclusive of any tonal penalty, should not exceed the existing background level (LAF90) by more than 5dBA at any noise sensitive premises. This can be controlled by a suitably worded planning condition.

### Traffic

Any increase in road traffic movement is diminimus and so the impact on air quality from vehicle emissions is not considered to be significant.

### Representations

A total of 20 letters in support have been received. The main thrust behind the comments include that the development should be encouraged as it is a green, clean and healthy form of energy, causes no nuisance and should be supported given the nature of the local business which provides a focal point for the community.

In contrast, 8 letters of representation have been received which have cited concerns over the smoke and odour from the boiler, the proximity to residential properties, location of the flue, impact on health and wellbeing.

## SECTION 5: PROPOSED CONDITIONS

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.

Reason - To ensure that the development is carried out in accordance with the plans approved.

2. The biomass boilers specifications shall be cognisant of the information presented to this Service any changes to the biomass specifications shall not take place unless otherwise agreed in writing by the planning authority

Reason - In order to protect air quality

- 3 A suitable management plan shall be instituted and agreed in writing with the Planning Authority within 8 weeks of the date of this Decision Notice that will cover, in particular:

- a) That the growth of pathogenic organisms will be minimised within the fuel store.
- b) Maintenance of the biomass boiler hereby approved.
- c) The proposed stoking methodology

Reason - In order to safeguard the residential amenity of the area.

- 4 All plant equipment associated with the operation of the biomass boiler be so enclosed, attenuated and /or maintained in accordance with the manufacturer's instructions such that noise there from shall not exceed Noise rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and /or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the residential amenity of the area.

- 5 The boiler and flue and any constituent parts shall be maintained and serviced in accordance with the manufacturer's instructions and a record retained of these activities.

Reason In order to protect air quality

6. The feedstock i.e. the wood that supplies the biomass boiler hereby approved shall be of a moisture content that at no time shall exceed 5%. A log will be kept at all times of moisture



levels of wood used for burning with a nominated person as agreed in writing with the Planning Authority to log two tests per boiler fill.

Reason: In order to protect air quality.

7. That any 'dark air' in appearance generated from the biomass boiler hereby approved shall be restricted to no more than 20 minutes following the startup and thereafter whilst the biomass boiler hereby approved is operational, no 'dark air' or such like permitted whatsoever

Reason: In order to protect air quality.

8. The Exodraft RSV fan that is situated within the flue of the biomass boiler hereby approved which increases the vertical discharge velocity of the exhaust gases to that used in the modeling (between 5 and 6m/s) thereby improving dispersion and reducing the potential for local downdraught effects at ground level shall be in place at all times.

Reason: In order to protect air quality.

9. That the Control Measures, Maintenance Schedule, Methods of Monitoring, Communication Procedures, Emergency & Incident Measures and Training Methodologies as described in full in the 'Odour Management Plan – January 2014' as submitted are adhered to and complied with at all times during the times the biomass boiler hereby approved is in operation.

Reason: In the interests of residential amenity and in order to protect air quality.

10. A weather monitoring system will be installed in close proximity to the boiler house and flue at a location to be agreed in writing with the Planning authority. Records will be maintained at each 'fill' of the boiler and at a point one hour after start-up to include the following information:

- a) Wind speed and direction
- b) Outdoor temperature
- c) Boiler core temperature

Reason: In order to protect air quality.



## SECTION 6: CONCLUSION

The appellant has acknowledged the reasons for the previous refusal and the associated Legal case with that proposal. As a responsible hotelier and biomass boiler installer, he has undertaken the following significant alterations as a result of this process:

- a manual reduction in the KW output of the unit of a third (from 60 to 40),
- increase in height and inclusion of a fan within the flue to assist with dispersal of smoke, and
- Preparation of a management plan and monitoring of weather conditions.

These measures together address the previous concerns and, in conjunction with the planning conditions referred to, above in Section 5, mean that any extant issues in respect of noise and odour in particular have been, and will be, fully dealt with.

Context and scale seems to have been lost in this case; the appellant seeks retrospective planning permission for a 40kw biomass boiler and associated flue. It is important to take cognisance that this scale of boiler is not uncommon in a large domestic property. Indeed, the average house would incorporate a 20kw system, thus this proposal is only twice the size of what one might expect in a 'standard' residential property.

Although the installation only requires planning permission on account a of a technicality pertaining to the height of the flue, the key consideration in this appeal is whether the proposed very small biomass boiler and flue, as installed, would have a detrimental impact on the residential amenity of the local area.

Perhaps on account of some overzealous complainants, Environmental Health could reasonably be accused of being somewhat 'heavy handed' throughout their consideration of this proposal. Indeed, it has been demonstrated that under the proposal that the LRB are now considering, Environmental Health have no locus to make any comment on the application. This is because in their role as the competent Local Authority body, whilst they are obliged to review and assess air quality within their area and they must only consider biomass boilers within the range of 50kW-20MW. This proposal will now fall under that 50kw threshold. This is consistent with planning applications PK13/01151/FLL, PK10/01267/FLL and PK13/00247/FLL, which were all for developments comprising biomass boilers under this threshold. There is absolutely no reason whatsoever that this application should be treated any differently, although it has been.

Further, the information we have provided both as part of this LRB submission and in the course of both previous applications amply demonstrate that the boiler operates within the requirements of all appropriate regulations.

It is the issues (of odour and air quality) and the resultant perceived impact on residential amenity that are the substance of the single reason for refusal. Because Environmental Health has spuriously stuck to this position, it is considered that the planning officer was left in the unenviable position of being forced to refuse the application. Because **all** of these extant issues are fully ameliorated by the proposed planning conditions (in Section 5), the refusal itself and the single reason given thereof has no merit whatsoever.

It is therefore respectfully requested that this LRB appeal is upheld and that planning permission be granted.

# PERTH AND KINROSS COUNCIL

Mr William Twaddle  
c/o Cockburn's Consultants  
Brent Quinn  
29 Ryehill Terrace  
Edinburgh  
EH6 8EN

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date 18th March 2014

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **14/00079/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 20th January 2014 for permission for **Installation of a flue forming part of a biomass heating system Tayside Hotel 51-53 Mill Street Stanley Perth PH1 4NL** for the reasons undernoted.

Development Quality Manager

### Reasons for Refusal

1. The installation and operational use of the flue as part of the biomass system will have a detrimental impact on nearby/neighbouring residential properties with regards to smoke/odour nuisance and is therefore contrary to Policies RD1 and ER1A of the Local Development Plan 2012; where the retention and/or improvement of residential amenity is a key planning objective.

### Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at [www.pkc.gov.uk](http://www.pkc.gov.uk) "Online Planning Applications" page

**Plan Reference**

**14/00079/1**

**14/00079/2**

**14/00079/3**

29 Ryehill Terrace  
Leith Links  
Edinburgh  
EH6 8EN

Tel: 0131 538 5353  
Mob: 0770 897 1120  
Email: [cockburnsconsultants@gmail.com](mailto:cockburnsconsultants@gmail.com)  
Web: [www.cockburnsconsultants.com](http://www.cockburnsconsultants.com)

10 January 2014

By email only to [AMBeveridge@pkc.gov.uk](mailto:AMBeveridge@pkc.gov.uk)

Alastair Beveridge  
Perth & Kinross Council  
Pullar House,  
35 Kinnoull Street  
Perth  
PH1 5GD,

Dear Sir,

**Revised Planning Application for Installation of a biomass boiler and flue (in retrospect) | Tayside Hotel 51-53 Mill Street Stanley Perth PH1 4NL**

Please see enclosed planning application paperwork, including plans, application form, etc. as submitted through the 'eplanning' system in respect of the above.

There is no fee payable for this application as it is for the same proposal as planning application 12/01396/FLL, which was refused on 1 February 2013. This revised application is being lodged within one year of that refusal thus no fee is applicable.

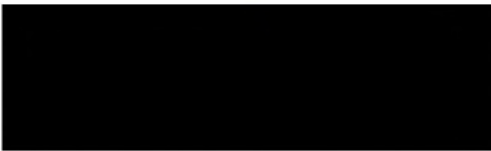
It is important to note that whilst this proposal is not materially different to that submitted under planning application 12/01396/FLL there is one significant difference that both the Planning Authority and statutory consultees should be aware of. That being that the output of the boiler has been reduced from 60kw to 40kw. This amendment to the boiler unit has been undertaken by a qualified Microgeneration Certified Installer.

In this context, Environmental Health have no locus to make any comment on the application. This is because in their role as the competent Local Authority body, whilst they are obliged to review and assess air quality within their area and they must **only** consider biomass boilers within the range of 50kW-20MW. This proposal will now fall under that 50kw threshold. This is consistent with planning applications

PK13/01151/FLL, PK10/01267/FLL and PK13/00247/FLL, which were all for developments comprising biomass boilers under this threshold. There is absolutely no reason whatsoever that this application should be treated any differently.

I trust the foregoing, along with the accompanying submission provides you with sufficient information to consider this application favourably, however if there are any issues arising we would be grateful if we could arrange a discussion with yourself. Please contact me by phone on either 07708 971120 or 0131 538 5353 or email [cockburnsconsultants@gmail.com](mailto:cockburnsconsultants@gmail.com) should you need to discuss anything further.

Yours sincerely,



**Brent Quinn** MA(Hons) MRTPI LCIWM PRINCE2  
Managing Director, Cockburns Consultants



**RTPI**

mediation of space · making of place



Pullar House 35 Kinnoull Street Perth PH1 5GD

Tel: 01738 475300

Fax: 01738 475310

Email: onlineapps@pkc.gov.uk

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000080126-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

We strongly recommend that you refer to the help text before you complete this section.

- ☒ Application for Planning Permission (including changes of use and surface mineral working)
- ☐ Application for Planning Permission in Principle
- ☐ Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Installation of a flue forming part of a biomass heating system for the Tayside Hotel, Stanley

Is this a temporary permission? \* ☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place? (Answer 'No' if there is no change of use.) \* ☐ Yes ☒ No

Have the works already been started or completed? \*

☐ No ☐ Yes - Started ☒ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): \*

09/11/11

Please explain why work has taken place in advance of making this application: \* (Max 500 characters)

Explained in previous submission (12/01396/FLL)

## Applicant or Agent Details

Are you an applicant, or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

### Agent Details

Please enter Agent details

Company/Organisation:	Cockburn's Consultants
Ref. Number:	
First Name: *	Brent
Last Name: *	Quinn
Telephone Number: *	07708971120
Extension Number:	
Mobile Number:	447708971120
Fax Number:	
Email Address: *	cockburnsconsultants@gmail.com

You must enter a Building Name or Number, or both:\*

Building Name:	
Building Number:	29
Address 1 (Street): *	Ryehill Terrace
Address 2:	
Town/City: *	Edinburgh
Country: *	UK
Postcode: *	EH6 8EN

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

### Applicant Details

Please enter Applicant details

Title: *	Mr
Other Title:	
First Name: *	William
Last Name: *	Twaddle
Company/Organisation:	
Telephone Number:	
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address:	

You must enter a Building Name or Number, or both:\*

Building Name:	Per Agent
Building Number:	
Address 1 (Street): *	Per Agent
Address 2:	
Town/City: *	Per Agent
Country: *	Per Agent
Postcode: *	Per Agent



## Site Address Details

Planning Authority: Perth and Kinross Council

Full postal address of the site (including postcode where available):

Address 1: Tayside Hotel

Address 5:

Address 2: 51 - 53 Mill Street

Town/City/Settlement:

Perth

Address 3: Stanley

Post Code:

PH1 4NL

Address 4:

Please identify/describe the location of the site or sites.

Northing

733279

Easting

310875

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☒ Yes ☐ No

## Pre-Application Discussion Details

In what format was the feedback given? \*

☒ Meeting ☒ Telephone ☒ Letter ☒ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

See previous application 12/01396/FLL

Title: Mr

Other title:

First Name: Alasdair

Last Name:

Beveridge

Correspondence Reference Number: 12/01396/FLL

Date (dd/mm/yyyy):

01/02/13

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

28.40

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: (Max 500 characters)

Area for car parking

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? \*

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? \*

6

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? \*

6

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

☐ Yes ☒ No

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) \*

☐ Yes ☒ No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

☐ Yes

☐ No, using a private water supply

☒ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

☐ Yes ☒ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

☐ Yes ☒ No ☐ Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

☐ Yes ☒ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*

☐ Yes ☒ No

If Yes or No, please provide further details:(Max 500 characters)

N/A

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

☐ Yes ☒ No

## All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

☐ Yes ☒ No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? \*

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☒ Yes ☐ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed: Brent Quinn

On behalf of: Mr William Twaddle

Date: 14/01/2014

☒ Please tick here to certify this Certificate. \*

## Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

☐ Yes ☐ No ☒ Not applicable to this application

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- ☒ Site Layout Plan or Block plan.
- ☒ Elevations.
- ☐ Floor plans.
- ☐ Cross sections.
- ☐ Roof plan.
- ☐ Master Plan/Framework Plan.
- ☐ Landscape plan.
- ☒ Photographs and/or photomontages.
- ☐ Other.

Provide copies of the following documents if applicable:

- |  |  |
|--|--|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

## Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

Declaration Name: Brent Quinn  
Declaration Date: 14/01/2014  
Submission Date: 14/01/2014





## **SUPPORTING STATEMENT**

---

### **PLANNING APPLICATION FOR INSTALLATION OF A FLUE FORMING PART OF A BIOMASS HEATING SYSTEM FOR THE TAYSIDE HOTEL, STANLEY**

Prepared by:  
Brent Quinn MA(Hons) MRTPI PRINCE2  
Cockburn's Consultants  
January 2014  
[www.cockburnsconsultants.com](http://www.cockburnsconsultants.com)

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## SECTION 1: INTRODUCTION AND CONTEXT

### Background

Cockburn's Consultants has been commissioned by William Twaddle of the Tayside Hotel, to submit a revised planning application in respect of a flue related to a biomass boiler at the Tayside Hotel, Stanley, Perthshire.

This is a retrospective planning application. The reasons for that being the case were outlined as part of the previous submission. This was unfortunately refused on 1<sup>st</sup> of February 2013 and this revised application is submitted for a 40kW system as opposed to the 60kW system previously sought.

The Decision Notice cited one reason for refusal only:

1. The installation and operational use of the flue as part of the biomass system will have a detrimental impact on nearby/neighbouring residential properties with regards to smoke/odour nuisance and is therefore contrary to Policy 71 Of the Perth Area Local Plan 1995 Incorporating Alteration No.1 Housing Land 2000 and Policy RD1 of the Proposed Local Development Plan - January 2012, which is a material consideration, where the retention and/or improvement of residential amenity is a key planning objective.

### Report Structure

Following this introduction, this report comprises:

- Section 2: Site Description/Proposal;
- Section 3: Planning Policy;
- Section 4: Discussion; and
- Section 5: Conclusions;

It is respectfully requested that Perth & Kinross Council's Development Management team approve this application.

## SECTION 2: SITE DESCRIPTION/PROPOSAL

The property to which this proposal relates is the Tayside Hotel, on 51-53 Mill Street, Stanley, Perthshire. It currently operates as a successful 3\* hotel which is very much an integral part of the village community. The main building is a three/two and a half storey property comprises a 12 bedroom hotel and built predominately of stone in a gothic Victorian style, built in 1898. The operators had previously used oil for their heating purposes, but have instead moved towards the biomass boiler as installed, in the interests of costs and sustainability. In terms of this latter point, the hotel has earned a Silver award from VisitScotland in recognition of their environmental credentials.

Stanley is a designated village, as defined in the Perth Area Local Plan (1996). The overall character of the area is residential, with residential properties abounding the site on all sides.

The boiler house is located within an existing external outbuilding, within the confines of the car park, to the rear of the main building. The surface treatment for the car park is stone chips and the outbuilding that is approximately 1m in height, has a depth of around 1.2m and extends along the entire western boundary of the property. The flue that is the subject of this planning application is made from galvanised stainless steel and it protrudes approximately 2.5 metres from ground level, some 1.5 metres above the roof height of the outbuilding.

A picture of the site looking from within the car park is illustrated in Figure 1, below:

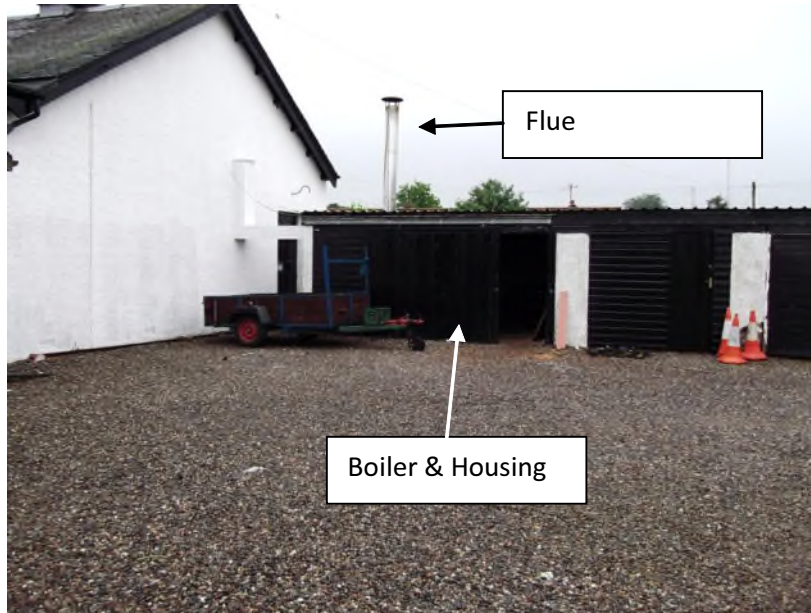


Figure 1: Picture of site, within existing car park.

A further picture showing the protruding flue from an adjacent private garden is illustrated in Figure 2, below:

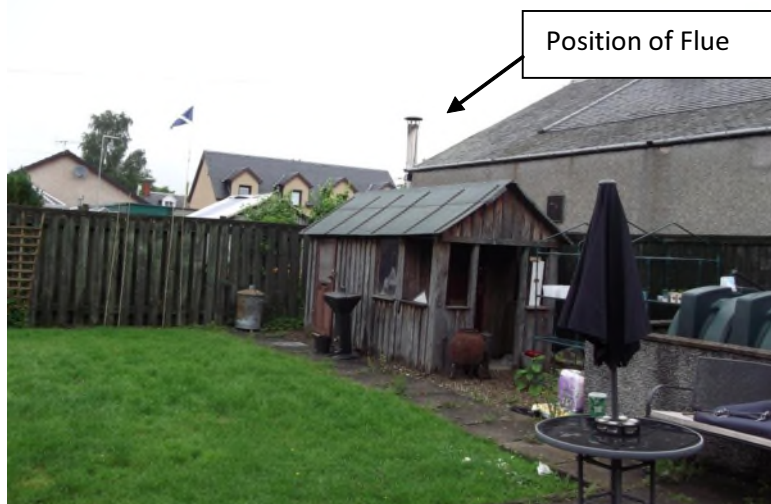


Figure 2: Picture of site, from garden of adjacent property

## SECTION 3: PLANNING POLICY

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The determining issues in this case are whether: - the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

### Policy

In this regard, whilst there are general policy provisions throughout the Strategic Development Plan - TAYplan 2012, the most relevant policy of the Perth Area Local Plan (PALP) in this instance is Policy 41.

The overall policy context is outlined below:

### NATIONAL GUIDANCE

#### Scottish Planning Policy 2010

This SPP is a statement of Scottish Government policy on land use planning and contains:

- the Scottish Government's view of the purpose of planning,
- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

## **DEVELOPMENT PLAN**

### **Perth and Kinross Structure Plan 2003**

There are no relevant strategic planning policies

### **Perth Area Local Plan 1995**

In para. 1.3, the Written Statement identifies the purpose of the plan and states various criteria on how it should function. In terms of this planning application, the following criterion is particularly appropriate:

- To apply principles of sustainable development and anticipate a future with increasing conservation of natural resources.

#### Policy 41      Perth Area general residential

Proposals Map B identifies areas of residential and compatible uses where existing residential amenity will be retained and where possible improved. Where sites in other uses become available for development, housing will generally be the most obvious alternative use. Some scope may exist for infill development, but only where this will not significantly affect the density, character or amenity of the area concerned. Small areas of private and public open space will be retained where they are of recreational or amenity value to their surroundings. Change of use to hotel, boarding and guest house use will be permitted normally only on the main radial routes in the city.

