

**PERTH AND KINROSS COUNCIL**

**Licensing Committee – 19 February 2015**

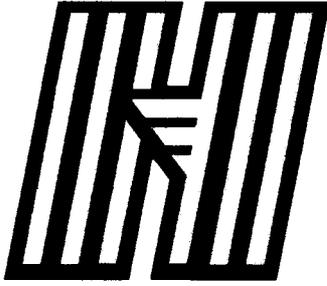
**Variation to Condition 7 of a Street Traders Licence NO. ST175 – 3 YEARS**

**Report by Head of Legal Services**

<p><b>Name and Address:</b></p>	<p><b>Graeme Kelly 3 Balgreggie Park Cardenden Fife KY5 0NQ</b></p> <p><b>Age: 41 Years</b></p>
<p><b>6-month Decision Date:</b></p>	<p>n/a</p>
<p><b>Reason for Report::</b></p>	<p><b>The Head of Legal Services has declined to consider this application under delegated powers.</b></p> <p><b>Please see attached Letter of Objection from Mr Paul Johnston, Branch Manager, Henderson Grass Machinery Ltd dated 23 January 2015. Letter from Mr Willie Gibson, Licensing Enforcement Officer, dated 2 February 2015. Copy Compliance Note from Mr Kelly, received 29 January 2015.</b></p> <p><b>Location Plan which indicates the area the applicant wishes to trade from.</b></p>
<p><b>Background Information:</b></p>	<p><b>The applicant has had a variation for Bridgend Industrial Estate, Bridgend, Kinross from 10 October 2011 until it expired on 9 October 2014</b></p>

**Contact Officer: Shona Douglas Ext 75154**

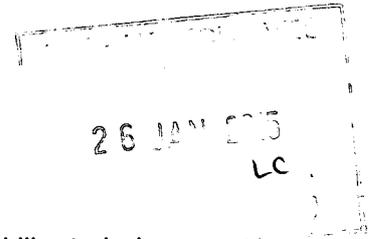




Paul Johnstone  
Branch Manager  
Henderson Grass Machinery Ltd  
1 Clashburn Close  
Bridgend Industrial Estate  
Kinross, KY13 8GD  
Tel: 01577 865733  
Fax: 01577 865766

23 January 2015

Civic Licensing (applications and payments)  
Pullar House  
35 Kinnoull Street  
Perth  
PH1 5GD



Dear Sirs,

On behalf of my company, Henderson Grass Machinery Ltd, I would like to lodge an objection to a street trader licence for a Graeme Kelly at the site of Clashburn Close, Bridgend Industrial Estate, Kinross.  
May I also take this opportunity to add that the notice was not posted on the road until at least Wednesday 14<sup>th</sup> January 2015.

The reasons behind our objection are as follows:

1. As a private business, we have a very nice fronted building which is now blocked by this van and all their clients, including lorries, vans, etc.
2. These clients including lorries and vans also block ease of access to our depot and industrial estate. We often have large vehicles delivering/collecting large machinery.
3. We are a retail outlet and we have a lot of our machinery for sale outside in our yard, showing it is for sale. From spring, we also often use the grass area directly in front of the van to show off and sell our machinery. This is owned and looked after by ourselves. This is now blocked by the ugly site of the van.
4. The smell has already drifted to our depot, depends on wind direction.
5. Vehicles also stop on Clashburn road at the junction of Clashburn close creating blocked view to vehicles leaving and on coming traffic. I have attached photos as evidence.

This van was positioned further down on Clashburn road, opposite Mozolowski & Murray and Koronka. There is a road very close to this site (Clashburn Way), I must ask why and what reasons he was not moved to this site?

There are still vehicles parked along this vacated area (as photographed).

As a small business, who have decided to stay in the Kinross area and develop our business, we must seriously object to this application.