## **OTHER**

The Perth Local Development Plan is due to be adopted by the Council in early 2014, but this has not been completed at the time of this submission

## SECTION 4: DISCUSSION

This detailed planning application seeks planning permission for the flue that forms part of a biomass boiler system serving the Tayside Hotel. For the avoidance of any doubt the boiler itself and all other associated infrastructure outwith the flue does not require planning permission.

Biomass is an energy source comprising of biological material derived from living or recently living organisms such as virgin wood or other wood feedstock. The plant will use this fuel source to simultaneously generate both electricity and heat. The plant will generate up to 60KW of electricity and heat.

### **Economic Development & Early Points of Clarification**

From an economic policy perspective, the project contributes to Government Economic Strategy, and priorities around a supportive business environment and sustainability objectives, and priorities around realising business priorities around sustainable economic development.

The scheme has received support from the Council's Renewable Energy Officer in terms of the need for such facilities in the Perth & Kinross area and the associated renewable energy environmental benefits it would generate.

For the avoidance of any doubt, the appellant has confirmed that all feedstocks will be virgin wood and that no waste products would be used within the facility; indeed the technology type is incapable of burning such waste materials.

### **Visual Impact**

The flue protrudes some 2.5 metres from ground level and visually is only marginally taller than the average clothes pole in a normal domestic garden setting. The proportions of the proposal are therefore considered to be sympathetic to the context and the existing building. The flue is minimal in both size and projection.

Overall, the proposals have sympathetic regard to the scale and form of surrounding development and that it does have an appropriate landscape fit.

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## **Air Quality**

It is considered that the flue is now of a sufficient height to disperse the emitted gases sufficiently.

It is anticipated that the Council's Environmental Health Officer would not require to be consulted on this revised application due to the power output (less than 50kw) of the boiler as proposed.

## **Noise/Residential Amenity**

The proposed boiler is very similar to a domestic system that would not usually be the subject of any planning control. Indeed, this revised application is for a boiler with a 40kW output as opposed to the 60kW system that was the subject of the previous application. To put the modesty of the proposal in context, a typical domestic gas installation would be for a 30kW boiler, whilst this is a commercial biomass operation with a capacity of only 40kW, thus it is less than double the size of the average household installation in Stanley. The only reason the proposal even requires the benefit of planning permission is because the protrusion of the associated flue for the boiler exceeds the threshold allowed under Permitted Development regulations. The boiler itself does not actually require the benefit of planning permission

Therefore, with the above considerations taken into account, it is considered that the proposal adequately complies with the above-mentioned local plan policies, the contents of which are listed in Section 3, above. There are no other material considerations that would justify over-riding the adopted development plan and refusing the application.

Overall, it is considered that the application should be approved (depending on any potential representation(s) or Member call-in) under delegated powers.

## **Proposed Conditions**

The following standard condition is considered appropriate in this case:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
- 2 All plant equipment associated with the operation of the biomass boiler shall be so enclosed, attenuated and /or maintained in accordance with the manufacturer's instructions such that noise therefrom shall not exceed Noise rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and /or calculated and plotted on a rating curve chart.



## Reasons

1. To ensure that the development is carried out in accordance with the plans approved.
2. In order to safeguard the residential amenity of the area..

## SECTION 5: CONCLUSIONS

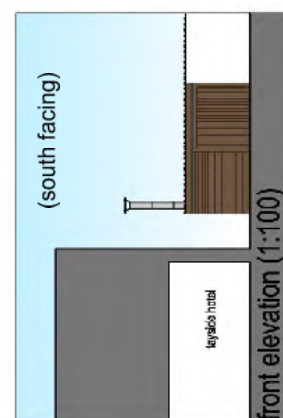
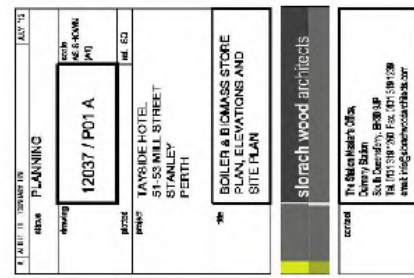
To summarise:

- The proposal complies with the Development Plan.
- The height of the boiler is minimal and has no adverse impacts in terms of visual impact, air quality or noise/residential amenity.

The proposal is considered to comply with the adopted Perth Area Local Plan and Perth and Kinross Structure Plan. Taking account of material considerations, there are none that would justify overriding the adopted Development Plan.

Taking account of the foregoing, the application should be recommended for approval subject to conditions.

At all times, we are in the structure and social, any philosophical and political.







• Hotel • Bar • Restaurant • Function Room •

Odour Management Plan

for

Biomass Gassification Boiler

installed at

Tayside Hotel  
Mill Street  
Stanley

referring to best practice as described in document

“Odour Guidance for Local Authorities”

published by

Department for Environment, Food and Rural Affairs

in March 2010

## **Introduction:**

This document has been produced in response to the enforcement of an Abatement Notice served against the Tayside Hotel by Perth and Kinross Council to cease the operation of the installed Orlingo 200 Biomass Gassification Boiler following complaints against odour allegedly emanating from the boiler.

The notice was served in October 2012 and the boiler was subsequently switched off on November 21<sup>st</sup> 2012.

An appeal was lodged in December 2012 but the order was upheld on the ground that the odour constituted a nuisance and that not all possible steps had been taken by the Tayside Hotel to resolve the cause of the odour.

Reference has been made to the document “Odour Guidance for Local Authorities” published by DEFRA and to the written judgement of the Sheriff who heard the appeal case. The Tayside Hotel has formulated this plan in attempt to show what procedures have been put into place and what steps have been and will be taken to minimise or remove any alleged nuisance should the boiler be permitted to be restarted.

## **Identification of Source of Odour**

During the investigation into the complaints against the Tayside Hotel it was established that the source of the odour was attributed to two factors:

1. type of material being used to fuel the boiler, its storage and selection
2. downdraught from buildings taller than the flue preventing emissions from properly dispersing.

## **Control Measures**

1. Material Type
  - a. The Tayside Hotel receives wood from Dunkeld Saw Mill. This is delivered as cut to length slabwood which requires to be dried prior to being cut to manageable lengths.
  - b. The Tayside Hotel has also purchased compressed wooden blocks. These blocks provide an easy to use fuel source which does not require drying or cutting before use.
  - c. Seasoned wood. Purchased from local suppliers and once delivered is treated in the same manner as wood supplied from a saw mill.
  - d. Clean waste wood. Following a site visit SEPA issued a certificate to the Hotel to permit the burning of ‘clean’ waste wood, ie wood that has not been treated / stained / painted in any way.
2. Material Storage & Selection
  - a. Delivered wood:
    - i. regardless of source, is initially stored externally to start the air drying process and to allow air to pass around the wood to avoid mould growth.
    - ii. Air dried wood is then moved undercover into a fully containable garage store.
    - iii. Wood is selected from this store and checked for moisture levels before being cut to smaller manageable lengths and placed into the ‘ready use store’.
    - iv. Wood is taken from the ‘ready store’, checked for moisture levels again, and if suitable placed into the boiler.
  - b. Compressed wood blocks are placed into the ‘ready store’ on delivery.

Wood is only selected for burning when it has been tested for appropriate moisture levels. These levels are set at 15-20%. The Hotel uses a standard digital display probe which was supplied with the boiler upon its installation.

This method of storage and rotation has been approved by the Fire and Rescue Service and by SEPA following visits during 2012. The Hotel intends on continuing with this system until such time as any further advice is received to the contrary.

### 3. Downdraught Abatement

- a. Under DEFRA guidelines the capacity of the boiler and its hourly throughput mean that its flue height should be that as recommended by the boiler manufacturer. In this case the manufacturer states that the flue height is to be no more than 1.5m above roof height.
  - i. In 2012 PKC Environment Service insisted that the flue height be increased. It was explained that this would have the opposite effect to what they were trying to achieve.
  - ii. The flue height now sits 2.5m above roof height. Following the increase in flue height the instances of complaint to PKC increased substantially.
- b. On November 9<sup>th</sup> 2012 an Exodraft Fan was installed at the top of the boiler flue. This fan is specifically designed to abate any effects of downdraught by accelerating the exhausting gas to between 7.5 and 15/m per second. (*see attached document titled "Chimney Fan Systems for Biomass Boilers" published by the fan manufacturer*).
  - i. Between November 9<sup>th</sup> 2012 and November 21<sup>st</sup> 2012 only one complaint was lodged with PKC for 'odour'. The boiler was switched off on November 21<sup>st</sup> 2012 under the abatement notice.
  - ii. The Exodraft Fan requires cleaning twice a year dependent on fuel type being used. This can be carried out either by a locally trained and nominated person or by an engineer visit.

It can be seen that the installation of the Exodraft Fan substantially decreased the reports of alleged odour nuisance. This should be taken as a successful attempt to abate the alleged nuisance caused by downdraught on the emissions from the flue.

## **Management Procedures**

1. The Hotel will nominate one person responsible for the day-to-day management of the boiler. This role will include such responsibilities as:
  - a. the correct storage, rotation and selection of appropriate material to be used in the boiler;
  - b. the starting-up and shutting-down of the boiler each day as required;
  - c. the daily maintenance of the boiler and all associated mechanics as required;
  - d. the recording of all relevant data to ensure appropriate checks are being carried out and enforced.
  - e. ensuring that all appropriate health and safety requirements are adhered to during boiler operation.

## **Repair and Maintenance of Plant**

1. Boiler
  - a. The nominated person will ensure that appropriate routine and preventative maintenance is carried out by suitably qualified engineers as and when required.
  - b. The nominated person will carry out the daily maintenance of the boiler and all associated mechanics as required;
  - c. The boiler is cleaned on a monthly basis. This entails the removal and disposal of ash.

- d. No further regular internal manual cleaning is required as the system is designed to self-clean.
  - e. The Hotel uses W Lawson of Auchterarder to provide the maintenance of the boiler.
2. Exodraft Fan
- a. The Exodraft Fan requires cleaning twice a year dependent on fuel type being used. This can be carried out either by a locally trained and nominated person or by an engineer visit.
  - b. An isolation switch is installed for the fan to permit inspection and cleaning as required.
  - c. The fan comes with a three year warranty
3. Flue
- a. The flue requires sweeping every quarter using a standard chimney brush.

### **Monitoring**

- 1. The Hotel will install a weather monitoring system in close proximity to the boiler house and flue. Records will be maintained at each 'fill' of the boiler and at a point one hour after start-up to include:
  - o Wind speed and direction
  - o Outdoor temperature
  - o Boiler core temperature
- 2. Records will be kept of moisture levels of wood used for burning. Although every piece of wood is tested it is impractical to record this so the nominated person will log two tests per boiler fill.

### **Communication**

- 1. A copy of this plan will be supplied to the following bodies for their records:
  - a. Perth and Kinross Council Environmental Services
  - b. Stanley & Kinclaven Community Council
- 2. A copy of this plan will be made available to any appropriately interested parties upon request.
- 3. Should this plan be altered in any way a revised copy will be supplied to the above named bodies when such changes are complete.

### **Emergency & Incident Response**

- 1. The occurrence of any serious emergency or untoward incident is extremely unlikely taking into consideration the self-contained nature of the boiler and its associated mechanics.
- 2. Obviously the main concern is one of fire. Following two visits from the Fire and Rescue Service during 2012 along with one visit from SEPA no concern was expressed regarding our storage solutions and methods.
- 3. Once the boiler reaches a temperature of 90 Degrees Celsius it automatically shuts down. Should the boiler temperature exceed 100 degrees Celsius then an auto valve is opened and cold water is circulated around the boiler to bring the temperature down.
- 4. Should a failure of the Exodraft fan occur then the boiler will automatically shutdown as it's core temperature rises due to no exhaust of waste gases taking place.

Any such occurrences of the above will be recorded appropriately in the Hotel log book.



### **Staff Training**

1. The nominated person has received training in the operation and maintenance of the Boiler from IMS Heating & Plumbing.
  - a. IMS are registered with the Microgeneration Certification Scheme and were the installers of the boiler.
  - b. IMS Staff attended the Eco-Angus premises in Bristol where they were trained in the installation and operation of the boiler.

### **Identification of Receptors**

Please see map provided by Seal Environment Ltd following a consultation report compiled for the Hotel in 2012 (see appendix two).

### **Document Details**

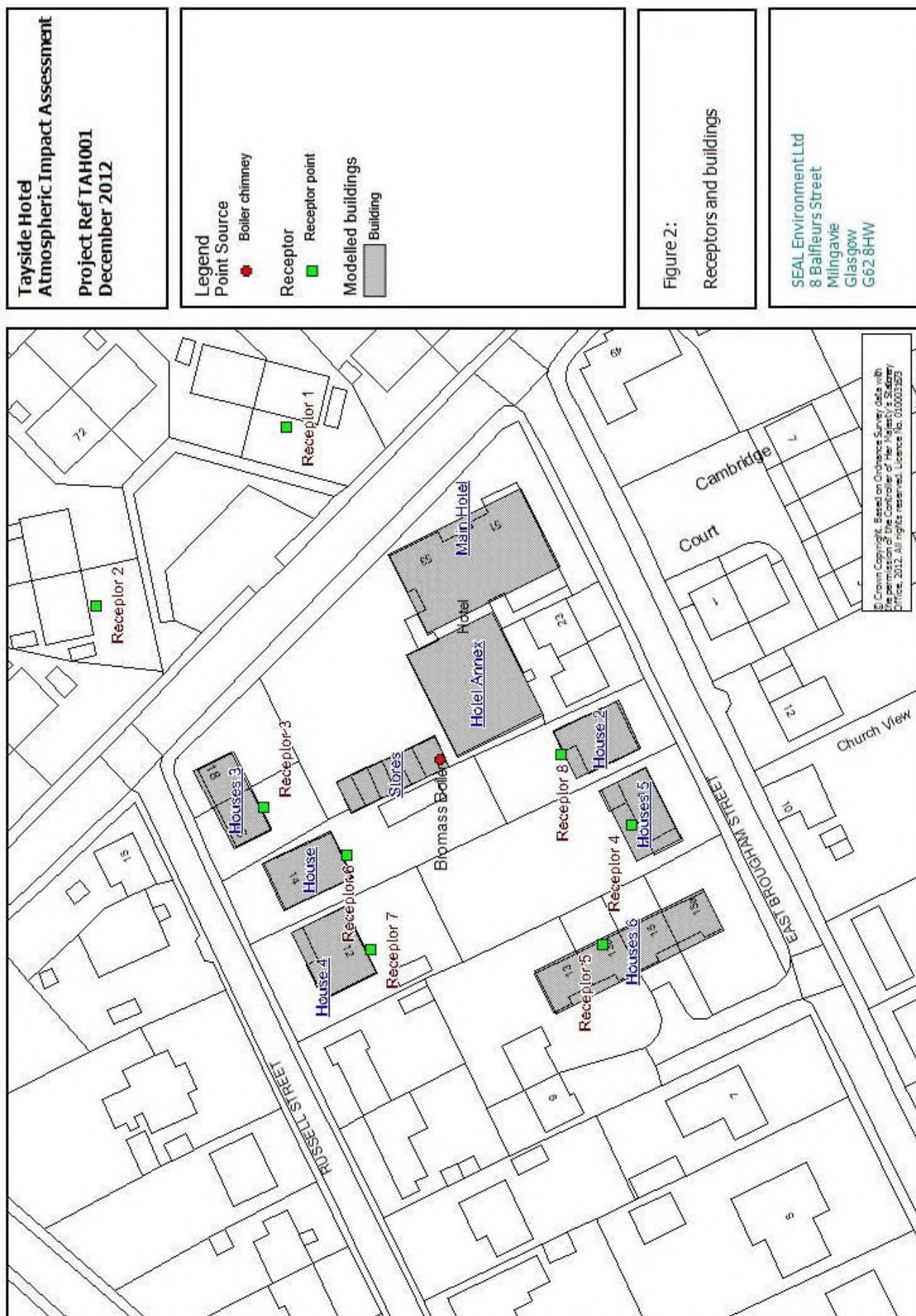
Document compiled and published by the Tayside Hotel in January 2014.

### **Appendix One: Site & Location Map:**

- Green square shows location of boiler house with flue being located in the bottom left-hand corner of the square.



## Appendix Two: Receptor Plan



**Appendix Three: Orlingo Boiler installation and operation manual**

See separate document.

**Appendix Four: Exodraft fan manual**

See separate document





## Chimney fan systems for biomass boilers



## Biomass ... on route to 2020

### The fight against climate change

In the spring of 2008 the EU member states agreed on a EU-wide target of 20 % renewable energy by 2020. The UK's proposed share would be to provide 15 % of the UK's energy from renewable. During the last couple of years, Biomass has become an increasingly important technology pursuing this challenging target.

Today's biomass boilers burn wood chips or pellets extremely cleanly and do not produce smoke, if provided with the optimum working conditions and the correct quality of fuel.

However, many experience challenges when it comes to getting the planning consent for their environmentally friendly biomass boiler installation.

Difficulties in obtaining planning consent can also jeopardise the whole concept of environmentally friendly and highly efficient supplies of heat and hot water.

### The guidance notes

Flue design for the cleaner, less toxin-laden effluent of biomass boilers is often treated in planning considerations in the same way as for the effluent from fossil fuel boilers. Planners use the Clean Air Act Memorandum and the D1 to determine the chimney height that would result in approval according to the Clean Air Act 1993.

The methods used in the Clean Air Act Memorandum and the D1 are considered by many to be mandatory requirements for chimney height, efflux velocity and the dimensions of the chimney, although in reality they have never been more than advisory guides.

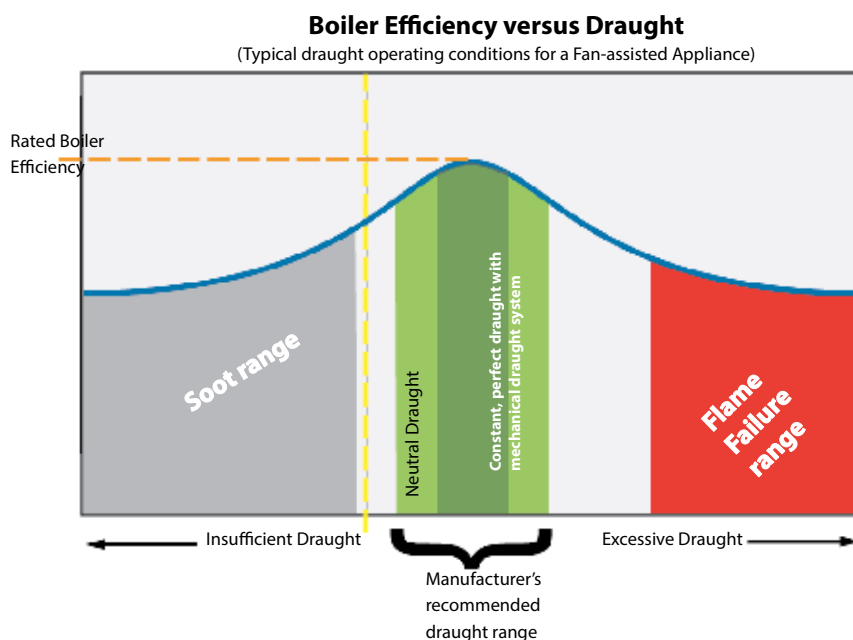
It is important to note that it is becoming widely questioned if the D1 guide is actually suitable for biomass boiler designs.

Whilst these guidance notes do make it possible to determine chimney height based on the efflux velocity and dispersion height, the calculations are unfortunately based on assumed flue gas temperatures of older and less efficient technologies rather than those of today's highly efficient biomass appliances.



## Jeopardising the objective

3



Boiler efficiency is dependent on the draught in the chimney. Insufficient or excessive draught will cause the biomass boiler to work inefficiently.

### The consequences of the guidance notes

The biomass boilers of today are extremely efficient, resulting in dramatically reduced efflux velocities. In order to increase the efflux velocity to meet the requirements of outdated guidance notes planners decrease the chimney diameter to achieve velocity.

Making the chimney narrower normally means that the chimney needs to be taller to overcome the pressure loss from the reduced cross section of the chimney. This has a huge negative impact on the performance of the biomass boilers, increasing running costs and maintenance significantly - all in all an unfortunate solution for the building owner.

This means that, in many instances, to gain the approval for the chimney an otherwise efficient biomass boiler becomes very inefficient. Not being able to take advantage of the efficiency of the biomass boiler means that the whole concept of green energy is jeopardised.

### There is a solution

Even if the CAAM, D1 and the highly efficient biomass boilers do not seem to “work well together”, there is a solution to achieving the optimum efflux velocity, whilst optimising the efficiency of the boiler, and even reducing the height of the stack to improve the appearance of the building.

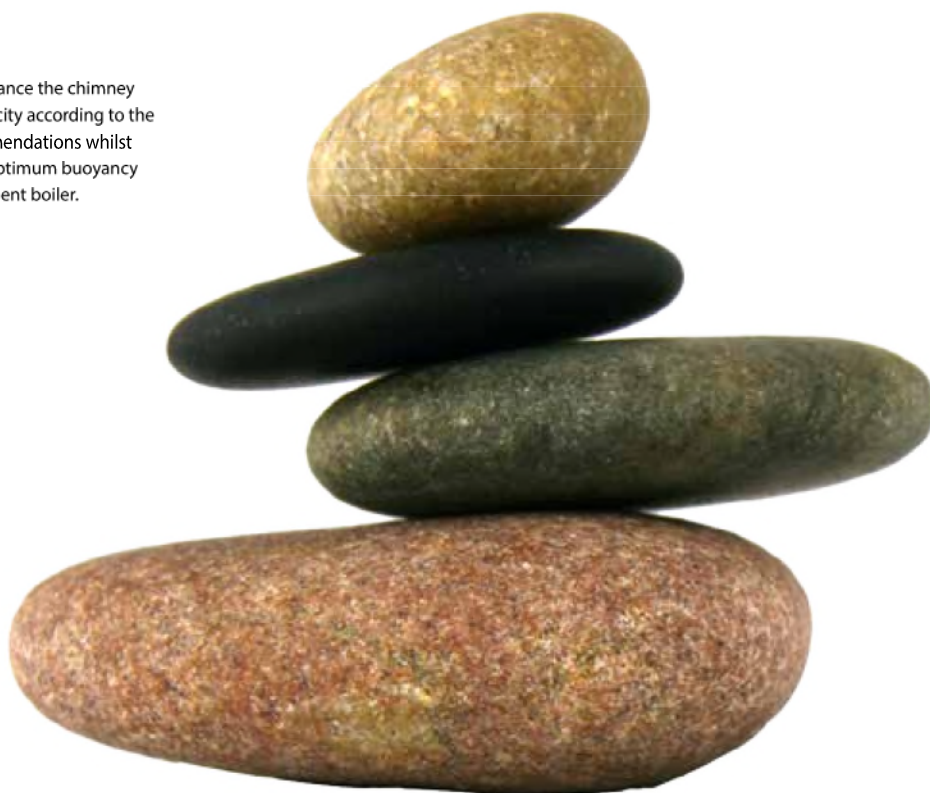
The **exodraft** chimney fan system not only guarantees the efflux velocity, it also ensures that the optimum level of chimney draught is maintained at all times.

By controlling and optimising the rate at which exhaust gases are dispersed, the system also directly helps to maintain high fuel efficiency of the boiler served by the flue.

An advanced electronic control ensures that exactly the right amount of draught is applied to move the exhaust gases up the flue.

## Balancing the impossible

It is very hard to balance the chimney height & efflux velocity according to the CAAM & D1 recommendations whilst still achieving the optimum buoyancy required for an efficient boiler.



### The challenges of designing biomass

The CAAM and the D1 guidance notes were published to help the authorities determine the chimney height to make flue gases disperse. The guides suggest a minimum discharge velocity that, according to the guides, should “prevent the discharged plume suffering from aerodynamic down-wash and flowing down the outside of the discharge stack”.

The recommended efflux velocities are in the region of 7.5 – 15 m/s depending on the output and the guidance note.

The guides also include suggestions for minimum height based on the obstacles in the surrounding area, plus a calculation of the advised chimney discharge height based on the maximum rated input of the plant, types of fuel and other factors.

As the efflux velocity is not achievable with the calculated stack height, the actual chimney height is increased and the chimney diameter is reduced to increase the efflux velocity.

### Why is this a challenge for the biomass boiler

There is a strong possibility that the local authority planning department might not give permission for a very tall chimney that is out of proportion with the building and the local landscape.

Furthermore, the height and dimensions of a chimney significantly influence the efficiency and performance of the biomass boiler. Designing a chimney stack to provide optimum performance under changing weather conditions and heat loads is in itself extremely difficult - if not impossible.

Changing the physical properties of the chimney stack to meet CAAM/D1 will definitely make the operation of the biomass boilers even less efficient.

An **exodraft** chimney fan system can provide the necessary optimum and constant draught conditions for the biomass boiler irrespective of any external influences, whilst achieving the desired efflux velocity.



## The benefits of the chimney fan system for biomass applications



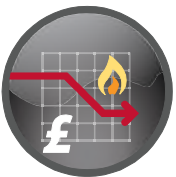
### Aesthetics

- No need for tall chimneys – down sizing possible while still complying with the CAA
- Flexibility of design provides alternative flue termination points
- The height of the chimney can be reduced if needed (provided that the termination point still meets local regulations)
- The diameter can be reduced whilst guaranteeing efflux velocity



### Design it your way

- Long horizontal flue runs are possible
- Placement of boilers where you want them
- Placement of chimneys where you want them
- Minimal flue size = optimum utilization of floor space



### The operating costs are reduced

- The only system that guarantees the energy efficiency of heating appliances
- Guaranteed boiler efficiency through optimised boiler output
- Savings of up to 30 % on heating costs
- Modulating fan speed keeps running costs very low
- Cast aluminium fans ensure long life and low maintenance cost



### Keeping people safe and buildings operational

- The only system that guarantees safe evacuation of combustion products
- Fail-safe operation in accordance with all relevant British Standards
- Constantly controlled pressure in entire flue system
- The only purpose-designed system
- 3-year warranty against mechanical failure
- 10-year warranty against corrosion



### Control the draught

- Creating optimum working conditions for boilers continuously all year round
- Prevents aerodynamic down-wash and flue gases or smoke flowing down the outside of the chimney stack
- Dilution of the flue gases/smoke is possible

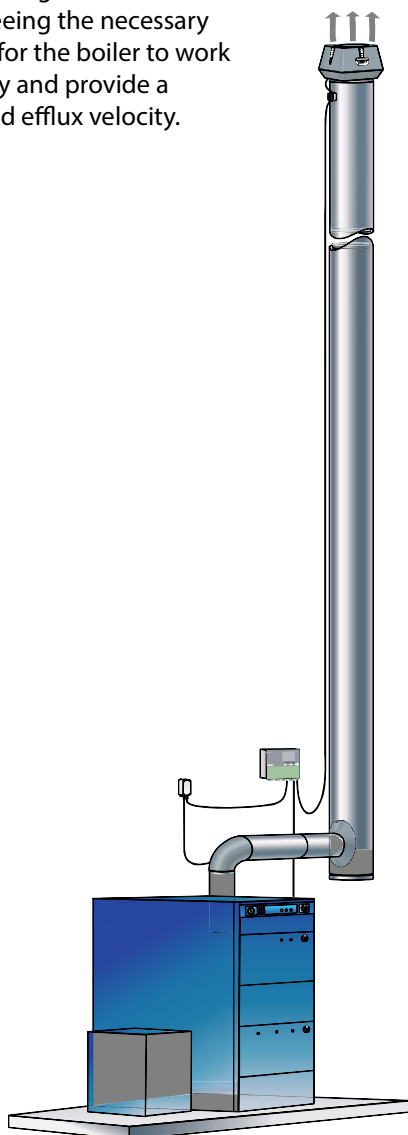
## The chimney fan system

### One solution, two options

An **exodraft** chimney fan system can provide the necessary optimum constant draught conditions for the biomass boiler irrespective of any external influences, whilst achieving the desired efflux velocity

The **exodraft** chimney fan system can be used in two different configurations for biomass systems:

- To provide the correct chimney height whilst also guaranteeing the efflux velocity and providing the necessary draught for the boiler to work efficiently.
- To make possible reduced chimney height whilst still guaranteeing the necessary draught for the boiler to work efficiently and provide a controlled efflux velocity.

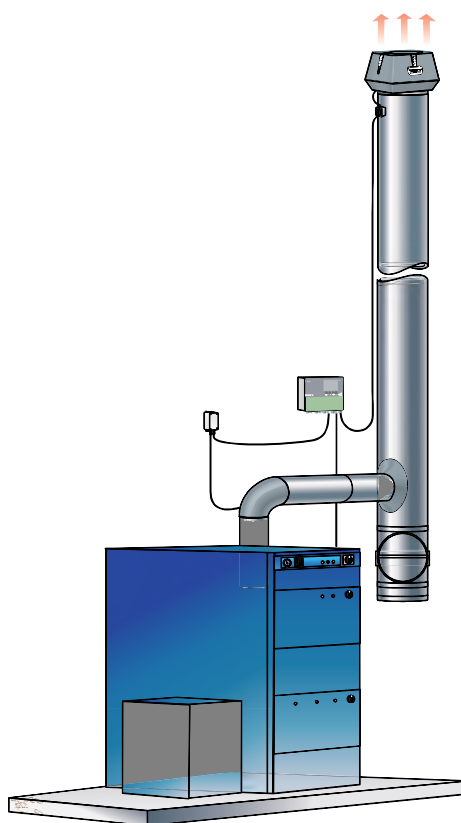


The **exodraft** chimney fan system consists of an **exodraft** chimney fan installed on the discharge point of the chimney. The fan speed is controlled by an **exodraft** EBC20 controller, developed for controlling modulating boiler operations.

The EBC20 is installed between the chimney fan and the biomass boiler. The controller monitors the draught inside the flue and chimney and modulates the speed of the fan to maintain a constant draught at any given time - irrespective of heat load or external conditions.

The system is guaranteed fail-safe according to BS EN15287-1.

The design of the optimum system components for each individual chimney fan system is calculated using design software developed by **exodraft** in accordance with BS EN13384.



## The components of the chimney fan system



### Chimney fans RSV

**exodraft** chimney fans are specially designed and manufactured to withstand flue gas temperatures of up to 250° continuously and to operate in a dirty environment. The unit is made in die-cast aluminium with a grey paint finish, which makes it light, mechanically strong and extremely resistant to corrosion. The motor is a temperature-resistant, sealed asynchronous unit with lifetime-lubricated ball bearings. This ensures a long service life, high efficiency and low noise levels. The fan unit is hinged and can be opened for service and inspection of the flue.

The chimney fans are installed on the discharge point of the chimney. The vertical discharge column provides a good efflux velocity away from the building.



### EBC20 control unit

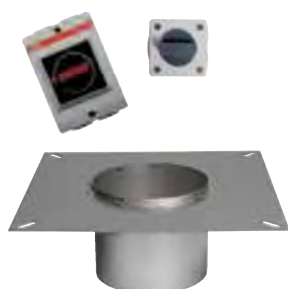
The **exodraft** automatic control unit EBC20 has an XTP sensor which monitors the chimney draught and supervises the fail-safe function. The unit is easy to install and commission. The display indicates the actual chimney draught as well as the value pre-set during commissioning, and the unit provides a variety of variable settings for the control of the system.



The control unit EBC20 also offers an external input option from a pressure switch or alarm sensor as well as having an alarm contact that can be connected to facility management systems or similar. A built-in alarm log makes it easy to recognize the location of any problems in the system. All electrical inputs and outputs are connected to amber LEDs, which make commissioning and fault-finding straightforward. The fail-safe system of the EBC20 conforms with BS EN15287-1.

The frequency converter FRK is used for variable speed control of 3-phase motors in connection with EBC20.

- |           |                                    |
|-----------|------------------------------------|
| EBC20EU01 | Controls for indoor installation.  |
| EBC20EU02 | Controls for outdoor installation. |



### Accessories

It is legally required that an isolation switch is fitted in the immediate vicinity of the fan, so that the fan can be disconnected for servicing or cleaning of the flue.

If the chimney fan is to be installed on a steel chimney, stainless steel flanges can be used. The spigot of flange FR is inserted into the flue and the fan and flange assembly is located on the top of the chimney. The range includes flanges to suit any model of fan and most flue IDs. For multiple fan installations a plenum box can be used.

For further information on **exodraft** chimney fan systems, please contact **exodraft Ltd.**

**exodraft's** extensive product range is based on more than 50 years of experience and knowledge in the field of combustion and chimney draft technology. Our products are known for high safety and quality and we're helping to set the standards and requirements for draft technology.

**exodraft** products are all fully documented in accordance with current national and international standards and are sold in more than 40 countries – to small domestic fireplaces in private homes to larger commercial and industrial boiler installations.

#### **How do you ensure that the system is safe?**

The system constantly measures the draught in the chimney system and will always modulate according to the heat load and external conditions that normally affect draught. Should it not be possible to maintain the commissioned level of draught in the system, the **exodraft** controller will automatically cut off the supply to the appliance in accordance with BS EN15287-1.

#### **What if the power to the fan is cut off?**

With the fan not running, the system will be unable to maintain adequate flue draught and the controller will automatically either cut off the fuel supply or shut down the boilers, as described above.

#### **Does the system require specific makes of boilers?**

No. The **exodraft** system will operate with any make or specification of boiler.

#### **What is the energy consumption of the system?**

It varies according to the model of fan installed but the energy requirement is always very limited. If the fan was running constantly at full speed, which it very rarely is, the consumption would be between 40W and 160W.

#### **How does the system affect the energy efficiency of the boilers?**

The **exodraft** system constantly maintains optimum draught in the flue, which guarantees, other things being equal, that the efficiency of the individual boilers will always be at its highest. The **exodraft** system actually keeps boiler efficiency at its peak, day after day.

#### **Can the system help me achieve planning consent?**

Yes! Normally our design programme helps developers/specifiers achieve planning approval... often first time. This we do by providing the efflux velocity required with an acceptable chimney height. By ensuring the efflux velocity you will not need to oversize the height of the chimney stack.

#### **What happens to the fan in very windy weather?**

Nothing. The fan will definitely stay in place and the effect that the wind would otherwise have on the draught in the flue is cancelled out by the modulation of the fan.

#### **Is the fan noisy?**

No. The high engineering quality, perfect balance and top-quality bearings of the fan ensure that it is extremely quiet when operating and it is, in any case, at the top of the flue, well away from living areas.

#### **What is the investment?**

The exact cost varies slightly according to the design of the duct, but the investment will normally be between £3,000-8,000 per system, installed and commissioned.

#### **What about maintenance?**

As with any abatement technology for biomass there is a certain level of maintenance, in this case cleaning of the fan. Provided a consistent and good quality fuel is used, a quarterly or half yearly cleaning should be sufficient. The costs definitely outweighs costs of other abatement technologies, such as filters.

#### **Do you guarantee that it will work for us?**

Yes. We guarantee that any system designed by **exodraft** or our **exodraft** Technology Centres will work. We offer a six-month money-back guarantee should the system not meet your exact requirements. We also offer a 3-year warranty against mechanical failure.

#### **Do you offer chimney fan solutions for other types of heating applications?**

Yes. We have system solutions for fireplaces and stoves, single and multiple boilers, bakeries and many other applications.

Check out our website for more information on system solutions or to attend one of our CPD seminars.

**For more information visit [www.exodraft.co.uk](http://www.exodraft.co.uk)**



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# CERTIFICATE

**Quality- Assurance System**  
according to directive 97/23/EC

Certificate No.: 07 202 9120 Z 0032/9/D/01

**Name and address of bearer:** EKO-VIMAR ORLAŃSKI Sp. z o. o.  
ul. Nyska 17b  
PL-48-385 Otmuchów

We hereby certify, that the manufacturer has established a quality system for the manufacturing of pressure equipment according to directive 97/23/EC. The manufacturer is entitled to mark the pressure equipment produced within the range of the quality system with the following mark:

**CE 0045**

Tested according to 97/23/EC:	full quality assurance (module H)
Test report No.:	9120 P 0032/9/D/01
Range of products:	Heating boilers for solid fuels (wood), acc. to EN 303-5 nominal heat output of 14 to 80 kW
Place of manufacture:	ul. Warszawska 20 PI-48-385 Otmuchów
valid until:	September 2012

Katowice, 08.10.2009

Zertifizierungsstelle für Druckgeräte

KG



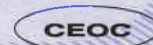
**MSc. Paweł Kaczmarek**

Certification Body EC Reg. No. 0045

TÜV Nord Systems GmbH & Co. KG  
Große Bahnstraße 31  
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CONFÉDÉRATION EUROPÉENNE D'ORGANISMES DE CONTRÔLE







**EKO-VIMAR ORLAŃSKI**  
**Sp. z o.o.**

48-385 Otmuchów, ul. Nyska 17B  
tel. +48/77/ 400-55-80; fax 400-55-96  
REGON 160178314, NIP: 753-236-59-58

**orlański**



naturalnie ciepły dom

Otmuchów dn. 19.03.2012r.

**Eko-Vimar Orlański sp. z o.o. can confirm as follows:**

The Angus Super is designed to burn wood logs only at a moisture content of 15% to 20% (softwood and hardwood).

The Angus Origno 200 is designed to burn wood logs only at a moisture content of 15% to 20% (softwood and hardwood).

The Angus Origno 100 is designed to burn wood pellets only.

The Angus Origno 400 is designed to burn wood pellets only.

The Angus Origno 500 is designed to burn wood pellets only.

Eko-Vimar Orlański Sp. z o.o.  
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T +48 77 400 55 80  
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E biuro@orlanski.pl

Zarejestrowana  
pod nr KRS: 0000299933  
Sąd Rejonowy w Opolu,  
VIII Wydział KRS

Kapitał zakładowy  
20 350 000,00 PLN

NIP: PL 753-236-59-58  
REGON: 160178314

www.orlanski.pl







## **TEST REPORT**

### **No. 39-8910/1**

**Product:** Hot-water boiler burning wood with manual fuel supply

**Type designation:** ORLIGNO 200

**Versions:** ORLIGNO 200 18 kW, ORLIGNO 200 40 kW

**Customer:** EKO-VIMAR ORLAŃSKI Sp. Z o.o.  
ul. Nyska 17b  
48-385 Otmuchów  
Poland

**Manufacturer:** EKO-VIMAR ORLAŃSKI Sp. Z o.o.  
ul. Nyska 17b  
48-385 Otmuchów  
Poland

**Responsible employee:** Ing. Stanislav Buchta

**Report issue date:** 2011-02-02

**Distribution list:** 1 copy to the Engineering Test Institute  
1 copy to the Customer



This Report was drafted on the basis of Order B-38376 of 2010-09-01, Contract B-38376/39 of 2010-09-15 and Contract Supplement No. 1. The above mentioned Report reproduces the test results of Report No. 39-8811/1 of 2010-06-24.

## I. Product description

The steel hot-water boiler with manual fuel supply, type ORLIGNO 200, is designed for the burning of wood on the principle of upward burning with pyrolysis combustion.

The boiler is designed for the central heating of family homes, residential premises, flats, offices, small community premises, business premises and stores, etc.

The boiler body is made of welded steel, with a combined wall thickness of 6 and 4 mm. The charging chamber is situated in the upper part of the boiler body, and the combustion chamber with ceramic lining is situated in the bottom part.

The charging chamber is separated from the combustion chamber with a wall in which a ceramic nozzle is mounted with integrated openings for the secondary combustion air supply. Combustion products are discharged from the combustion chamber through a tubular heat exchanger to the boiler exhaust branch. The primary and secondary combustion air is supplied to the boiler via a forced draft blower situated in the front wall. The quantity of air can be regulated in combination of an electronic setup (40 ÷ 100)% and mechanical throttles. The boiler shell consists of painted steel plates lined with mineral wool.

Water connection branches in the rear part of the boiler have the dimension of G2 for heating water inlet and outlet, and G3/4 for the drainage and filling. The exhaust branch with a horizontal axis is situated on the rear side of the boiler.

There is a control panel in the upper part of the boiler with an electronic indication of the water temperature in the boiler and with regulating and security elements.

Basic technical specifications:

Size	Rated capacity wood [kW]	Water volume [l]	Max. operating temperature [°C]	Max. operating pressure [bar]	Weight [kg]
ORLIGNO 200 18 kW	18	55	95	3,0	425
ORLIGNO 200 40 kW	40	93			595

Verification were conducted at the testing station of the Engineering Test Institute in Brno in December 2010 by Milan Holomek (technician).