Yours Sincerely,

  
Paul Johnstone

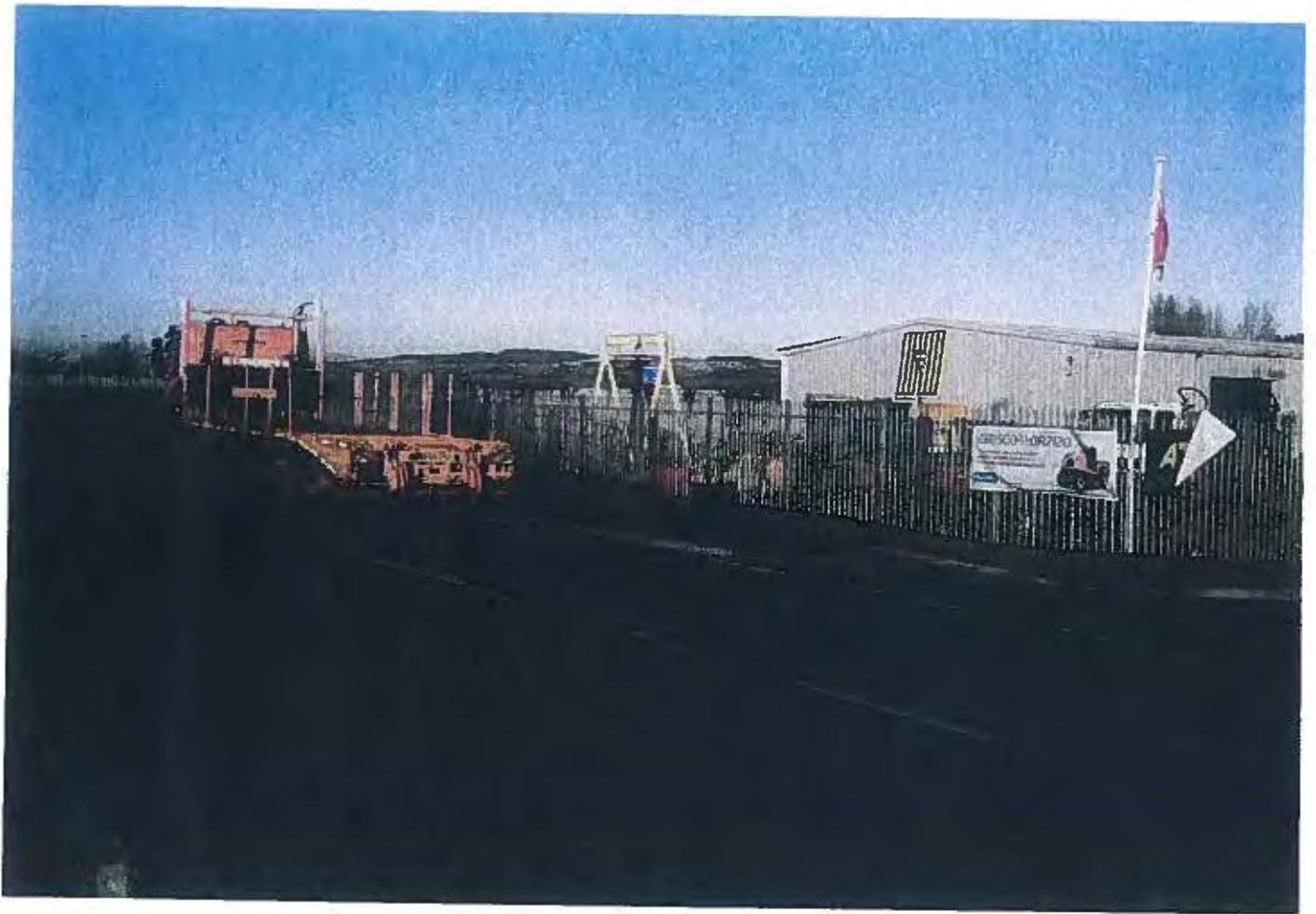
Haddington Branch  
By-Pass Road  
Haddington  
EH413PQ  
Tel: 01620 823171  
Fax: 01620 826696