## II. Results of tests and evaluation

No.	Name and specification	Technical standard / regulation applied	Source data	Evaluation	
				Tests	Results
1.	Surface temperatures	ČSN EN 303-5:2000, Art. 4.2.7	page 4 ÷ 6	+	
2.	Heat capacity, calorific efficiency, temperature of combustion products, draught after the boiler	ČSN EN 303-5:2000, Art. 4.2, 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 5.8.2	Page 7÷12	+	
		ČSN EN 303-5:2000 Annex A, deviation A.1.1	page 13	+	
3.	Combustion efficiency, emissions	ČSN EN 303-5:2000, Art. 4.2.6	page 14 ÷ 16	+	
		ČSN EN 303-5:2000 Annex A (deviations A.1.2, A.2, A.5)	A.1.2. page 17	+	
			A. 2 page 18÷19	+	
			A. 5 page 20÷21	+	

Note:

No.

(\*\*) Not a test

Evaluation:

+ Requirement fulfilled  
 - Requirement not fulfilled  
 x Not assessed  
 0 Not applicable



Accredited test number:

1003 Test title: **Surface temperature measurement**

Testing method:

ČSN EN 303-5:2000, Art. 5.12

Sample tested:

ORLIGNO 200 18 kW, ORLIGNO 200 40 kW

Measuring devices:

see Report 39-8811/1

Place of testing:	at SZÚ	<input checked="" type="checkbox"/>	at the manufacturer	<input type="checkbox"/>	at the customer	<input type="checkbox"/>	other:
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**Test result:**

Requirement	Requirement specification	Test evaluation	Note
<b>Surface temperature</b>  During the tests according to 5.12, the average temperature of the boiler door surface and the cleaning eye covers on the operators' side must not exceed the ambient temperature by more than 100 K. During the tests according to 5.12, the surface temperature of the outer side of the boiler bottom must not exceed the ambient temperature by more than 65 K. This test is not performed if the manufacturer requires that the boiler is installed on a non-combustible material base. Alternative testing method: The surface temperature below the boiler (according to EN 304) at any place must not exceed 80°C.  During the tests according to 5.12, the surface temperature of the operating handles and all parts with which the operating staff will come in contact must not exceed the ambient temperature by more than:  - 35 K as regards metals and similar materials; - 45 K as regards porcelain and similar materials; - 60 K as regards plastic material and similar materials	ČSN EN 303-5 Art. 4.2.7	+	

**Measurement results:** 1. boiler: ORLIGNO 200 18 kW

Average temperatures of boiler walls, doors and covers (°C):	
Fuel type	wood
Date of test	2008-02-04
Rel. humidity (%)	37
Bar. pressure (kPa)	98,498
Amb. temp (°C)	21,1
Front wall	55,5
Rear wall	26,6
Right wall	27,8
Left wall	28,3
Upper wall	32,2
Lower wall	32,6
Charging door	42,3
Ash-pan door	65,0
Temperatures of control elements (°C):	
Loading door handle – plastic	40
Ash pan door handle – plastic	55
Charging throttle drawbar handle – plastic	30
Exchanger cleaning lever - plastic	29

**Measurement results:** 2. boiler: ORLIGNO 200 40 kW

Average temperatures of boiler walls, doors and covers (°C):	
Fuel type	wood
Date of test	2008-04-16
Rel. humidity (%)	47
Bar. pressure (kPa)	98.312
Ambient temperature (°C)	21.7
Front wall	62.9
Rear wall	28.0
Right wall	27.3
Left wall	27.4
Upper wall	32.7
Lower wall	55.0
Charging door	46.7
Ash-pan door	79.0
Temperatures of control elements (°C):	
Loading door handle – plastic	43
Ash pan door handle – plastic	58
Charging throttle drawbar handle – plastic	32
Exchanger cleaning lever - plastic	28

**Measurement uncertainty:** 2°C for temperatures within the range of (0 ÷ 250) °C

The above-specified extended measurement uncertainties are calculated as a factor of the measurement uncertainty and the extension coefficient,  $k=2$ , corresponding to the coverage certainty of 95% as regards standard classification. The uncertainties do not reflect the impact of sample taking and lack of homogeneity. The standard uncertainty was determined in accordance with the document EA 4/02."

**Test evaluation:** The prescribed temperature rise values have not been exceeded.

Tested by: Milan Holomek

Date: 2010-12-10

Signed: 

Reviewed by: Ing. Stanislav Buchta

Date: 2010-12-10

Signed: 



Accredited test number: **1004.1** Test title: **Heating output, heating input and calorific efficiency test,**  
**1004.2** **Combustion product temperature test**

Testing method: ČSN EN 303-5:2000 Art. 5.7 to 5.10

Sample tested: ORLIGNO 200 18 kW, ORLIGNO 200 40 kW

Measuring devices: see Report 39-8811/1

Place of testing:	at SZÚ	<input checked="" type="checkbox"/>	at the manufacturer	<input type="checkbox"/>	at the customer	<input type="checkbox"/>	other:
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### Test result:

Requirement	Requirement specification	Test evaluation	Note
<b>Requirements regarding boiler capacity</b> The fulfilment of the requirements specified below regarding the boiler capacity must be checked with the use of test fuels. The rated heat capacity and the heat output range may fluctuate depending on the fuel. The requirements regarding the boiler efficiency and emissions are divided into three categories. So that the requirements for the given category can be deemed fulfilled, all efficiency and emission limit values for the category concerned must be fulfilled.	ČSN EN 303-5 Art. 4.2	+	
<b>Boiler efficiency</b> During tests according to 5.7, 5.8 and 5.10, the boiler efficiency for the rated heat output must not be lower than the values specified in the formulas shown in figure 1.	ČSN EN 303-5 Art. 4.2.1	+	
<b>Combustion product temperature</b> In boilers operated under the rated heating output and at temperatures lower than 160 K above the ambient temperature, the manufacturer must provide recommendations regarding the mounting of the flue duct for adequate draught and to prevent condensation and soot depositing in the entire chimney.	ČSN EN 303-5 Art. 4.2.2	+	
<b>Draught</b> The values of draught determined, as specified on Fig. 2, are the maximum values. They also serve as the recommended values for the chimney. In the case that the maximum draught values are exceeded, there must be a special reference to technical instruction manuals.	ČSN EN 303-5 Art. 4.2.3	+	
<b>Period of burning</b> In boilers with manual fuel charging and under the rated heating output, the period of burning must be declared by the manufacturer and must be at least: - 2 hours as regards biological fuels - 4 hours as regards fossil fuels In boilers with automatic fuel charging, the period of burning must be at least 6 hours.	ČSN EN 303-5 Art. 4.2.4	+	



<b>Minimum heating output</b> The minimum heating output must not be higher than 30% of the rated heating output. In boilers with manual fuel charging, the minimum heating output may be higher. In such a case, the manufacturer must state in the technical documentation how the generated heat will be dissipated.	ČSN EN 303-5 Art. 4.2.5	+	
<b>Determination of rated heating output</b> The heating output declared by the manufacturer must be verified by testing, with tolerance of $\pm 8\%$ . The rated heating output declared by the manufacturer must be achieved at least during one burning period. Otherwise, the rated heating output must be modified.	ČSN EN 303-5 Art. 5.8.2	+	

**Measurement results:** 1. boiler: ORLIGNO 200 18 kW: wood

**Average values measured and calculated (solid fuels):**

	I. ORLIGNO 200 18 kW 2008-02-04 rated capacity	II. ORLIGNO 200 18 kW 2008-02-04 rated capacity
Burning period:		
Type of boiler:		
Date of testing:		
Test conditions:		
Type of fuel:	wood/beech/45cm	wood/beech/45cm
Rated heat capacity (specified by manufacturer) [kW]	18	18
Ambient temperature [°C]	160.4	160.7
Fuel consumption [kg/hour]	4.922	4.730
Ambient temperature [°C]	54.8	52.4
Ambient temperature [°C]	77.2	73.7
Ambient temperature [°C]	9.5	9.0
Cooling water flow [m <sup>3</sup> /hour]	0.2390	0.2390
Draught after boiler [Pa]	10.0	10.0
Ambient temperature [°C]	22.1	20.1
Relative air humidity [%]	37.0	37.0
Barometric pressure [kPa]	98.498	98.498

**Analysis of combustion products:**

	I. ORLIGNO 200 18 kW 2008-02-04 rated capacity	II. ORLIGNO 200 18 kW 2008-02-04 rated capacity
Burning period:		
Type of boiler:		
Date of testing:		
Test conditions:		
Type of fuel:	wood/beech/45cm	wood/beech/45cm
Oxygen O <sub>2</sub> [%]	5.96	5.87
Carbon dioxide CO <sub>2</sub> [%]	15.15	15.32
Carbon monoxide CO [ppm]	923	449
Higher hydrocarbons OGC [ppm]	365	247
Nitrogen oxides NO <sub>x</sub> [ppm]	151	186



**Auxiliary combustion values (solid fuels):**

Burning period: Type of boiler: Date of testing: Test conditions:	I. ORLIGNO 200 18 kW 2008-02-04 rated capacity	II. ORLIGNO 200 18 kW 2008-02-04 rated capacity
Type of fuel:	wood/beech/45cm	wood/beech/45cm
Stoichiometric oxygen volume [m <sup>3</sup> /kg]	0.866	0.866
Stoichiometric air volume [m <sup>3</sup> /kg]	4.126	4.126
Stoichiometric volume of dry combustion products [m <sup>3</sup> /kg]	4.054	4.054
Maximum CO <sub>2</sub> volume [%]	19.56	19.56
Stoichiometric air multiple [-]	1.39	1.38
Volume of dry combustion products [m <sup>3</sup> /kg]	5.205	5.163
Volume of H <sub>2</sub> O in the combustion air [m <sup>3</sup> /kg]	0.058	0.051
Volume of H <sub>2</sub> O in the combustion products [m <sup>3</sup> /kg]	0.874	0.867

**Calculated values - thermal balance**

Burning period: Type of boiler: Date of testing: Test conditions:	I. ORLIGNO 200 18 kW 2008-02-04 rated capacity	II. ORLIGNO 200 18 kW 2008-02-04 rated capacity
Type of fuel:	wood/beech/45cm	wood/beech/45cm
Loss of sensible heat of combustion products (chimney) [%]	7.6	7.7
Loss of gas underburning [%]	0.4	0.2
Loss of mechanical underburning [%]	0.3	0.3
Loss of heat transfer into the environ. [%]	1.9	1.9
Total loss [%]	10.1	10.1
Calorific efficiency - indirect method [%]	89.9	89.9
Heat input [kW]	21.1	20.3
<b>Heating output [kW]</b>	<b>19.2</b>	<b>18.3</b>
Uncertainty of determining heating output [kW]	0.8	0.8
<b>Calorific efficiency – direct method [%]</b>	<b>90.8</b>	<b>90.2</b>
Capacity / rated capacity [%]	106.6	101.7

Under the rated output, the boiler efficiency regarding wood burning meets the requirements applicable to category 3 according to ČSN EN 303-5:2000, figure 1.



**Measurement results:** 2. boiler: ORLIGNO 200 40 kW, fuel: wood

**Average values measured and calculated (solid fuels):**

	I. ORLIGNO 200 40 kW 2008-04-16 rated capacity	II. ORLIGNO 200 40 kW 2008-04-16 rated capacity
Burning period: Type of boiler: Date of testing: Test conditions:		
Type of fuel:	wood/beech/45cm	wood/beech/45cm
Rated heat capacity (specified by manufacturer) [kW]	40	40
Ambient temperature [°C]	136.0	148.0
Fuel consumption [kg/hour]	8.905	9.720
Ambient temperature [°C]	52.6	56.6
Ambient temperature [°C]	73.6	79.3
Ambient temperature [°C]	10.2	10.1
Cooling water flow [m <sup>3</sup> /hour]	0.4665	0.4640
Draught after boiler [Pa]	24.0	31.0
Ambient temperature [°C]	21.4	22.0
Relative air humidity [%]	47.0	47.0
Barometric pressure [kPa]	98.312	98.312

**Analysis of combustion products:**

	I. ORLIGNO 200 40 kW 2008-04-16 rated capacity	II. ORLIGNO 200 40 kW 2008-04-16 rated capacity
Burning period: Type of boiler: Date of testing: Test conditions:		
Type of fuel:	wood/beech/45cm	wood/beech/45cm
Oxygen O <sub>2</sub> [%]	5.00	4.29
Carbon dioxide CO <sub>2</sub> [%]	14.73	15.05
Carbon monoxide CO [ppm]	804	1435
Higher hydrocarbons OGC [ppm]	155	147
Nitrogen oxides NO <sub>x</sub> [ppm]	146	136

**TCP/11/16(312)**

**Planning Application 14/00079/FLL – Installation of a flue forming part of a biomass heating system, Tayside Hotel, 51-53 Mill Street, Stanley, Perth, PH1 4NL**

**PLANNING DECISION NOTICE** *(included in applicant's submission, see pages 319-320)*

**REPORT OF HANDLING**

**REFERENCE DOCUMENT** *(included in applicant's submission, see pages 331-343)*

**COURT JUDGEMENT, 6 DECEMBER 2013**



## REPORT OF HANDLING

### DELEGATED REPORT

Ref No	14/00079/FLL	
Ward No	N5- Strathtay	
Due Determination Date	19.03.2014	
Case Officer	Alma Bendall	
Report Issued by		Date
Countersigned by		Date

**PROPOSAL:** Installation of a flue forming part of a biomass heating system

**LOCATION:** Tayside Hotel 51-53 Mill Street Stanley Perth PH1 4NL

#### SUMMARY:

This report recommends **refusal** of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

**DATE OF SITE VISIT:** 31 January 2014

#### SITE PHOTOGRAPHS



## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

Planning application relates to the curtilage associated with the above commercial property known as the Tayside Hotel which is situated within the settlement of Stanley. The hotel occupies a corner plot at the junctions of East Brougham and Mill Streets within the village. The original sandstone built Victorian property, although unlisted, has elements of architectural charm and forms a focal point within the streetscene. Later utilitarian extensions and flat roofed outbuildings exist to the rear (north), within the car parking and servicing area.

Given the planned layout of the former Mill village, the historic core of the settlement follows a grid layout with buildings set close to the roadside. A number of residential properties, including later infill development exist within close proximity of the hotel.

The works are in part retrospective, and relate to the applicants' wish to continue to operate a biomass unit and associated flue pipe. The unit is housed in one of the lock-up garages that exist at the site, a further unit is being utilised for the storage of wood. The boiler – an Orlingo 200, would be used to assist with the heating of the hotel as an alternative to the continued use of the longstanding oil based supplies. It is worth noting that there are no mainstream gas connections available within the settlement.

A previous application to retrospectively install and operate the unit (12/01396/FLL) was refused in Feb 2013 due to concerns over the impact of the development – specifically smoke/odour, on the residential amenity of the surrounding area. Continued operation of the unit and complaints from local residents, resulted in Environmental Health Officers serving an abatement notice on the applicants, which was in turn ultimately endorsed by the courts. A subsequent appeal against the refusal of planning permission to the local review body was withdrawn on the 4<sup>th</sup> March this year.

This current proposal is essentially for the same scheme with minor modifications relating to the operation and technical specification of the equipment; which include a manual reduction in the KW output of the unit (from 60 to 40), increase in height and inclusion of a fan within the flue to assist with dispersal of smoke, preparation of a management plan and monitoring of weather conditions.

## **SITE HISTORY**

02/01033/FUL Erection of conservatory at 3 September 2002 Application Refused  
02/02061/FUL Erection of a conservatory at 25 March 2003 Application Permitted  
87/01054/FUL EXTENSION AT 13 August 1987 Application Permitted  
12/01396/FLL Installation of a biomass boiler and flue (in retrospect) 1 February 2013

## **PRE-APPLICATION CONSULTATION**

No pre-application discussions have been held with the planning authority.

## **NATIONAL POLICY AND GUIDANCE**

The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars.

## **DEVELOPMENT PLAN**

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

### **Perth and Kinross Local Development Plan 2014 – Adopted February 2014**

The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

#### ***Policy RD1 - Residential Areas***

In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private open space to be retained changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

#### ***Policy ER1A - Renewable and Low Carbon Energy Generation***

Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported where they are in accordance with the 8 criteria set out. Proposals made for such schemes by a community may be supported, provided it has been demonstrated that there will not be significant environmental effects and the only community significantly affected by the proposal is the community proposing and developing it.

## **CONSULTATION RESPONSES**

Environmental Health have reaffirmed that the concerns associated with the scheme – irrespective of modifications, still stand. In particular they deem the

modifications not to be substantial enough to ease concerns over the nuisance caused by the downwash of smoke emissions from the flue.

Scottish Water have made general comment in respect of discharge of trade effluent.

Stanley and District Community Council have issued a letter of general comment, which highlights the history of the unit and the concerns previously raised by residents which resulted in the legal proceedings. They note that green initiatives would be normally supported and have suggested that if the Planning Authority is minded to approve the application, then the exhaust emissions and proximity to neighbouring properties requires to be addressed.

## **REPRESENTATIONS**

The proposals have raised considerable debate and discord within the confines of the village and as far away as Perth. Two polarised points of view have developed separating those in favour of the scheme with those opposed.

A total of 20 letters in support have been received, albeit around half are based on a pro-forma template. The main thrust behind the comments include that the development should be encouraged as it is a green, clean and healthy form of energy, causes no nuisance and should be supported given the nature of the local business which provides a focal point for the community.

In contrast, 8 letters of representation have been received which have cited concerns over the smoke and odour from the boiler, the proximity to residential properties, location of the flue, impact on health and wellbeing and fact that there is a Court endorsed abatement order currently in force.

### **Additional Statements Received:**

Environment Statement	Not Required
Screening Opinion	Not Required
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement or Design and Access Statement	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

## **APPRAISAL**

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.



The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

### **Policy Appraisal**

It is clear that policy ER1A supports the progress of renewable forms of energy, provided that it can be demonstrated that there will not be significant environmental effects. I consider however that the scheme forwarded has failed to demonstrate that there will be no continued adverse effects to the wider community. The need to closely manage the day to day operation of the unit and variable weather conditions for wind direction in order to shut down or start the boiler, reinforces concerns over the acceptability of the location of the unit and practicalities in running it.

Policy RD1 relates to residential areas and seeks to ensure that the established residential amenity will be protected and, where possible, improved. Proposals should accordingly be compatible with the amenity and character of an area. It is considered that approval of the scheme would impinge on the amenity of the surrounding area to a significant extent.

### **Design and Layout**

It is unfortunate that the works are retrospective, as ideally a location wholly within the confines of the main hotel would have been a preferable option – in terms of associated flue location/heights and operation monitoring. The applicant has however indicated that he is involved with the biomass industry, and has chosen to proceed on the basis of the unit being located within the outbuildings to the rear.

### **Residential Amenity**

The crux of the matter is whether or not, the unit in its modified form will result in, or cause an adverse and detrimentally significant affect to the residential amenity of the surrounding area. In this respect, cognisance has to be given to the Environmental Health Colleagues appraisal of the scheme as experts in this field. They have stated that they cannot support the application due to loss of amenity at nearby/neighbouring residential properties, with regards to smoke/odour nuisance.

### **Noise**

I do not consider this proposal to have any detrimental impact on residential amenity in terms of noise, though the impact of any fan to assist with the dispersal of smoke has not been assessed.

### **Visual Amenity**

As the boiler is housed within an outbuilding, the main visible part of the development is the metal flue pipe. Whilst this element is not an attractive design feature, no reference was made previously to the visual impact of the flue. Consequently I do not consider this to be a significant issue of concern, especially as it could be mitigated if lined within/painted in a matt recessive colour.

### **Roads and Access**

There are no roads or access issues as the applicant owns the adjacent car park and wood to be burned are stored within an adjoining garage unit.

### **Developer Contributions**

The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

### **Economic Impact**

The economic impact of the proposal is likely to be minimal and limited to cost savings in respect of heating the commercial property.

### **Application Processing Time**

The recommendation for this application has been made within the statutory determination period.

### **Conclusion**

In conclusion, whilst I sympathise with the applicants circumstances and desire to provide a more cost effective means of heating the establishment. I am of the opinion that the potential adverse impacts of the scheme outweigh its perceived benefits. Accordingly the status quo should be maintained in order to protect the residential amenity of the surrounding area.

The application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered not to comply with the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for refusal for the following reasons.

### **LEGAL AGREEMENTS**

None required.

### **DIRECTION BY SCOTTISH MINISTERS**

None applicable to this proposal.

### **RECOMMENDATION**

#### **Refuse the application**

- 1 The installation and operational use of the flue as part of the biomass system will have a detrimental impact on nearby/neighbouring residential properties with regards to smoke/odour nuisance and is therefore contrary to Policies RD1 and ER1A of the Local Development Plan 2012; where the retention and/or improvement of residential amenity is a key planning objective.

**Justification**

- 1 The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

**Informatives****Procedural Notes**

Not Applicable.

**PLANS AND DOCUMENTS RELATING TO THIS DECISION**

**Date of Report 14.03.2014**



Sheriffdom of Tayside Central and Fife at Perth

Judgment

of

Sheriff Michael John Fletcher, Sheriff of Tayside Central and Fife at Perth

in the cause

Mrs Joanne Hardy and William Twaddle, Tayside Hotel 51 – 53 Mill Street,  
Stanley

Pursuer

against

Perth and Kinross Council 2 High Street Perth

Defender

Perth, 6 December, 2013.

The Sheriff, having resumed consideration of the cause, finds in fact:

1. The applicants are the heritable proprietor is of the property at 51-53 Mill Street Stanley. They operate the premises as a business known as the Tayside Hotel which is situated on the corner of Mill Street and East Brougham Street.
2. Stanley is a small village approximately 10 miles north of Perth. It is not supplied by mains gas and many of the properties in the village rely on open fires.
3. In November 2011 the applicants installed an Orlingo 2000 60 kW biomass gasification boiler. The boiler is housed in an outbuilding forming part of the property of the Tayside Hotel. It is situated to the rear of the hotel



adjacent to the car park. The boiler supplies the hotel with heating and hot water. The boiler is positioned to the north of the complainers' properties at 10 E. Brougham Street, 15 E. Brougham Street and 17 Brougham Street.

4. The boiler was installed by a reputable company experienced in the installation of biomass calcification boilers. At installation the height of the flue met with manufacturers guidelines namely 1.5 m above the roof of the outbuilding.
5. The second named applicant, Mr William Twaddle has overall responsibility for the boiler. He is responsible for maintenance of the boiler which he undertakes on a regular basis. Mr Twaddle also undertakes all fuelling of the boiler.
6. The boiler burns wood including if necessary, wood from recycled pallets. It is critical for the efficient running of the boiler that the wood used as fuel has a moisture content of no greater than 25%.
7. Mr Twaddle obtained permission from riparian owners, to collect fallen wood or wood washed down the river and from the banks of a river to use as fuel.
8. The wood collected by Mr Twaddle or bought by him is stored at the premises either outside or in a garage belonging to the premises and is used by Mr Twaddle as required.
9. The boiler is designed to be operated constantly. It operates by burning the wood in a separate fire chamber so as to allow gases to be released from the wood by the heat of combustion and then burning the released gases in a separate chamber. The gases are driven into that second combustion chamber by fans which switch on and off as required. The boiler requires stoking approximately twice per day. Stoking is carried out by placing wood in a combustion chamber.

*M/T*

10. Under normal operating conditions the boiler will emit emissions after wood has been added to the boiler. The emissions will last for a maximum of 10 minutes. Under normal working conditions the boiler would not emit fumes or odour in excess of acceptable conditions.
11. In about April 2012 the boiler was not operating in accordance with the manufacturers design. It began regularly to emit smoke and odorous fumes which were acrid and unpleasant.
12. Mr and Mrs Zaczec reside at 17 East Brougham Street Stanley. Mr and Mrs William Bryce live at 15 East Brougham Street Stanley and Mrs Caroline Skelton lives at 10 East Brougham Street Stanley
13. On a large number of occasions the smoke and odour were experienced in the houses of the complainers in East Brougham Street Stanley. The smoke and smell permeated the buildings and could be smelt in the rooms including the living room and bedrooms of the houses. The smell was strongly experienced in the gardens. As a result the residents of these houses were unable to enjoy their garden, unable to hang washing at their washing greens, unable to have a barbecue and were often unable to open their windows or doors even in summer.
14. Mr and Mrs Zaczec were forced to change their son's bedroom from one side of the house from the other because he was unable to tolerate the smell in his bedroom while studying for school exams.
15. All the residents of the properties complained to the local authority about the smell which they regarded as intolerable. Complaints by these residents were also made to the police.
16. Mrs Zaczec found the smell and inconvenience to her property extremely upsetting and on at least one occasion when complaining to the local authority she broke down in tears. She regarded her health as having been affected by the stress created by the nuisance.

17. In response to the complaints made by the complainers the local authority began to investigate. They issued the complainers with notebooks in order to enable them to keep a record of the days upon which they were affected by the smoke. Mr and Mrs Zaczec and Mr and Mrs Bryce completed the record for a period of more than 3 months. The house and garden of both Mr and Mrs Zaczec and Mr and Mrs Bryce was affected by smoke and odour on a substantial number of days between the end of April 2012 and October 2012.
18. The presence of smoke in the quantities which existed in the properties of Mr and Mrs Zaczec and Mr and Mrs Bryce were such that a statutory nuisance existed in terms of section 79(1)(b), (c) and (d) existed.
19. The prevailing wind in Stanley blows from the West with probably 1500 hours of winds blowing from the East or North East. Winds blowing from the West would normally blow any odour or smoke away from the houses occupied by the complainers. The situation of the chimney and its relationship to buildings and in particular the hotel building creates wind conditions which cause down draught to apply rather than allowing the wind to blow fumes away and disperse them.
20. The wind conditions created by the relative position of the chimney and the buildings regularly created a swirling effect causing the fumes from the chimney to travel in the direction of the houses occupied by the complainers.
21. On more than 12 occasions between June 2012 and October 2012 several different officials from Perth and Kinross Council each attended at the property belonging to the complainers and saw smoke emanating from the flue and experienced a strong accent smell of smoke in the complainers' properties. Investigating officials checked for possible sources of odour or smoke which might exist in the immediate area but





were unable to trace any other source. Those officials who attended were of the view that the smell and smoke were intolerable.

22. The officials of the local authority tasked with the task of investigating whether there existed a statutory nuisance were satisfied that the statutory nuisance existed and that its source was the chimney belonging to the applicants.
23. Officials of the local authority contacted the applicants and informed them that they considered a statutory nuisance existed. Discussions with the applicants took place to discover if there was any way of avoiding the statutory nuisance and suggestions were made that the chimney should be extended to try to avoid the downdraught problem and the applicants cooperated by increasing the length of the chimney on more than one occasion in an effort to avoid the nuisance. The applicants also had a specialist fan fitted to the chimney designed to create an up draught to drive the fumes into the atmosphere so that they were dispersed rather than driven down to the ground. None of the attempts to ameliorate the problem succeeded.
24. The steps taken by the applicants in lengthening the chimney and fitting a fan were not the best practical steps to prevent or counteract the effects of the nuisance.
25. Neither the applicants nor the respondents attempted to have the exhaust fumes from the chimney analysed while the boiler was in operation.
26. On 11 October 2012 abatement notices were served by the local authority on each of the applicants ordering them to take such measures as were necessary to prevent the occurrence or recurrence of the nuisance.
27. Since the abatement notice was served by the respondents and the applicants ceased using the boiler no complaints have been made by any

person in the area about the existence of acrid smoke or odour. The complainers have been able to resume the use of their garden.

Therefore finds in fact and in law:-

(1) That at the time of the service of the Abatement Notice smoke and acrid odour from the chimney belonging to the applicants caused significant upset and annoyance to the complainers.

(2) That at the time of the service of the Abatement Notice the smoke and acrid odour from the chimney was beyond that which was reasonably tolerable.

Therefore finds in law:-

(1) That at the time of the service of the Abatement Notice there was in existence a statutory nuisance in terms of section 79 of the Environmental Protection Act 1990.

(2) That at the time of the service of the Abatement Notice the local authority was satisfied that a statutory nuisance in terms of section 79 of the Environmental Protection Act 1990 was an existence.

(3) That it has not been established that the Abatement Notice was not justified in terms of section 80 of the 1990 Act.

(4) That it is not established that the requirements of the Abatement Notice are unreasonable in extent.

(5) That it is not established that the best practical means were used to prevent, or to counteract the effects of the nuisance.

(6) That accordingly the appeal should be dismissed.

Therefore dismisses the appeal and sustains the respondents' first, second and third pleas in law; Repels the first, second and third pleas in law for



the applicants; and Decerns; Finds the applicants liable to the respondents in the expenses of the appeal and remits the account thereof, when lodged, to the auditor of court to tax and to report



Note

[1] In this summary application the applicants appeal against an Abatement Notice served by the respondents on each of them on 11 October 2012 under section 80 of the Environmental Protection Act 1990. The terms of the notice are important and I set them out as follows

'The Local Authority of the Perth and Kinross Council hereby give you notice, in terms of section 80 of the above Act that within the properties and curtilages thereof known as and forming respectively:-

1. Kin-Grath, 17 East Brougham Street Stanley, PH1 4NJ
2. 15 East Brougham Street Stanley, PH1 4NJ

A statutory nuisance, as defined in section 79(1)(b) and 79(1)(d) of the said Act, caused by drifting smoke and associating order exists and is likely to recur; arising from the operation by you of the biomass gasification plant serving the Tayside Hotel, Stanley, Perth, PH1 4NL.

**You are required within 21 days of service of this Notice, to take such measures as are necessary to prevent the occurrence or recurrence of the nuisance.**

The notice is given to you in respect that you as a person responsible for the nuisance and the person to whose act, default or sufferance the nuisance is attributable.'

The rest of the notice deals with the consequences of failure to comply and with the right of the receiver of the notice to seek independent legal advice and deals also with the right of appeal.

[2] The applicants appeal under section 80(3) against the notices served on them on three grounds:-(1) that the abatement notice is not justified by section 80 of the 1990 Act in terms of paragraph 2(a) of the Statutory Nuisance (Appeals) (Scotland)



Regulations 1996; (2) that the requirements of the abatement notices are not sufficiently specific in their terms as to render them unreasonable in character and extent; and (3) that the applicants have used the best practical means to prevent or counteract the effects of the nuisance in terms of paragraph 2(2)(e) of the Regulations.

[3] As can be seen from the findings in fact, in about November 2011 the applicants installed a new type of boiler at their hotel premises to supply the building with hot water and heating. The boiler was an Orlingo 260 KW biomass gasification boiler which was housed in an outbuilding forming part of their property. The boiler is positioned as set out in the findings of fact and was installed according to the evidence by a reputable company experienced in the installation of such boilers. The flue for the boiler is basically a chimney which met the manufacturers guidelines in that it was 1.5 m above the roof of the outbuilding. Evidence was given by the second applicant Mr William Twaddle and by Mr Derek Schoehuys of SEAL Environment Ltd about how the boiler worked. It is not necessary to go into the full technical details for the purposes of this decision but it was clear that the boiler burned wood by a process of heating the wood to a temperature which allowed it to give off gases including hydrogen and carbon monoxide and these gases are then burned in a separate combustion chamber at a high temperature to create heat to heat the water. The wood itself was burned up in its own chamber. The manufacturers' handbook for the machine specifies the use of various types of hardwood as being the most suitable fuel but allowed the use of spruce or other types of wood as well. It was crucial however for the wood to have the correct moisture content between 15% and 20% because otherwise the boiler would not reach the correct temperature in time to allow the gasification process and for the gas products to be burned properly.

[4] Mr Twaddle when he gave evidence explained that he had been supplied with a probe to enable him to check the moisture content of the wood so that he was able to say that he was using wood with the correct moisture content. It was clear from the evidence that the type of fuel and in particular its moisture content was crucial to the working of the machine properly. The instruction manual and Mr Twaddle and Mr Schoehuys emphasised that in order for the boiler to work efficiently it was necessary

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to have fuel with the correct moisture content in order to make sure that the boiler was operating at the correct temperature. When Mr Twaddle gave evidence he made it clear that there were a number of reasons for switching to this type of boiler from a conventional one. One important reason was because the hotel was anxious to obtain green status and by not burning fossil fuels their score in relation to that aspiration increased. Another reason was because it was thought that the use of this type boiler was more economical than using conventional fuel. Further, Mr Twaddle explained that he had found it possible to use fuel which was gathered from the river banks and even the river itself. He had obtained permission from riparian owners to collect wood such as tree trunks and other wood which had been washed down the river or had fallen at the riverside. He maintained that he was able to check that the wood was at the correct moisture content by using the probe and even if it was not when it was collected, it was possible to store it until it was at the right level. He also indicated that the boiler had been identified by SEPA as being suitable for burning reclaimed wood such as pallets. The boiler had to be stoked approximately every seven or eight hours, in other words about twice per day.

[5] There was also evidence about the efficiency of the boiler and its emissions which were said to be considerably lower than those of a conventional fossil fuel boiler provided of course the boiler was working at the correct efficiency. I was able to accept from the manufacturers' handbook and from Mr Schoenhuyts that the technical details of the boiler were such that if it was working at correct efficiency there would be no emissions which could be described as harmful or a nuisance.

[6] Apart from the evidence of Mr Twaddle as to the kind of fuel to be used by the boiler and the kind that he used there was no evidence about the type of wood being used at the time when complaints were being made by neighbours about acrid fumes. His description of the collection of wood from the river and the use of pallets or other reclaimed wood did make me consider whether the boiler was in fact working at proper efficiency levels and I will come back to that later.



[7] The evidence showed that the boiler was installed in November 2011 and there were no complaints by neighbours until about April 2012 when householders in the area of the hotel began to experience unpleasant burning smells. The smell was similar to the smell of wood burning and was acrid and extremely unpleasant. Evidence was led from Mr Karol Zaczek, Mrs Catherine Zaczek, Mr William Bryce, Mrs Ann Bryce and Mrs Caroline Skelton who all gave evidence of an unpleasant, acrid smell of smoke within their homes and in the gardens and that they had all had occasion to complain to the local authority about it. It was pervasive enough to cause them to try to avoid its entering their house by keeping their doors and windows shut when the smell was present. They testified that they were unable to put washing out to dry because it became affected by the smell, unable to enjoy the garden either when working in it or sitting in it, unable to take any opportunity of having a barbecue and in the case of Mr and Mrs Zaczek, requiring their son who was studying for school exams to change his bedroom because his room was too badly affected by smoke to enable him to study effectively. Mrs Zaczek described the atmosphere created by the smoke and smell as being horrendous, and Mrs Bryce said that words could not describe how the smell was. All the witnesses regarded the smell created by the small as being intolerable. The solicitor for the applicants criticised Mrs Zaczek's evidence in particular as being exaggerated and suggested that she was being overdramatic or lacking in perspective. She had indicated in her evidence that her experience with the flue had necessitated absences from work and that it had destroyed a holiday abroad in the summer of 2012. It was suggested I should not rely on her evidence because she had become fixated with the problem.

[8] The local authority had supplied monitoring forms to the witnesses who had complained about the nuisance and asked them to complete them over a period of some months. The forms were produced and referred to in the evidence. They revealed a large number of incidents where it was noted that there had been a strong smell of smoke either in the house or in the garden of those completing the forms. Mr Bryce had also taken a large number of photographs of smoke coming from the flue. The information on the forms demonstrated a substantial number of occasions when there

1/1

were emissions from the chimney and an acrid nasty smell in the houses or gardens of the complainers. My own impression from the photographs was that sometimes there appeared to be only a small amount of smoke coming from the chimney on occasions when photographs were taken and the smoke was usually a plume of smoke light in colour which disappeared from sight only a relatively short distance from the flue. It was not possible in my opinion to gain a clear impression of a nuisance being created by the chimney just from the photographs. The solicitor for the applicants cross examined the witnesses who had prepared the forms on the question of the difference between what was written on the forms on occasions and what was shown in the photograph for the same day and time suggesting that the evidence of the photographs did not justify the entry in the log. I accept that there were discrepancies on occasions between what the photographs appeared to show what was written in the log and considered that the logs should be treated with care because it was not easy for those completing the logs to categorise the nature of the emissions which were coming from the chimney nor to portray the nature of the smell they were experiencing. In these circumstances I considered the monitoring forms to be no more than an aid to the memory of those who had written them and an indication of the nuisance that was thought to exist by those who completed them.

[9] In addition to the evidence of the neighbours there was evidence from a number of officials of the local authority who were called to the scene in answer to the complaints. First witness was Mr Donald Strawson who was a Perth and Kinross Council Safety Communities Team Officer. He had attended on about 12 or 13 occasions as part of the Council's out of hours services commencing on 15 June 2012. He gave evidence that on several occasions he detected smoke and odour in the Zaczecs' living room and in the garden area over the period between June and November 2012. On most of these occasions he was able to see the flue and noted that it was emitting smoke. He also visited Mr and Mrs Bryce and Mrs Skelton and smelt the unpleasant smell in their houses also. When interviewing Mrs Zaczec on at least one occasion she was in tears because she was upset by the smell. He was corroborated by Mr Sandy Robertson a former police Community Support Officer. He, too, had attended at the

*A/I*

Zaczec's property on several occasions between June and November and had smelt unpleasant smoke and had seen smoke in their house. He had also visited Mr and Mrs Bryces' house and although the smell was not so strong in their house as it had been in Mr and Mrs Zaczecs' house he had been informed by Mrs Bryce that they had been forced to keep their door closed in order to keep the smell out. He described the smell as 'distinctive' which he said meant that it was readily recognisable.

[10] Mr Donald Menzies also worked as an out of hours officer with Perth and Kinross Council's Safer Communities Team. He attended at the Zaczecs' house on a number of occasions between July 2012 and November 2012 and on several occasions smelt the strong smell of acrid smoke round the house and in it.

[11] Mrs Ingrid Wallace who was a Environmental Health Technical Officer with the council and a graduate in Environmental Science and geography and who had completed a Ph.D. in Environmental Forensics also gave evidence. She said she had attended at the Zaczec property on 14 June 2012 in the afternoon. She went there along with Lynne Reid. From the back of the property she was able to see the flue which was issuing dark smoke. The windows and door of the house she was in were closed but the smell in the house was according to her unacceptable. She returned on 18 June just after 5 PM and smelt the same odour again although on this occasion it was not so strong as it had been on the first occasion. On that occasion she visited the hotel and was shown the boiler and the fuel supply which she described as being outside without any cover so that it was open to the weather. Mrs Wallace informed the court that Mr Twaddle who had been present had told her that he used a monitor probe to check the moisture content of the wood and she had asked him to show her it. He did not do so and seemed unable to produce it. Mrs Wallace explained that in this case the evidence of nuisance had been gathered over a period of six months and her colleagues had attended at the complainers' houses on a large number of occasions and she was satisfied that there was a nuisance.

[12] Lynne Reid was also an Environmental Health Technical Officer and she also gave evidence she had attended on a number of occasions and observed the flue





and experienced smoke and odour present in the houses of the complainers. Both she and Mrs Wallace considered that the smell and smoke were caused by inadequate combustion in the wood which was probably caused by fuel which was not at the correct level of moisture. Lynne Reid also thought that the positioning of the flue in relation to the hotel and its height affected the way the smoke was dispersed and caused it to come down to ground level rather than disappear into the atmosphere.

[13] Joanne Corey is also an Environmental Health Officer who had also been in the Zaczec property and smelt smoke inside the house. She also gave evidence about the steps taken by the local authority to decide if there was a statutory nuisance explaining that the criteria included the question of whether a reasonable person would be adversely affected. She gave an objective view of the complaints and saw herself as an independent check on these. She had visited the properties several times and considered that the smell was unreasonable and intolerable and constituted a statutory nuisance. She pointed out she had been there on four different occasions and others had been there over a period of months and the smell which was unreasonable had persisted and the complainers were quite distressed and unable to enjoy their property. She herself felt she would not have liked to have lived with the smell which was in their houses.

[14] While it might have been legitimate to have criticised the evidence of the complainers as being too emotional or because they were too involved, that criticism certainly could not have been levelled at the diligence of the officers of the Council. Furthermore they were not involved personally in giving their professional opinion about the question of nuisance. When their evidence is taken along with the evidence of the complainers it is a formidable body of evidence demonstrating a state of affairs which in my opinion amounts to nuisance. In these circumstances I accepted the evidence given by the complainers that they were subjected to a situation which was not tolerable and that there did exist a statutory nuisance. Although I have acknowledged that there might be some room for criticism of the evidence of the complainers I accepted their evidence that there existed a nuisance.