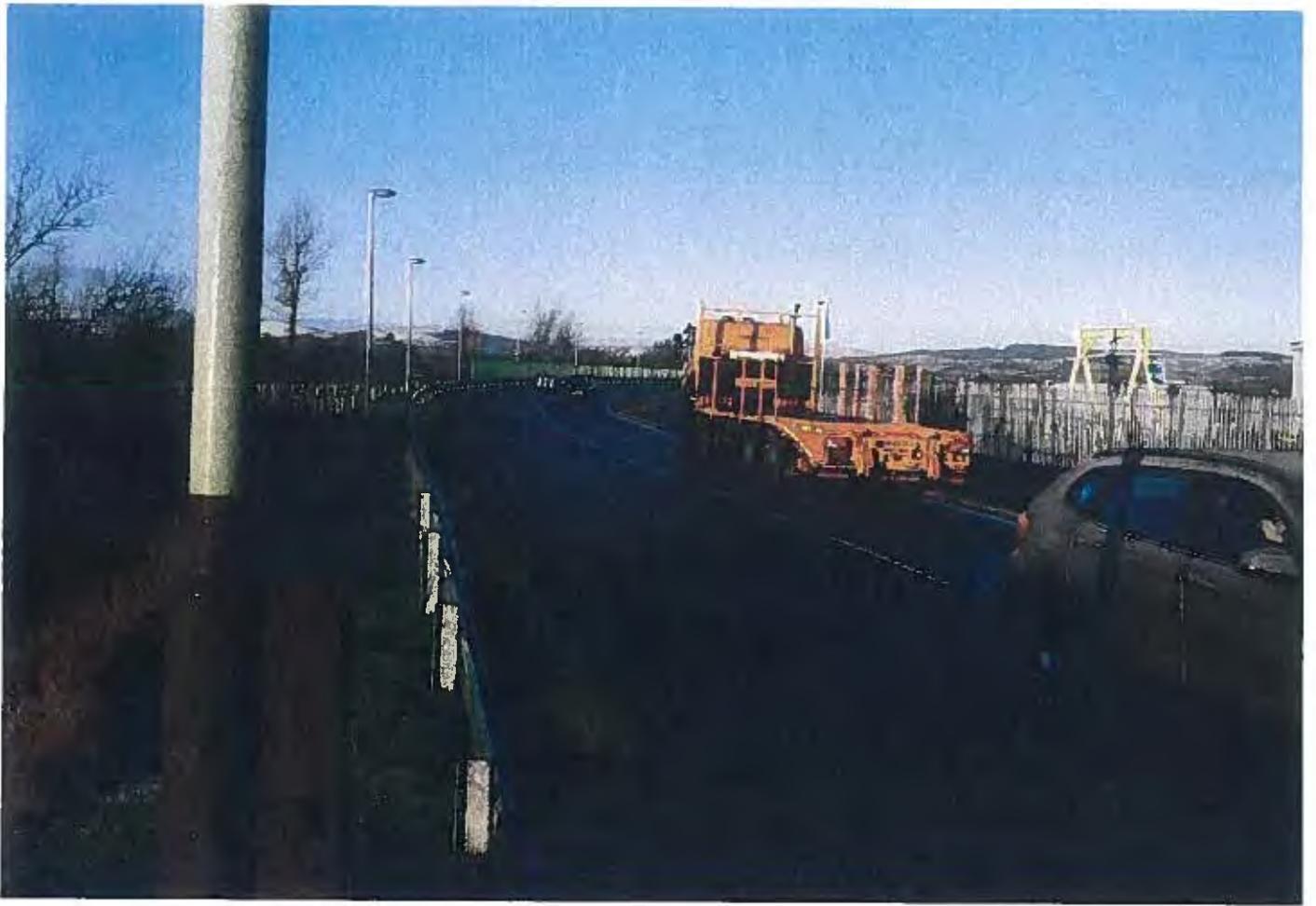
Selkirk Branch  
Yarrow Mill  
Dunsdale Road  
Selkirk, TD7 5EB  
Tel: 01750 725725  
Fax: 01750 724974

Registered No. 215348 (Scotland)  
Registered Office:  
By-Pass Road, Haddington  
[www.hendersongm.co.uk](http://www.hendersongm.co.uk)