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[15] The next question was whether the nuisance arose as a result of emissions from the chimney belonging to the applicants. The solicitor for the applicants pointed out that the boiler had been working for about six months before any complaints were made. Indeed it was unlikely that the complainers even knew it existed during that time. That fact pointed to the likelihood that the nuisance arose from some other source than the chimney belonging to the applicants. If the complaints coincided with the running of the boiler for the first time then that would be different. Evidence had been led from many of the witnesses that there were a large number of other sources of smoke in Stanley. Large number of households used coal or wood fires and photographs showed a multitude of chimneys with smoke emanating from them. No effort had been made to make a chemical analysis of the emissions from the chimney belonging to the applicants which would have shown conclusively one way or the other whether the smell came from it. In these circumstances it could not be said that the local authority could be satisfied that there was a nuisance created by actings of the applicants.

[16] The respondents on the other hand relied on evidence that when the abatement order was granted and the boiler was no longer used there were no complaints whatsoever about the smell or smoke. When the complaints were being made it was clear that there were emissions from the chimney and on many occasions it was demonstrated that the wind conditions caused a down draught which brought the smoke into the area where the complainers lived. The local authority witnesses had checked again and again to see if any other source could be found which might be responsible for the smell. Quite often the smell existed in the height of summer when most of the coal fires used by householders were not operating but it could be seen that the boiler was. Several witnesses from the local authority who had experienced the odour and smoke in the area had made it their business to check the streets surrounding the hotel to see if they could find any other source which would be creating the smell and on no occasion had anyone discovered any other source. Although the boiler was one which was designed to work very cleanly with very low emissions, it was clear from the evidence that that depended on there being fuel which had the appropriate level of moisture content. I do not think it is too speculative to say that, taking into account the

evidence of the complaints and the fact that the smell stopped when the abatement notice was in place, and the evidence of Mr Twaddle about the type of fuel which he used, it was likely that the problem had arisen because of improper fuel or some other problem with the working of the boiler. I was satisfied that the evidence showed that it was more likely than not that the source of the nuisance was the flue.

[17] It is important to look at the terms of the legislation itself and in particular the legislation dealing with appeals. Section 79 and 80 of the Environmental Protection Act 1990 provide inter alia:

'79. Statutory nuisances and inspections therefor.

(1) Subject to subsections (1ZA) to (6A) below, the following matters constitute 'statutory nuisances' for the purposes of this Part, that is to say –

(a)...

(b) smoke emitted from premises so as to be prejudicial to health or a nuisance;

(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;

(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

...

And it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below or sections 80 and 80A below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.

...

(3) Subsection (1)(b) above does not apply to –

(i) smoke emitted from a chimney of a private dwelling within a smoke control area,

(ii) dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land;

80. Summary proceedings for statutory nuisances.

(1) Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements –

(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;



(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes, and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

...

(3) A person served with an abatement notice may appeal against a notice to magistrates, Court or in Scotland, the Sheriff within the period of 21 days beginning with the date on which he was served with a notice.'

Paragraph 2 of the Statutory Nuisance (Appeals) (Scotland) Regulations 1996 set out the provisions in relation to an appeal under section 80(3). They are as follows so far as relevant to this case:

'2. Appeals under section 80(3) of the 1990 Act

(1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to the Sheriff) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such notice may appeal under section 80(3) of the 1990 Act are such one or more of the following grounds as are appropriate in the circumstances of the particular case: -

(a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);

...

(e) where the nuisance to which the notice relates -

(i) is a nuisance falling within section 79(1)(a), (d), (e), (f), or (g) of the 1990 Act and arises on industrial, trade, or business premises; or

(ii) is a notice falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney; or

...

That the best practical means were used to prevent, or to counteract the effects of, the nuisance.

...

(5) On the hearing of the appeal the court may -

(a) quash the abatement notice to which the appeal relates; or

(b) vary the abatement notice in favour of the appellant in such manner as it thinks fit; or

(c) dismiss the appeal,

and an abatement notice that is varied under subparagraph (b) shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.'

[18] I will deal with each of the grounds of appeal in order. The first ground of appeal is described by the applicants in their written submissions as their primary submission. The solicitor for the applicants invited the court to find that the abatement notice was not justified and to quash the notice. This is on the basis that there is no



nuisance which justifies the abatement notice. It was submitted that the local authority had failed to investigate the locality of the complainers' properties to establish fully that the boiler in the appellants' property was the source of the smoke and odour complained of by the complainers. When coming to a conclusion on the facts I have already indicated that in my opinion that there was a nuisance created by smoke and odour and that the smoke and odour came from the chimney belonging to the applicants. The evidence which led to these conclusions came from the investigations made by the respondents. In my opinion they made extensive investigations to check if there was a nuisance and if it was caused by emissions from the chimney belonging to the respondents. The ground of appeal contained in regulation 2(2)(a) is that the abatement notice is not justified by section 80 (emphasis added) and that section requires a local authority to serve an abatement notice if it is satisfied that a statutory nuisance exists or is likely to occur or recur. It was quite clear from the evidence that the local authority was satisfied that there was a statutory nuisance caused by smoke and odour and they were also satisfied that it came from the chimney and that the applicants, as owners of the property, were the persons upon whom the notices should be served. In my opinion they were justified by section 80 in doing so. The applicants have failed to establish that the abatement notice was not justified by that section.

[19] The second ground of appeal is that the abatement notices which were served were not specific enough in their requirements so as to render them unreasonable in character or extent in terms of regulation 2(2)(c) of the appeals regulations. This ground of appeal was not argued in the written submissions for the applicants. In my opinion in any event the notices were sufficient to meet the requirements of section 80.

[20] The third ground of appeal was that the applicants had used the best practicable means to abate the nuisance. The odour nuisance had arisen on business premises and so regulation 2(2)(e) can come into play. The court was invited to hold that the applicants had used the best practicable means to prevent or counteract the effects of the nuisance. In the first place it was argued that every precaution was taken to make sure that the boiler worked efficiently. It was maintained regularly and Mr Twaddle measured the moisture content of the wood using the probe. In any event it



was in his interests to make sure that the correct fuel was used otherwise the boiler would not work efficiently. Although Mr Twaddle testified that he had used the probe to test the moisture content of the wood it struck me as significant that it was not readily available to show to Mrs Wallace when she visited. I was doubtful if it was likely that Mr Twaddle would check each log individually. That would perhaps be unnecessary if he had been using a consignment of logs delivered commercially which were likely to be of similar moisture content but it would perhaps be vital where the logs were obtained from sources like the river bank. These facts taken along with the fact that the complaints started some months after the boiler was in use caused me to doubt the reliability of the evidence that the wood was checked for moisture content regularly.

[21] When the complaints were intimated to the applicants Mr Twaddle had had new equipment installed. On several occasions he had increased the height of the flu to try to alleviate the problem, he had installed a cap on the top of the flue and finally had installed a special type of fan on top of the flue which was designed to force the emissions further up into the atmosphere so as to try to avoid the difficulties caused by the downdraught of the buildings near which the boiler flue was situated. There was some evidence, in particular the FLARE log entry of 21 November 2012, that the result was that the emissions were travelling at about 7 m directly up from the top of the flue. It was argued that all these changes were made to try to solve the problem but the respondents did not try to assist the applicants in addressing the issues raised by the complainer.

[22] The evidence of the changes made to the height of the chimney and the addition of the and the fan was not disputed and I accepted that these changes had been made with the purpose of trying to alleviate the problem. Unfortunately the evidence demonstrated that these steps did not alleviate the problem. In my opinion the problem would have been most likely to have been avoided if the boiler itself had been run efficiently in a way which avoided the majority of the emissions which were causing the problem. It appears from the evidence that this would be most likely to have been successful if fuel meeting the requirements of the machine had been used rather than fuel obtained in the way described by Mr Twaddle .



[23] There was a great deal of evidence given about wind direction and the effect which the buildings near the flue would have on the way the wind behaved . In the first place for the applicants Mr Schoehuys gave evidence about wind direction using meteorological information obtained from Leuchars which is 35 km from Stanley which showed that winds at Leuchars were predominantly from the West with only a small amount of wind from the North and East/South East. Winds blowing from the West would be blowing any fumes from the chimney away from the complainers. Using that information and dispersion model known as ADMS 4.2 he worked out the predicted effect of the emissions from the flue using emissions data supplied by the applicants. The evidence about where this came from was not clear but it seems from the report that it was the expected emissions provided by the manufacturers on the basis that the boiler was working at proper efficiency. In any event using that data and the model and the meteorological information he calculated the expected emissions at various locations. His conclusion was that the a quality assessment confirmed that normal operation of the boiler results in dispersion of the emissions such that the resulting ambient concentrations would be significantly below the quality standards. It is important to note that none of the information was based on actual operation of this boiler as it operated during the period of the investigations carried out by the respondents and when the complainers were complaining about odour and smoke. Further it relied on hypothetical emissions data rather than using any information about actual emissions.

[24] Evidence was also lead on behalf of the respondents from Dr Scott Hamilton. He described amongst other things the composition of wood smoke and listed the number of irritants contained in wood smoke which would be felt by those breathing them as an acrid chemical. He also pointed out that there were a significant number of winds with a north/south easterly direction amounting to more than 1500 hours per year. Dr Hamilton also spent some time explaining the effect that buildings near a flue such as the one in this case can distort wind direction and effect dispersion of fumes. He said that large structures interfere with wind flow and described how a "wake" can be created due to change in wind pressures caused by the building. He described something called down wash which would inevitably be worse when winds



were in an easterly direction. The effect was demonstrated in his view by several of the photographs taken by Mr Bryce many of which showed smoke swirling and travelling downwards instead of up and away from the chimney. He indicated that this swirling and down wash was not easy to predict because of the effect of building had on the air stream round the chimney. Dr Hamilton also carried out an exercise to check the wind direction given by meteorological data when the complaints were received. It was clear from the table which he prepared that in most occasions when there was a complaint the wind direction was generally easterly.

[26] In considering the evidence given by the two experts I prefer the evidence of Dr Hamilton. The exercise carried out by Mr Schoehuys was no doubt scientifically accurate but was based on data which may well not have been appropriate at the time the complaints were being made. It also did not coincide with extensive evidence given by the complainers and by the witnesses employed by the council who all experienced quite different results from those predicted by the experiment carried out by Mr Schoehuys. On the other hand the information given by Dr Hamilton was borne out by the evidence of the eyewitnesses or perhaps more properly in this case the "nose" witnesses who were present and who watched the effect the wind had on the fumes coming from the chimney and smelt the result. Dr Hamilton was able to demonstrate his information about down wash by looking at the photographs many of which demonstrated the kind of effect he was trying to explain. In these circumstances where there was a difference between the two experts I preferred the evidence of Dr Hamilton.

[26] Neither of the experts in any event gave evidence which would demonstrate that heightening the chimney, or adding either a cap or a fan to the top of it would have the effect of avoiding the nuisance. Mr Schoehuys did not really give evidence about the effect of the devices on the chimney and Dr Hamilton took the view that the positioning of the chimney near the buildings which were taller than it would always result in any fumes coming from the chimney being liable to be driven downwards towards the houses occupied by the complainers if the wind was in the appropriate direction. His view was that it would not be possible to avoid the nuisance if noxious fumes or smoke



came from a chimney placed where it was. The chimney would require to be higher than the building.

[27] On that basis in my opinion the applicants could not succeed on their third ground of appeal. It could not be said that they had used the best practical means to prevent or counteract the effects of the nuisance. If the manufacturer's data is to be believed then the best practical steps would be to make sure that the boiler was operating efficiently as it might well have been doing during the first six months of its operation. To do that the boiler would have to be operated using appropriate fuel and it may be that the type of fuel which was being used was not ideal. When she was giving evidence Mrs Wallace indicated that she had been told by Mr Twaddle that he used a probe to check the water content of the fuel that he was using. She indicated in her evidence that she had asked to see it but was never shown it. The evidence did not explain why that was so but especially since if it was being used regularly one would assume that it would have been readily available but the fact that that never happened is an admixture of evidence which points to the possibility that faulty fuel might be the reason for the nuisance. If that were so the best practical means to prevent the nuisance would be to use proper fuel. Whatever is the answer to the reason for the boiler not operating correctly and causing the fumes it did, it was clear from the evidence that the steps taken did not go anywhere near solving the problem. It was clear from the evidence that complaints continued to be made and identified after each of the steps taken by the applicants had been taken, including the fitting of the cap and the fan. In these circumstances in my opinion the third ground of appeal fails.

In these circumstances I have repelled the three pleas in law for the applicants and refused the appeal and I shall find the applicants liable to the defenders in the expenses of the appeal.

*WJ*



**TCP/11/16(312)**

**Planning Application 14/00079/FLL – Installation of a flue forming part of a biomass heating system, Tayside Hotel, 51-53 Mill Street, Stanley, Perth, PH1 4NL**

## **REPRESENTATIONS**

- Objection from Stanley and Kinclaven District Community Council, dated 27 January 2014
- Objection from Mrs Anne Bryce, dated 1 February 2014
- Objection from William Bryce, dated 1 February 2014
- Support from Miss Ashleigh Stewart, 2 February 2014
- Objection from Mrs Williamina Clark, dated 3 February 2014
- Support from Mrs Jennifer Cunningham, dated 3 February 2014
- Objection from Mr K Zaczek, dated 3 February 2014
- Support from the Lawson family, dated 3 February 2014
- Support from P & J Clark, dated 4 February 2014
- Support from Neil Hardy, dated 4 February 2014
- Objection from J Sephen, dated 4 February 2014
- Support from Mr and Mrs Simpson, dated 4 February 2014
- Objection from Douglas and Caroline Skelton, dated 4 February 2014
- Objection from Mrs Zaczek, dated 5 February 2014
- Support from Mr Roy Dunbar, dated 5 February 2014
- Support from Mr and Mrs Lawson, dated 5 February 2014
- Support from Kirsty McKeown, dated 5 February 2014
- Support from Mrs M Perry, dated 5 February 2014
- Support from Mr and Mrs Stewart, dated 6 February 2014
- Support from R Allan, dated 6 February 2014

- Support from Mrs G Scotland, dated 6 February 2014
- Support from Mr Andrew Stewart, dated 6 February 2014
- Support from Hazel Ferrie, dated 7 February 2014
- Support from John Honeyman, dated 7 February 2014
- Support from Sally Kelly, dated 8 February 2014
- Support from Debbie McLaren, dated 8 February 2014
- Objection from Mr and Mrs Neary, dated 8 February 2014
- Support from Mr Paul Liddle, dated 10 February 2014
- Support from Mr and Mrs Allan, dated 11 February 2014
- Representation from Regulatory Services Manager, dated 17 February 2014
- Representation from Scottish Water, dated 21 February 2014
- Representation from Neil Hardy, dated 24 July 2014
- Representation from Mr and Mrs Neary, dated 27 July 2014
- Representation from Williamina Clark, dated 29 July 2014
- Representation from Mrs Anne Bryce, dated 30 July 2014
- Representation from William Bryce, dated 30 July 2014
- Representation from Mr Zaczek, dated 3 August 2014
- Representation from Mrs Zaczek, dated 3 August 2014
- Representation from Douglas and Caroline Skelton, dated 4 August 2014
- Representation from Regulatory Services Manager, dated 5 August 2014
- Representation from Mrs G Scotland, dated 6 August 2014

AB

**Tracy McManamon**

---

**From:** PETER HILLIER [REDACTED]  
**Sent:** 27 January 2014 15:41  
**To:** Development Management - Generic Email Account  
**Subject:** Fw: Planning Application .Installation of a flue forming part of a Biomass Boiler heating system . Tayside Hotel 51-53 Mill Street Stanley PH1 4NL

To Development Management

Hope this reaches you now and please pass on to Alma Bendall.

Please acknowledge receipt of this E mail.

Thank you,

Peter Hillier



----- Forwarded Message -----

**From:** PETER HILLIER [REDACTED]  
**To:** "DevelopManagement@pkc.gov.uk" <DevelopManagement@pkc.gov.uk>  
**Cc:** GrantLaing <glaing@pkc.gov.uk>; JohnKellas <JKellas@pkc.gov.uk>; BarbaraVaughan <BVaughan@pkc.gov.uk>; [REDACTED]  
[REDACTED]

**Sent:** Monday, 27 January 2014, 15:31

**Subject:** Planning Application .Installation of a flue forming part of a Biomass Boiler heating system . Tayside Hotel 51-53 Mill Street Stanley PH1 4NL

Reference Planning Application 14/00079/FLL

For the Attention of Ms Alma Bendall  
Case Officer,  
Development Management Services  
Perth & Kinross Council  
Pullar House  
35 Kinnoul Street  
Perth  
PH1 5GD

Dear Ms Bendall,

The Town and County Planning (Scotland) Act 1997 as amended by Planning etc. (Scotland) Act 2006.

Consultation on Application Ref. 14/00079/FLL

Re: Installation of a flue forming part of a biomass heating system . Tayside Hotel 51-53 Mill Street Stanley PH1 4NL.



Stanley and Kinclaven District Community Council are concerned with regard this Application and wish to make the following comments;

1/ The Boiler and flue installation is currently under Abatement Notices served on the Applicant(s) on the 11th October 2012 by P&K Council for the prevention of smoke and odour nuisance.

2/ These Abatement Notices were upheld by the Perth Sheriff Court Ruling in favour of the Council on the 6th December 2013.

3/This Planning Application is substantially the same as 12/01396/FLL (as acknowledged by the Applicant) which was refused by P&K Council on the 1st of February 2013.

4/The Applicant proposes to downgrade the existing boiler from 60kw to 40 kw but does not address the fundamental problems of the boiler and its associated flue as identified by witnesses during the Sheriff Court action .

These are;

a) The flue discharge appears to unfortunately be located in a position of draught from adjacent buildings with the wind in certain directions.

This apparently draws boiler flue exhaust fumes over neighbouring properties.

b) The boiler exhaust was identified by the Court as the most likely cause of the intermittent smoke and odour experienced in neighbouring properties..

The biomass boiler installed is a two phase burning unit and when operated as designed is highly efficient , can obtain an efficiency up to 91% and can also operate with relatively low gaseous or particulate exhaust emissions.

The boiler is designed to operate with virgin ( ie. uncontaminated ) wood fuel and the Manufacturer has stressed the need for this and for the water content to be below 20% (and more desirable nearer a 15% maximum water content) in his operating instructions. Wood obtained from river banks and the river etc. itself as evidenced in the Court case must be suspect in both aspects.

The proposed reduction to a nameplate capacity of 40kw from the original 60kw capacity could in fact worsen the previously experienced smoke/odour situation as the boiler unit would then no longer be operating at its original optimum design situation.

5/Stanley and Kinclaven Community Council normally support Green Initiatives such as the installation of Biomass Boilers and associated Flues, Wind Turbines ,Solar Panels, Heat Pumps etc. provided that the installations do not have a detrimental impact on the Health, Wellbeing and Amenity of the neighbouring Community.

The proposed boiler capacity reduction does not propose to reduce or eliminate the above identified already existing smoke and odour problems which are apparently caused by 4a)the Flue Exhaust position and 4b) the wood fuel quality/moisture control , we are therefore UNABLE TO SUPPORT THIS PLANNING APPLICATION.

We suggest that if the Council is of a mind to Approve this Application then aspects 4a) and 4b) need to be addressed and fully resolved before the boiler and unit is allowed to be re-used or we will be faced with the same situation again with further potential litigation and distress to all parties and further use of public monies..

Please acknowledge your receipt of this E mail.

Yours sincerely,

Peter Hillier

For and behalf of Stanley and Kinclaven District Community Council.





2nd comment from same household.

AB

- 4 FEB 2014

15 EAST BROUGHAM ST

STANLEY

PHILIPS

1.2.2014.

RE application Ref 14/00079/FLL

Dear Sir/Madam,

Re planning application by  
Tayside Hotel for flue for biomass boiler. I must  
object most strongly once again to this application  
as the position of the flue has not been altered  
since the original application when it caused  
us a great deal of distress with the acrid smoke  
and noxious fumes invading our house and  
garden. We have had no problem since an  
abatement order was placed on it by P.K.C  
environmental Health Dept and upheld by  
Sheriff M. Fletcher on the 6th Dec 2013. Furthermore  
according to expert witness DR Scott Hamilton  
in its present position this flue would always  
cause the problems stated.

Yours faithfully

Mrs Anne Bryce

ENTERED IN COMPUTER

04 FEB 2014





RECEIVED  
04 FEB 2014

AB.

15 EAST BROUGHAM STREET  
STANLEY

PERTSHIRE

PH1 4NJ

1<sup>st</sup> FEB 2014

Dear Sir or Madam

Re planning application N° 14/00079/FLL  
for flue for biomass boiler at TAYSIDE HOTEL STANLEY  
I must once again object to this as altering the  
K.W. system does not alter the position of the flue  
and the resultant smoke and odour nuisance  
which emanates from said flue.

DR SCOTT HAMILTON one of the foremost  
environmental consultants in the UK stated that  
in its present position this would not alter

Sheriff M FLETCHER agreed with this and  
upheld the abatement notice served on this by  
P.K.C environmental health dept.

Yours Faithfully

[Redacted Signature]

(WILLIAM BRYCE)





**Miss Ashleigh Stewart (Supports)**

**Comment submitted date: Sun 02 Feb 2014**

I would like to publically demonstrate my support towards the proposal for this community based establishment to use such an environmentally friendly source of fuel. In a society where greener living is of great concern, it is reassuring to see that The Tayside Hotel are taking steps towards a more eco-friendly approach to producing fuel. It is comforting to see a small business set an example for others in the village to seek out alternative ways to be more green.





+100079/AL

06 FEB 2014

13A East Brougham Street  
Stanley Perth PH1 4NJ

3 February 2014

Planning Department

P & L Council

Cullar House

Kinnoull Street Perth

Dear Sirs

ENTERED IN COMPUTER

06 FEB 2014

I strongly object to the Planning Application  
for a flue to a biomass stove on behalf of  
Dayside Hotel Stanley advertised in today's Courier

This objection is based on the fact that  
there is an abatement order already in place  
for that because of extreme odour and smoke  
entering my house as well as others in this area  
All this has already been thrashed out at  
Perth Sheriff Court.

If this Planning Application were granted  
all the same problems would occur again

so I strongly recommend that it be  
rejected

Yours faithfully

Mrs Williamina Clark



**Mrs Jennifer Cunningham (Supports)**

**Comment submitted date: Mon 03 Feb 2014**

I wish it to be known that I wholeheartedly support this application. I have brought up my family in the village of Stanley, my children all attended the local primary school where the main ethos was to educate the young in ways in which we could all play a part in being 'greener'. I commend The Tayside Hotel on its forward thinking and I believe they have already been awarded certificates for environmental management.

In what is now a 'throwaway society' I believe a biomass boiler is the way forward. It is environmentally sound, cost effective and above all an excellent energy saving idea. We should all be reusing and recycling, and showing local businesses like The Tayside our support where we can.

Jennifer Cunningham



AB.

Perth & Kinross Council,  
The Development Quality Manager,  
Pullar House,  
35, Kinnoull St.,  
Perth  
PH1 5GD

RECEIVED  
07 FEB 2014

Mr.K.R.Zaczek,  
Kingrath,  
17, East Brougham St.,  
Stanley,  
Perth  
PH1 4NJ  
3rd February 2014



Planning Application Ref; 14/00079/FLL  
-----

Dear Sir/Madam,

I fundamentally object to Planning Application Ref; No; 14/00079/FLL.

On the 11th October 2012 an abatement notice was served on the applicant(s) and was upheld after appeal in November 2012 and subsequently we no longer experienced any more smoke or odour nuisance.

After appeal process Sheriff of Tayside & Fife Sheriff Michael J. Fletcher at Perth upheld the abatement notice on the 6th December 2013.

As part of the submission in this case (Court Ref.B423/12) Dr. Scott Hamilton an expert witness for Perth & Kinross Council whose credentials place him amongst the foremost specialists and environmental consultants in the U.K. and whose expertise in pollution and meteorology has seen him undertake the role of Air Quality Forecaster for the UK & Europe in addition to his extensive experience of how buildings can affect smoke emissions from chimneys held the following. That in his professional opinion the smoke emissions causing nuisance are a direct result of the flue and that the juxtaposition of buildings is likely to impact upon the dispersion of emissions from the biomass boiler flue.

Based upon these findings I object to the installation of flue forming part of a biomass heating system. Finally I would add that my wife and I both at our home and in our workplace very much endorse and contribute towards a greener environment despite having endured (as quoted in Sheriff Fletcher's judgement) "that they were subjected to a situation which was not tolerable and that there existed a nuisance."

Yours Sincerely

K.R.Zaczek



07 FEB 2014

Rev Ronald Lawson <sup>AB</sup>  
6 East Brougham St  
Stanley  
Perth and Kinross  
PH1 4NS

Date

3/2/14

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

ENTERED IN COMPUTER

07 FEB 2014

Re Application ref 14/00079/FLL

Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

As a neighbour of the Tayside Hotel, I have no objections to the installation of the heating system detailed above. We have never experienced any adverse effects from the hotel and view it as a valued resource as it provides a focus for the local community, vital services and much needed employment for local people.

[Redacted Signature]

David Lawson

[Redacted Signature]

Ronald Lawson

[Redacted Signature]

Beryl Lawson





AB

Date 4/2/14.

RECEIVED  
10 FEB 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

P. J. CLARK  
74 MILL ST  
STANLEY  
PERTH PH1 1LZ

We have no problem with this  
proposed, Biomass heating is part of the  
future and should be promoted. There  
is no place for NIMBY's in Stanley.

[Redacted signature]

RECORDED IN COMPUTER  
10 FEB 2014





AB.

Isla Cottage  
19 East Brougham Street  
Stanley  
Perthshire  
PH1 4NJ

Development Manager  
Perth & Kinross Council  
Planning & Regeneration  
Pullar House  
35 Kinoull St  
Perth  
PH1 5GD

06 FEB 2014

Tuesday, 04 February 2014

Dear Sirs,

Re: Planning Application 14/00079/FLL:  
Installation of a flue at Tayside Hotel 51-53 Mill Street, Stanley, Perth PH1 4NL

I am writing to express my support for the Tayside Hotel in their application for the installation of a flue to service the biomass boiler installed at the Hotel.

I live in very close proximity to the Hotel and so feel I am in an ideal position to be able to comment on this application and its merits.

During the year that the biomass boiler was in use I did not feel in any way inconvenienced by it or any supposed emissions that seem to have affected others that do not live as close as I do.

I work from home but operate a private hire-taxi service and so am regularly away from the house. Because of this I occasionally leave the back door to my property open so that my dog can make use of the our garden. Generally, weather permitting, the door remains open even when I am at home. During the time that the boiler was operational I did not experience any ill effects within my property because I chose to leave the door open.

Like many I prefer to dry washing in the open air and again can categorically state that while doing so I never experienced any detrimental effects to my clothing that could be attributed to the boiler.

Overall I am happy to state that on no occasions have I felt that I have not been able to make use of my garden or property as I see fit because of any effects caused by the boiler.

I would also like to echo other comments that have been received in support of this application with regards to the Environmental aspect of the boiler. The Tayside Hotel is a major business within Stanley village and contributes greatly to the local economy in numerous ways through using local trades to supporting local clubs. I feel that by taking the step of installing the boiler they have again shown excellent initiative by not only choosing to use a renewable source of fuel that enables them to reduce their 'carbon footprint', they can also save money and thus further invest in their business and the local community.

I hope that the Council sees the worth of this installation and approves the application without hesitation.

Yours faithfully

[Redacted signature]

Neil Hardy

ENTERED IN COMPUTER

06 FEB 2014



AB

13 East Brougham St

RECEIVED

Stanley

06 FEB 2014

Perth

PHI

4.2.2014

Dear Sir or madam,

I have recently become aware of a new planning application for the Tayside Hotel boiler.

I am writing to object to the planning notice No 14/00079/FLL.

There is an abatement against this biomass boiler flue, which was upheld by the Sheriff this year.

This flue produced a lot of smoke and odor to my property and caused a statutory nuisance. I see the flue is still in the same position so I believe would start to cause the same intolerable problems that I experienced in 2012, if



BA

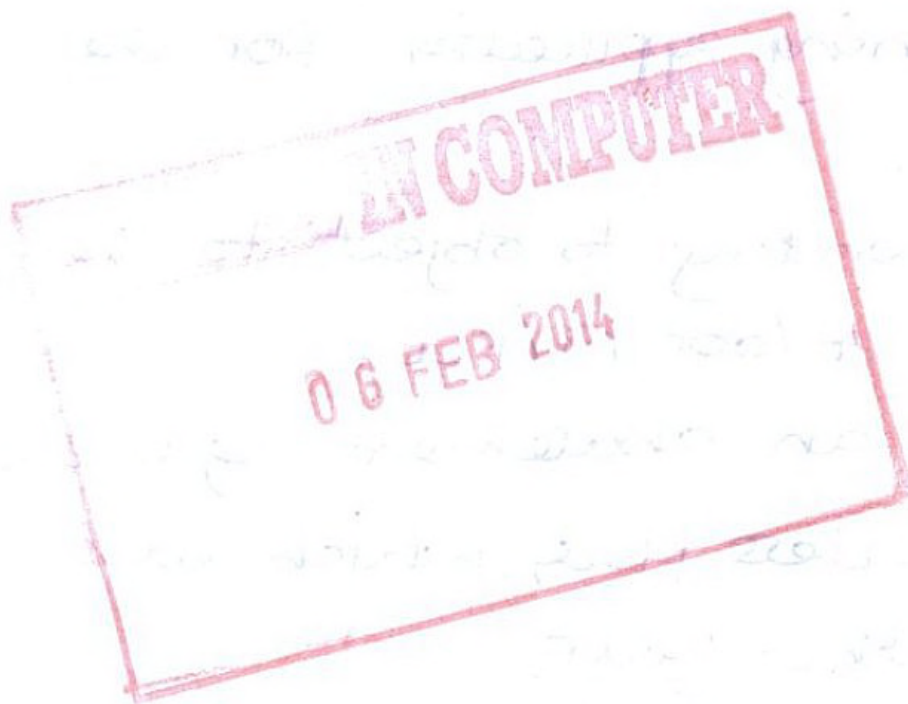
allowed to go ahead.

12/02/14

Yours faithfully

J Sephen

TH



AB

07 FEB 2014

MR & MRS W SIMPSON  
14, RUSSELL ST  
STANLEY  
PERTH  
PH1 4NU.

Date

4/2/14

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

BIOMASS HEATING IS CLASSED AS ONE  
OF THE HEALTHIEST METHODS OF  
HEATING,

WE HAVE NO OBJECTIONS AGAINST  
THE INSTALLATION OF A FLUE AS  
PART OF THIS SYSTEM.

AUDREY SIMPSON

[Redacted signature]

W. SIMPSON

[Redacted signature]

[Handwritten signature]

ENTERED IN COMPUTER  
07 FEB 2014





AB

RECEIVED

- 5 FEB 2014

**Douglas & Caroline Skelton**

10 East Brougham Street  
STANLEY  
Perth  
PH1 4NJ

4 February 2014

**The Development Quality Manager**

The Environment Service  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth  
PH1 5GD

**Consultation on an Application    Ref: 14/00079/FLL    Installation of a flue forming part of a biomass heating system | Tayside Hotel 51-53 Mill Street Stanley Perth PH1 4NL**

Dear Mr Brian,

As the owners of a property near the development, we wish to make the following comments:

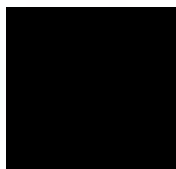
This new application is almost exactly the same as application Ref: 12/01396/FLL Installation of a Biomass boiler and Flue (in retrospect) | At Tayside Hotel 51-53 Mill Street, Stanley. PH1 4NL. As you will be aware, that was refused due to *"The installation and operational use of the flue as part of the biomass system will have a detrimental impact on nearby/neighbouring residential properties with regards to smoke/odour nuisance"*. The matter was then referred to the Local Review Board, which has yet to make a final decision.

Following multiple complaints over a considerable period the Environmental Health Department of P & K Council secured an abatement order in October 2012 which was subsequently appealed by the Applicants. In December 2013 the Sheriff Court finally rejected the appeal on all counts and upheld the abatement notice.

Examining the detail of the Application Form the agent has repeated the inaccuracies from the earlier submission. A visit will also reveal that the site looks nothing like the increasingly out of date photos submitted in the application. The only difference being the output of the boiler, we are very concerned that this proposal ignores the complaints from neighbouring properties and fails to address or resolve any of the issues identified as the cause for the nuisance. Unfortunately, this leads us to conclude that the installation would continue to produce smoke/odour nuisance as previously witnessed.

We therefore object to Planning Application 14/00079/FLL as it would have a detrimental effect not only on our property, but also the wider area.

Yours Faithfully



**Douglas & Caroline Skelton**





2nd letter of representation from same household

AB.

Perth & Kinross Council  
The Development Quality Manager,  
Planning & Regeneration,  
Pullar house,  
35, Kinnoull Street,  
Perth  
PH1 5GD

07 FEB 2014

Mrs C. Zaczek  
Kingrath  
17, East Brougham Street  
Stanley  
Perth  
PH1 4NJ  
5th February 2014

Planning Application Ref.  
14/00079/FLL  
-----

Dear Sir/Madam,

I strongly object to the above planning application.

The detrimental impact this had on our quality of life whilst smoke and acrid fumes permeated into our home and the loss of our amenities that took place while this boiler/flue was in operation was intolerable. After an abatement was upheld against the nuisance which was issued by Perth & Kinross Council Environment Department we have had no smoke/odour and our amenities have been restored since Nov. 2012. A further appeal led to a court case which Sheriff Fletcher in his judgement stated "It is a formidable body of evidence demonstrating a state of affairs which in my opinion amounts to nuisance." He accepted that we were subjected to a situation that was intolerable and he was satisfied that the evidence showed the source was from the flue. Dr. Hamilton who is an environmental expert consultant stated that in his view it would not be possible to avoid noxious fumes or smoke from a flue situated where it is. Sheriff Fletcher upheld the abatement. There are no relevant changes in this application that would prevent smoke/odour nuisance.

Yours. sincerely

Cathryn Zaczek





AB

06 FEB 2014

ENTERED IN COM

06 FEB 2014

Date

5/2/2014

Mr Roy Dunbar  
11, Mill Street  
Stanley  
PH1 4LZ

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

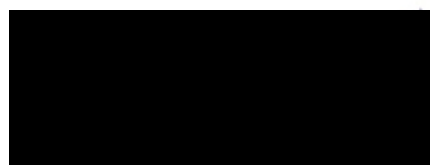
Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

I FULLY SUPPORT THE ABOVE. IT IS  
A JOY TO SEE A LOCAL BUSINESS  
TRYING TO USE NATURAL HEATING.

I CANNOT SEE ANY THREAT TO THE  
LOCAL ENVIRONMENT OR PEOPLE LIVING  
WITHIN THIS AREA, AND I PERSONALLY  
CANNOT UNDERSTAND WHY THIS HAS  
TAKEN SO LONG.







AB.

RECEIVED  
07 FEB 2014

MR & MRS LAWSON  
16 RUSSELL STREET  
STANLEY  
PERTH PH1 4NU

Date 5/2/14

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

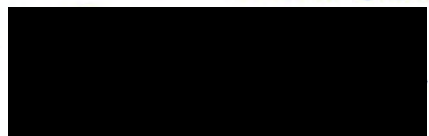
Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

WE HAVE NO OBJECTION TO THE  
INSTALLATION OF THE FLUE AS  
PART OF THE HEATING SYSTEM AT  
THE HOTEL

TRACEY LAWSON



DEREK LAWSON



ENTERED IN COMPUTER  
07 FEB 2014



AB

Kirsty McKeown  
1/1 King Street  
Stanley  
Perthshire  
PH1 4ND

5/02/2014

RECEIVED

06 FEB 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

I would like to offer support for the installation of this boiler at the Tayside Hotel, I have been a resident in the village for over 14 years and have recently become a new mum and I feel it is important to support green initiatives especially in the village where fossil fuels are the main source of heating, and to reduce the overall carbon emissions.

I am aware that there has been a previous complaints regarding the boiler however anytime I have been in the vicinity I have not experienced smoke/odour.



Kirsty McKeown







AB.

07 FEB 2014

Date 5<sup>th</sup> February 2014.

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

Mrs M. Perry  
76 Mill Street  
Stanley PH14NL.

ENTERED IN COMPUTER

07 FEB 2014



AB.

M Stewart  
82 Mill St  
Stanley

Date 6/2/14.

RECEIVED  
07 FEB 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

I thought it was a thing  
of the future

Mildred Stewart

A STEWART

ENTERED IN COMPUTER

07 FEB 2014



AB

Date

6/2/2014

07 FEB 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

R. ALLAN,  
13, RUSSELL ST,  
STANLIZEY  
PH1 4NN

I HAVE NO OBJECTION TO THE  
ABOVE APPLICATION.







AB  
07 FEB 2014

3 County Place  
Stanley  
PH1 4NE

Thursday, 06 February 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinnoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the  
Tayside Hotel

Dear Sir


Letter of Support

I hereby wish to write and express my support for the above  
instillation. Perth & Kinross Council need to take a step back and  
look further afield within the village at the "reek and acrid smoke"  
coming from other properties within the village!

The Tayside Hotel is an invaluable establishment and place of work for  
many people and I fully support the time and effort they have made to  
reduce their use of fossil fuels.

In my opinion, Perth & Kinross Council have not only let themselves  
down but the community and residents of Stanley Village.

Yours faithfully,

  
Mrs G Scotland







**Mr Andrew Stewart (Supports)**

**Comment submitted date: Thu 06 Feb 2014**

As someone concerned about the environment and having stayed with friends in the area.

I feel that this is a technology that both enhances the environment and is one of the key technologies to combat greenhouse gas emissions.

Having seen the installation, being very interested in this technology as My brother is looking to fit a similar system at his property in Renfrewshire. I was impressed by the savings, reduced impact on the environment, and, how clean and non invasive it was.



Support -

A.B.

6 North Range  
Stanley Mills  
Stanley  
Perthshire  
PH1 4RE

RECEIVED  
10 FEB 2014

7<sup>th</sup> Feb 2014

Dear Sir,

**Re: Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating System at the  
Tayside Hotel**

I understand there has been a dispute with some of the Tayside Hotel's neighbours objecting to the fumes released by their Biomass Heating System.

I would like it noted for the record that I am wholly in favour of the reinstatement of the Biomass Heating System at the Tayside Hotel.

I think the Tayside's attempts to heat their establishment using alternative fuel is to be commended. And Perth and Kinross should applaud their attitude and provide assistance and support wherever possible. If a problem was identified with the fumes, then expert advice should have been provided as a matter of course.

Perth and Kinross should be encouraging more businesses and private individuals to be more energy efficient and I understood there was a policy supporting this within the region and certainly within Scotland as a whole.

The case against the Tayside should have been dropped at the outset. It is counterproductive and will actively discourage businesses and individuals from looking at alternative sources of energy and the people involved should be held to account.

Going forward, I think that the case against the Tayside should be dropped, an apology issued and compensation should certainly be considered. Also they should receive help and support in improving their current system where necessary and reducing any fumes being released. This would show that Perth and Kinross are genuinely in the business of reducing our carbon footprint and moving to energy efficiency within the region.

Yours Faithfully,



Hazel Ferrie





REF

AR.

07 FEB 2014

JOHN HONEYMAN  
30 MANSE CRESCENT  
STANLEY  
PH1 4NZ

Date

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside Hotel

Dear Sir

Letter of Support

I SEE NO REASON WHY ANYBODY CANNOT  
USE THESE WOOD BURNING STOVES.  
THEY HAVE BEEN PASSED AS THE HEALTHIEST  
WAY OF HEATING BY THE ENVIRONMENTAL DEPT.