**PERTH &  
KINROSS  
COUNCIL**

**Delayed Office Opening for  
Employee Training**

This Office will be closed from 8.45 am –  
11.00 am on the first Thursday of each  
month

**Chief Executive's  
Service**

**LEGAL**

*Head of Service Ian Innes*

**Blackfriars Development Centre  
North Port Perth PH1 5LU**

**LP-16 PERTH**

Telephone 01738 475115 Fax 01738 475190

Contact: **Mr Willie Gibson**  
**Direct Dial 01738 475179**

Email: [wgibson@pkc.gov.uk](mailto:wgibson@pkc.gov.uk)  
Web: [www.pkc.gov.uk](http://www.pkc.gov.uk)

Our Ref: ST175

Your Ref:

Date: 2 February 2015

**Clerk to the Licensing Committee  
Perth and Kinross Council  
Blackfriars Development Centre  
North Port  
Perth  
PH1 5LU**

Dear Mrs McLaren

**Civic Government (Scotland) Act 1982 – Consideration of the Application to vary condition 7 of the Street Trader's Licence No 175, held by Mr Graeme Kelly 3 Balgreggie Park, Cardenden, Lochgelly, Fife**

Mr Kelly has held a Street Trader's Licence for some years and until late 2014 had condition 7 of his licence varied to allow him to operate in Clashburn Road, Kinross.

The road network in the area has been upgraded recently and there is now some disquiet locally that he poses a road safety risk and should be moved. It is interesting to note that neither Police Scotland nor PKC Roads took action to have him re located.

Mr Kelly was aware of this issue and to prevent confrontation decided to apply for condition 7 of his licence to be varied to another location. This is the application before you today.

During the period of consultation Perth and Kinross Council, Licensing Section, received an objection to the application from Mr Johnstone, Branch Manager, Henderson Grass Machinery Limited 1, Clashburn Close, Kinross, raising five specific points.

In order to assist members of the Committee I attended and photographed the proposed trading area in relation to Mr Johnstone's business premises.

I have produced a number of photographs which are attached and are as follows.

- a View from Clashburn Road, Kinross.
- b View towards Clashburn Road, Kinross and area of grass mentioned in point 3 of Mr Johnstone's letter.
- c Frontage of Henderson Grass Machinery Limited.
- d Entrance to yard at Henderson Grass Machinery Limited.
- e Side view of yard at Henderson Grass Machinery Limited.
- f Side view of yard at Henderson Grass Machinery Limited in relation to Mr Kelly's vehicle.
- g View of Mr Kelly's vehicle and trailer.
- h View of the serving side of Mr Kelly's vehicle and trailer.

I made further enquiry with Perth and Kinross Planning Department in relation to the grass strip mentioned in point 3 of Mr Johnstone's letter. I was informed that no planning permission is in place for this area to be use to display or sell machinery, and a "change of use" application would need to be considered.

I did not accurately measure the width of Clashburn Close but it is in the region of 21ft wide.

This letter is not intended to be for, or, against the application but contains information which Committee members may find useful.

Yours sincerely

  
Willie Gibson  
Licensing Enforcement Officer

A.



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ST175

**PERTH & KINROSS COUNCIL**

**CIVIC GOVERNMENT (SCOTLAND) ACT, 1982**

**COMPLIANCE NOTE**

I, GRAEME KELLY

Applicant for a request to vary the terms of Condition 7 of a Street Trader Licence, hereby certify that –

a) a Notice has been posted at or near the site at BRIDGE END

END EST

from (date) 06/01/15 to (date) 28/01/15

as required under Schedule 1 of the above Act.

\*Where the said Notice was removed, obscured or defaced during the abovementioned period, I took reasonable steps for its protection and replacement as follows – (Give details and circumstances):

THE SITE NOTICE WAS BLOWN OR TAKEN DOWN, REPLACED WITH NEW ONE STRAIGHT AWAY.