[REDACTED]  
J. HONEYMAN







Support

RECEIVED

AB

10 FEB 2014

70 Mill Street  
Stanley  
Perthshire  
PH1 4NL

Saturday, 08 February 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside  
Hotel

Dear Sir

Letter of Support

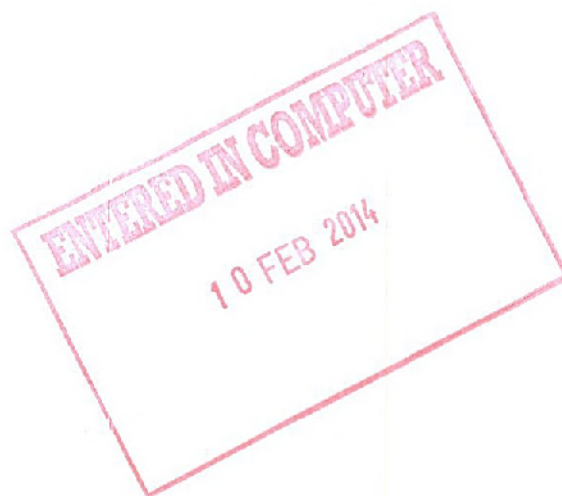
I would like to offer my support to the above application.

I am a neighbour of the installation and have never experienced any issue  
with smoke or odour from the Tayside Hotel during the time that the boiler  
was in operation.

Yours faithfully



Sally Kelly







RECEIVED

10 FEB 2014

AB.

15 Athole Drive  
Stanley  
Perthshire  
PH1 4NR

Saturday, 08 February 2014

Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the  
Tayside Hotel

Dear Sir

Letter of Support

I would like to offer my support to the above proposal.

I live close to the hotel and can see the hotel car park and boiler room  
from my garden.

I have read in the papers that there have been issues with boiler but I  
have never seen or smelt the nasty odours as described.

Yours faithfully

[Redacted Signature]

Debbie McLaren





AB

10 FEB 2014

9 Acharn  
PERTH PH1 2SR

8 February 2014

Planning Application Ref: 14/00079/FLL

Dear Sir,

We wish to convey an objection to the above planning application.

We are regular visitors to the village of Stanley but we couldn't believe the smoke which was being emitted from the flue at the Tayside Hotel when we visited the area on several occasions in the past. Our main worry at the time was the apparent lack of concern shown for the health and well being of the nearby residents.

However it has been a relief more recently to come to Stanley and not have to put up with this ridiculous situation. Our hope is that these unbearable conditions will be considered in your decision and this intolerable situation will not be allowed to recur.

We all strive for a greener, cleaner environment but not where it compromises the health and comfort of other people and strongly affects their everyday living.

Please consider our objection seriously as we believe that this is surely not a reasonable application for planning.

Yours faithfully,



Mr and Mrs A Neary





**Mr Paul Liddle (Supports)**

**Comment submitted date: Mon 10 Feb 2014**

I would like to fully express my support for this application, I work within the environmental sector and can only see the advantages and benefits of this form of green renewable energy.

Environmental sustainability and alternative energy sources should be promoted not prevented.

I commend the Tayside hotel for there Eco friendly business approach and would urge other businesses to follow suit.

Paul Liddle



Support

AB.

RECEIVED  
11 FEB 2014

8, Russeu St  
Stanley  
PH1 4HH

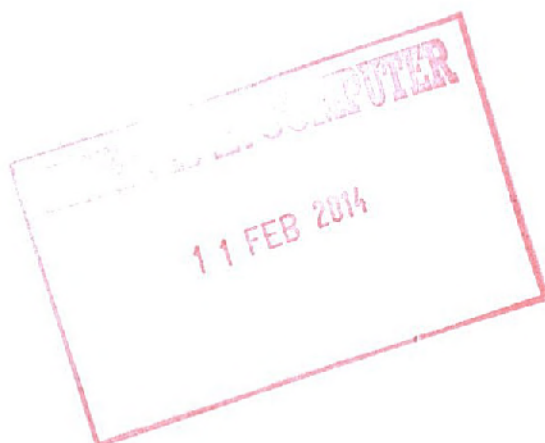
Development Manager  
Perth & Kinross Council  
Planning and Regeneration  
Pullar House  
35 Kinoull Street  
Perth  
PH1 5GD

Re Application ref 14/00079/FLL  
Installation of a Flue forming part of a Biomass Heating system at the Tayside  
Hotel

Dear Sir

Letter of Support We have no objection to the  
aforementioned application being granted

Yours sincerely



ALMA ALLAN

L. ALLAN





# Memorandum

To Development Quality Manager From Regulatory Service Manager

Your ref 14/00079/FLL Our ref LRE

Date 17 February 2014 Tel No 01738 476462

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

**Consultation on an Application for Planning Permission  
PK14/00079/FLL Installation of a flue forming part of a biomass heating system  
Tayside Hotel 51-53 Mill Street Stanley Perth PH1 4NL for William Twaddle**

I refer to your letter dated 21 January 2014 in connection with the above application and have the following comments to make.

**Environmental Health** (assessment date - 12/02/14)

**Recommendation**

**I cannot support this application due to loss of amenity at nearby/ neighbouring residential properties, with regards to smoke/odour nuisance.**

**Comments**

The applicant had previously submitted planning application 12/01396/FLL for the installation of a biomass boiler and flue (in retrospect).

This Service stated in memorandum dated 8 January 2013 that we could not support the application due to loss of amenity at nearby/ neighbouring residential properties, with regards to smoke/odour nuisance.

This Service was already at that time investigating complaints with regards to smoke/ smoke odour nuisance from residents.

An abatement notice was served on the applicant and Mrs Joanne Hardy on the 11 October 2012 by this Service for a statutory nuisance, as defined in Section (1) (b) and 79(1) (d) of the Environmental Protection Act 1990 as amended, caused by drifting smoke and associated odour, existing and likely to recur.

The applicant and Mrs J Hardy appealed the abatement notice on 1 November 2012; the appeal was dismissed and the abatement notice upheld on the 6 December 2013 by Sheriff Fletcher.

The applicant has submitted with this application a Supporting Statement dated January 2014 prepared by Brent Quinn (agent) of Cockburn's Consultants.

With regards to the information submitted this Service believes that the applicant has not demonstrated any substantial changes to the flue, position or height that would not instigate nuisance conditions due to downwash of smoke emissions from the flue.

Therefore unless the applicant can demonstrate that the emissions from the flue are to be dispersed adequately as to not cause nuisance conditions, this Service cannot support this application.

There are eight letters of objections at the time of writing this memorandum, all addressing nuisance conditions and the position and height of flue.

A handwritten signature in purple ink, consisting of stylized, overlapping loops and strokes.

21<sup>st</sup> February 2014



Perth & Kinross Council  
Pullar House, 35 Kinnoull Street  
Perth  
PH1 5GD

**SCOTTISH WATER**

Customer Connections  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Customer Support Team  
T: 0141 414 7162  
W: [www.scottishwater.co.uk](http://www.scottishwater.co.uk)  
E: [individualconnections@scottishwater.co.uk](mailto:individualconnections@scottishwater.co.uk)

Dear Sir Madam

**PLANNING APPLICATION NUMBER: 14/00079/FLL**  
**DEVELOPMENT: Perth**  
**OUR REFERENCE: 649827**  
**PROPOSAL: Installation of a flue forming part of a biomass heating system**

**Please quote our reference in all future correspondence**

Scottish Water has no objection to this planning application. Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk).

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

These proposals may involve the discharge of trade effluent to the public sewer and may be subject to control as defined in Part II of the Trade Effluent Control and Charging Scheme. No substance may be discharged to the public sewerage system that is likely to interfere with the free flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website: [www.scottishwater.co.uk](http://www.scottishwater.co.uk).

Yours faithfully

**Lisa Main**



Isla Cottage  
19 East Brougham Street  
Stanley  
Perthshire  
PH1 4NJ

Perth & Kinross Local Review Body  
2 High Street  
Perth  
PH1 5PH

Thursday 24 July 2014

Dear Sirs,

**TCP/11/16(312) application ref: 14/00079/FLL**

I am writing to express my support for the above referenced planning application due to be heard by the Local Review Body.

I live between the alleged source of the supposed 'odour and smoke' and one of the complainants and can sincerely state that during the brief time the Hotels' boiler was operational it did not in any detract from my ability to make full use of my 'amenities by stopping me using my garden or requiring me to close doors and windows.

I feel that the length of time this issue has taken to be resolved seems to be beyond explanation and that at no time has my address been visited by PKC Environment Services to assess what, if any, impact the boiler had on me or my 'amenities'. I also find it extremely hard to understand how one of the main complainants can allege to be affected by any emissions (should they even exist) from the boiler when any such emissions would need to travel around 50m and clear at least 3 properties and a residential road to get anywhere near their property boundary (perhaps similar to the magic bullet that shot JFK?).

The Tayside Hotel has, by installing this boiler, taken the sensible step to switch from an environmentally damaging and time limited fuel supply to a renewable and environmentally friendly one. At the same time I understand that this was also a sound business decision because of the potential monetary savings involved. Knowing their support for local community groups and organisations, alongside being one of the larger employers in the village surely this can only be a good a good thing for the village of Stanley?

The decision is one which, in my opinion, should have been supported to the fullest possibility by PKC. However the Council along with various members of the local community seem to have adopted a stance of portraying the Tayside as an evil-doer intent only on polluting the atmosphere.

Perhaps once this issue is resolved the Environment Dept should be taken to task over their handling of this issue including their interpretation of the situation, which appears to have been sorely mis-guided and possibly even affected by half-truths, over-exaggerations and mis-information.

Again, to state very clearly, I have no issue with the boiler installation or any supposed emissions and support the Hotels' application 100%.

Regards



Neil Hardy



Gillian Taylor  
 2 High Street  
 PERTH  
 PH1 5PH

Mr & Mrs A Neary  
 9 Acharn  
 PERTH  
 PH1 2SR

27<sup>th</sup> July 2014

Dear Ms Taylor,

Application ref: 14/00079/FLL - Tayside Hotel, Mr W Twaddle.

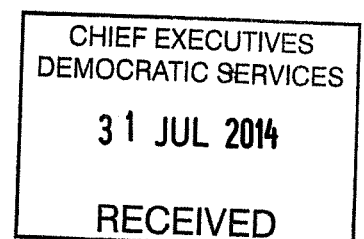
Thank you for informing us of the above applicant's appeal against the decision made by the Perth and Kinross Local Review Body.

We wish to make it known that we still feel strongly about the points we made in our previous correspondence and we would like our views to be considered once again in reply to Mr Twaddle's appeal.

Yours sincerely

[Redacted signature]

[Redacted address]







131A East Broughtain Street  
Stanley Perth PH1 4NJ

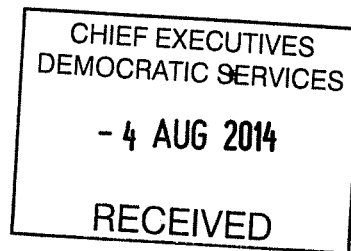
Your Ref TCP/11/16(312) 29 July 2014

Ms Gillian Taylor

clerk to the Local Review Body

Perth & Kinross Perth

Dear Ms Taylor



Application Ref: 14/00049/FLL

I refer to your letter of 23 July regarding the above application from Jayside Hotel Stanley and strongly object to the review of the original decision.

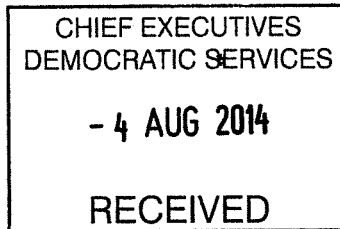
I am almost 91 years of age and not in the best of health confined to the house and it has been wonderful to be able to open doors and windows in the recent good weather without the fear of smoke and any obnoxious fumes entering my home

If this biomass heating system was granted in the same place as before the original problems would arise once more.

Yours sincerely

Williamina Clark





15 EAST BROUGHAM ST  
STANLEY  
PH1 4NJ  
30.7.2014

Dear Sir/Madam,

Re app. ref 1400079/FLL

I continue to object to this as  
absolutely nothing has changed and  
the case remains in precisely the same  
place.

What I do appreciate is the  
freedom to open my doors & windows  
without fear to my health

Yours faithfully

Anne Bryce (Mrs)



15 EAST BROUGHAM ST

STANLEY

PHIL4NJ

30-07-2014

Dear Sir / Madam

Re this application

1400079/FLL for flue for biomass boiler. I continue to object to this as absolutely nothing has changed and the flue remains in precisely the same place

What I do appreciate is the freedom to open my doors and windows.

Yours Faithfully

Willian Bryce

CHIEF EXECUTIVES  
DEMOCRATIC SERVICES

- 4 AUG 2014

RECEIVED



Gillian Taylor  
Perth & Kinross  
Local Review Body  
2, High Street,  
Perth  
PH1 5PH

Mr.K.R.Zaczek  
Kingrath  
17.East Brougham Street  
Stanley  
Perth  
PH1 4NJ  
03/08/2014

Your Ref.,TCP/11/16(312)  
-----



Dear Ms.Taylor,

The original objections that I put forward in relation to this planning application reference.,14/00079/FLL most firmly stand.

I would wish to draw your attention to the fact that the height and position of the flue forming part of the system is in fact at the same height and in the same position ,along with fitted fan, since the original and subsequent abatement notices were upheld in court.

I strongly agree with Perth & Kinross Planning Department's decision to refuse this application and for all the reasons stated there within.

Yours Sincerely,

A black rectangular redaction box covering the signature area.

K.R.Zaczek





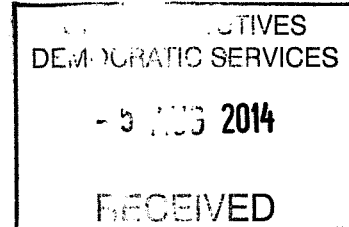
Perth and Kinross  
Local Review Body  
2,High Street,  
Perth  
PH1 5PH

Mrs.C.Zaczek  
Kingrath  
17,East Brougham St.  
Stanley,  
Ph1 4NJ

03/08/2014

Your Ref.,TCP/11/16(312)  
Re.Planning Application Ref.14/00079/FLL

---



Dear Sir/Madam,

My objections firmly stand. The detrimental impact this had on our quality of life whilst smoke and acrid fumes permeated into our home and the loss of our amenities that took place whilst this boiler/flue was in operation was intolerable. This was witnessed by independent individuals from PKC Safety Community Officers and PKC Environment Health Officers on numerous occasions over a period of seven months until the abatement order was first upheld in November 2012.

These are facts and have been endorsed by Sherriff Fletcher's judgement that a statutory nuisance was caused and the source of the nuisance emanated from the flue.

Dr. Scott Hamilton who is an environmental consultant expert in pollution and meteorology as part of his extensive evidence explained the effects that buildings near a flue such as the one in this case can distort wind direction and effect dispersion, in his view it would not be possible to avoid noxious fumes or smoke from a flue situated where it is.

There are no changes to the associated flue or within the application that would prevent the issues of the statutory nuisance reoccurring.

We have had no smoke/odour nuisance since Nov 2012 when the abatement was first upheld with the exception of the 4th and 5th of December 2012 when the boiler was in operation during a 2 day test when a smoke and odour nuisance was again caused and independently witnessed.

We can now freely open our doors and windows and our quality of life and amenities have been restored.

Yours Sincerely,

  
Mrs. Cathryn Zaczek.



8250

Perth & Kinross Local Review Body  
2 High Street  
Perth  
PH1 5PH

**Douglas & Caroline Skelton**  
10 East Brougham Street  
STANLEY  
Perth  
PH1 4NJ

04 August 2014

**The Town and Country Planning (Schemes of Delegation & Local Review Procedure)  
(Scotland) Regulations 2013.**

Application Ref: 14/00079/FLL - Installation of a flue forming part of a biomass heating system (in retrospect) at Tayside Hotel 51-53 Mill Street, Stanley. PH1 4NL

**Local Review Body: Case TCP/11/16(312)**

Dear Gillian Taylor,

In reply to your letter of 23 July regarding the above, thank you for the opportunity to make further representations in response to the Appeal submitted by the appellant's agent on 18 June.

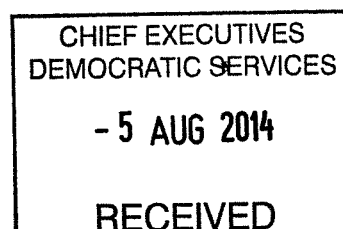
You will no doubt be aware that previous Planning Application (12/01396/FLL) was refused and the subsequent Request for Local Review (Ref TCP/11/16(243)) was withdrawn after the appeal against the abatement order was refused on all counts by Sheriff Fletcher on 6<sup>th</sup> December 2013. The applicants did not see fit to make any further appeal to this decision.

Expert testimony in the Sheriff Court action showed that the flue location and (lack of) height would always fail to disperse the smoke. It was also concluded that adding the fan would NOT resolve the issue. This was proved during the test run in December 2012, when there was smoke coming from the flue for considerably longer than five minutes as the agent has claimed. At that time the fan had already been fitted and was having no effect in helping to overcome the downwash effects and disperse the smoke plume.

We are very concerned that the proposed Action Plan will not help the situation as it assumes there will not be any smoke. Indeed, by referring to '*dark air*', and '*alleged nuisance*' rather than the smoke/odour witnessed by several neighbours and Council staff during the summer of 2012, it would appear that the problem is still being denied by the applicants.

All of the above leads us to believe that the statutory nuisance will resume if this appeal is granted. We therefore request that the refusal of Planning Application 14/00079/FLL be upheld. If this is the case, we respectfully suggest that the offending flue, which has now been in situ, without the benefit of appropriate permission, for some time, be removed.

Yours Faithfully



**Douglas & Caroline Skelton**



# Memorandum

To	Local Review Body	From	Regulatory Service Manager
Your ref	TCP/11/16(312)	Our ref	LRE
Date	5 August 2014	Tel No	01738 476462

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

## **Consultation on an Application for Planning Permission**

**PK14/00079/FLL RE: Installation of a flue forming part of a biomass heating system, Tayside Hotel, 51-53 Mill Street, Stanley, Perth, PH1 4NL Mr W Twaddle**

I refer to your letter dated 23 July 2014 in connection with the above application and have the following comments to make.

### **Town & Country Planning (Scotland) Act 1997**

**The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2013**

### **Environmental Health**

#### **Comments**

This Service reiterates recommendation and comments made previously in memorandum dated 17 February 2014.

**I cannot support this application due to loss of amenity at nearby/neighbouring residential properties, with regards to smoke/odour nuisance.**

With regards to the information submitted with this application this Service believes that the applicant has not demonstrated any substantial changes to the flue, position or height that would not instigate nuisance conditions due to downwash of smoke emissions from the flue.

This Service served an abatement notice on the applicant and Mrs Joanne Hardy on the 11 October 2012 for a statutory nuisance, as defined in Section (1)(b) and 79(1)(d) of the Environmental Protection Act 1990 as amended, caused by drifting smoke and associated odour, existing and likely to recur.

The applicant and Mrs J Hardy appealed the abatement notice on 1 November 2012: the appeal was dismissed and the abatement notice upheld on the 6 December 2013 by Sheriff Fletcher.

It is this Services contention that the issues upheld by the Sheriff with regards to the location, position and height of the flue in respect to the taller hotel building and the subsequent effect of downwash of smoke emission from the flue, have not been addressed by the applicant in this application.

Perth & Kinross Council's legal representative for the above court action, solicitor Ben McFarlane has indicated he is prepared to address the Local Review Body if required.



## **CHX Planning Local Review Body - Generic Email Account**

---

**From:** gillian scotland [REDACTED]  
**Sent:** 06 August 2014 18:45  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Subject:** Ref: 14/00079/FLL - Installation of a flue

Dear Sirs,

I refer to the above application and to your correspondence dated 23 July 2014 in relation to the review of the decision previously made by Perth & Kinross Council.

I hereby wish to express my disappointment with Perth & Kinross Council having ever declined the installation of the flue in the beginning and in my opinion, Mr Twaddle and the Tayside Hotel have been let down by you as a council. Are Perth & Kinross Council not willing to assist and support a family in their business considering the current financial climate that we are all experiencing at the moment? As far as I can see this is exactly what you are doing and you are letting them down and this is more of a case of "dirty politicians" with regards to your decision making in this instance.

I personally feel that the biomass boiler and flue can't possibly have anymore of a detrimental impact on the neighbourhood any more so than the putrid fumes of the surrounding coal fires which border the Tayside Hotel and if Perth & Kinross Council fail to see this then this clearly identifies you as a very one sided council and that your reasons for refusal are in no way fair.

Yours faithfully,

Mrs G Scotland