Or

b) that I have been unable to post a Notice as required under Schedule 1 to the above Act because I do not have the rights of access which would enable me to do so – (Give details and circumstances below):

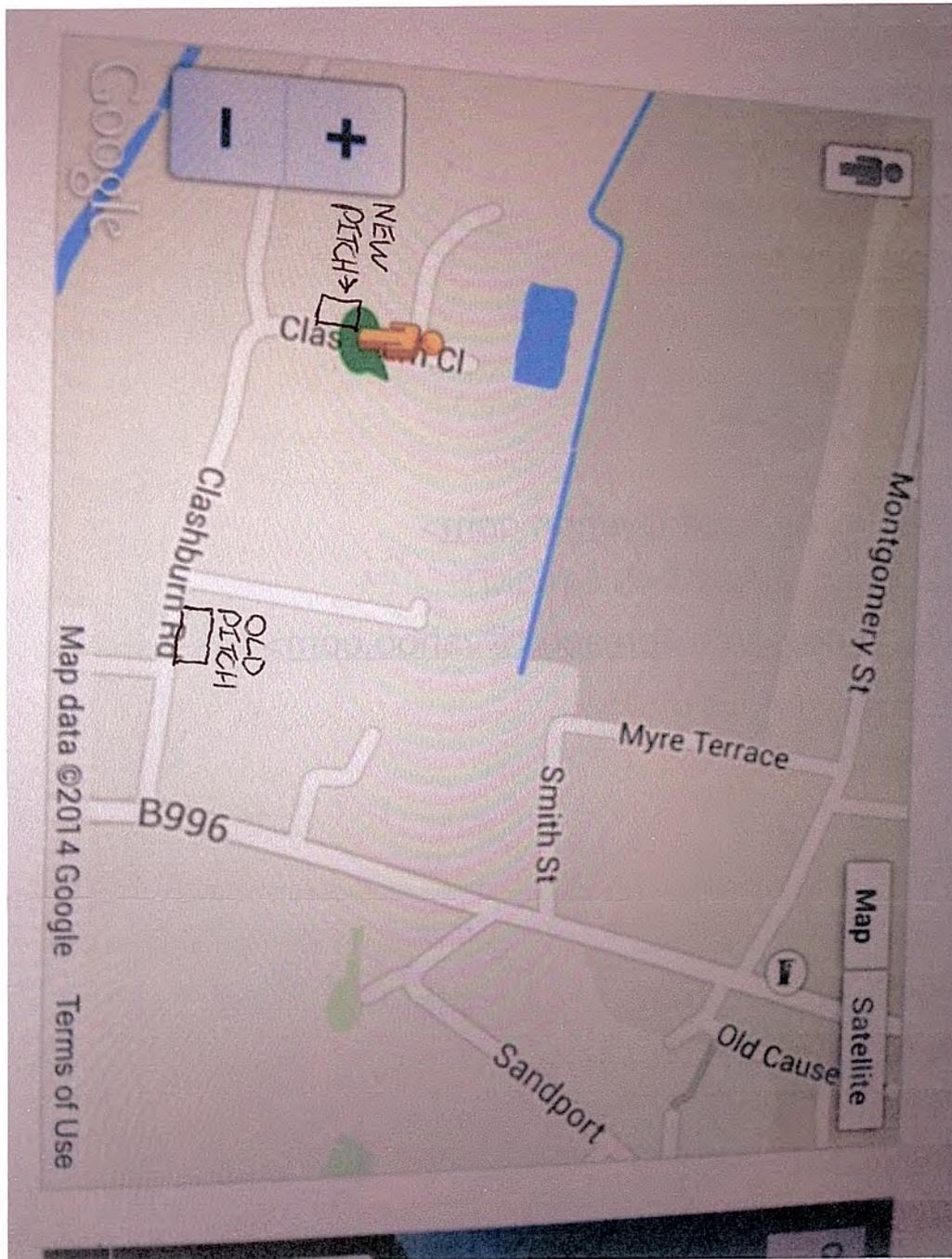
Date 28/01/15

Signature 

Position BUSINESS OWNER

To be returned to the Head of Legal Services, Perth & Kinross Council, Council Building, 2 High Street, Perth after a Site Notice has been displayed for 21 days.





Sent from my iPhone

