



**Clackmannanshire  
Council**

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**Greenfield, Alloa, Scotland, FK10 2AD (Tel.01259-450000)**

## **Planning Committee**

**Thursday 28 October 2010 at 9.30 am**

**Venue: Council Chamber, Greenfield, Alloa, FK10 2AD**

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For further information contact Finance and Corporate Services, Clackmannanshire Council, Greenfield, Alloa, FK10 2AD  
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Date	Time
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## **PLANNING COMMITTEE**

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The Planning Committee is responsible for taking decisions on planning applications and enforcement, dealing with regulatory issues arising in the fields of Building Control, Trading Standards, Environmental Health and non liquor licensing, all in line with Council policy.

**20 October 2010**

**A MEETING of the PLANNING COMMITTEE will be held within the Council Chamber, Greenfield, Alloa, on THURSDAY 28 OCTOBER 2010 at 9.30 am.**

**ELAINE McPHERSON  
Head of Strategy and Customer Services**

**B U S I N E S S**

	<b>Page No.</b>
1. Apologies	--
2. Declaration of Interests Members should declare any financial or non-financial interests they have in any item on this agenda, identifying the relevant agenda item and the nature of their interest in accordance with the Councillors' Code of Conduct. A Declaration of Interest form should be completed and passed to the Committee Officer.	--
3. Confirm Minute of Planning Committee Meeting held on Thursday 2 September 2010 (Copy herewith)	01
4. Report of Handling on Planning Application - Extension to Sauchie Community Group Resource Centre at 11 Mar Place, Sauchie (Ref. 10/00250/FULL) - report by Keith Johnstone, Principal Planner (Copy herewith)	05
5. Unauthorised Use of Land as Garden Ground to the Rear of 5 Woodburn Way, Alva - report by Julie Hamilton, Development Services Manager and Andy Wyse, Solicitor (Copy herewith)	11



## COMMITTEE MEMBERSHIP – PLANNING COMMITTEE

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### Councillors

### Wards

Councillor Alastair Campbell (Convener)	5	Clackmannanshire East	CON
Councillor Tina Murphy (Vice Convener)	1	Clackmannanshire West	SNP
Councillor Kenneth Earle	4	Clackmannanshire South	LAB
Councillor Mark English	4	Clackmannanshire South	SNP
Councillor George Matchett	1	Clackmannanshire West	LAB
Councillor Walter McAdam	2	Clackmannanshire North	SNP
Councillor Bobby McGill	2	Clackmannanshire North	LAB
Councillor Harry McLaren	5	Clackmannanshire East	LAB
Provost Derek Stewart	3	Clackmannanshire Central	LAB
Councillor Gary Womersley	3	Clackmannanshire Central	SNP





**MINUTE OF MEETING of the PLANNING COMMITTEE held within the Council Chamber, Greenfield, ALLOA, FK10 2AD, on THURSDAY 2 SEPTEMBER 2010 at 9.30 am.**

**PRESENT**

Councillor Alastair Campbell, Convener  
Councillor Mark English  
Councillor George Matchett, QPM  
Councillor Tina Murphy  
Councillor Walter McAdam, MBE  
Councillor Bobby McGill  
Councillor Harry McLaren  
Provost Derek Stewart  
Councillor Gary Womersley

**IN ATTENDANCE**

Ian Duguid, Development Quality Team Leader  
Julie Hamilton, Service Manager (Development)  
Andrew Wyse, Solicitor (Clerk to the Committee)

**PLA(10)139 APOLOGIES**

Apologies for absence were received from Councillor Kenneth Earle.

**PLA(10)140 DECLARATIONS OF INTEREST**

Councillor George Matchett declared a non-financial interest in Agenda Item 4 (Report of Handling on Planning Application Ref.10/00143/FULL) as Vice President of Clackmannanshire Scouts Council (voluntary position). Councillor Matchett withdrew from the Council Chamber during consideration of the item and took no part in the debate or vote.

**PLA(10)141 MINUTE OF MEETING HELD ON 18 MARCH 2010**

A minute of the Planning Committee meeting held on Thursday 18 March 2010 was submitted for approval.

The minute of the meeting held on Thursday 18 March 2010 was agreed as a correct record and signed by the Convener.

**PLA(10)142 REPORT OF HANDLING ON PLANNING APPLICATION**

**Erection of Confectionery Factory (Class 5) with Associated Offices, Cafeteria and Shop at Land to the rear of Glentana Mill, West Stirling Street, Alva (Ref.10/00143/FULL)**

A report of handling on the above Planning Application was submitted by the Principal Planner. The report provided assessment of the proposed development in the context of the Clackmannanshire Development Plan and other material considerations, including

consultation responses, representations and the Finalised Alteration to the Clackmannanshire Local Plan. The report made recommendation to Committee based on this assessment.

A supplementary report which indicated that further to the terms of paragraph 4.2 of the original report, SEPA has removed its objection to the application subject to a planning condition which ensures that there will be no alterations to ground levels below the top of the retaining wall on the west side of the adjacent burn was also submitted. The supplementary report also proposed an amendment to the wording of Condition 12 in order to improve the precision and understanding of condition 12.

As the Council has an interest in the planning application as owner of the application site, the application was reported to Committee for decision.

Councillor Matchett declared a non-financial interest in this item and withdrew from the Council Chamber during consideration of the application (see PLA(10)140) (above).

The Committee heard oral representation from:

Mr John Spruce, District Commissioner Clackmannanshire Scouts, Objector  
Mr Peter Paterson, Applicant  
Councillor Donald Balsillie, Local Member for Ward 2 (Clackmannanshire North)

### **Motion**

That Committee approves the application subject to the terms and conditions set out in the report and subject to the amended conditions set out in the supplementary report.

Moved by Councillor Alastair Campbell. Seconded by Councillor Walter McAdam.

### **Decision**

The Committee agreed unanimously to approve the application subject to the terms and conditions set out in the report and subject to the amended conditions set out in the supplementary report:

- (i) Delete Condition 6 as set out on page 6 of the papers.
- (ii) Insert a replacement Condition 6 as follows:
  6. There shall be no alteration to existing ground levels on the west side of the Carnaughton Burn below the top level of the burn retaining wall.
- (iii) Delete reference to the obligation to notify Scottish Ministers, as set out in paragraph 2.2 of the report as the objection from SEPA has been withdrawn.

Condition 12 to read:

12. This permission hereby approves the use of the building as a food manufacturing unit with associated visitor cafe and shop, and for no other industrial or business use as defined in Classes 4 and 5 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. In the event that the use of the cafe and/or visitor facilities at the premises cease for a period exceeding 3 consecutive calendar months, the industrial activities in the building shall cease no later than 3 months from the end of the above period, unless otherwise agreed in writing by the Council as planning authority.

### **Action**

Service Manager (Development)

***Councillor Matchett returned to the meeting at this point in the proceedings (10.20 am)***

**PLA(10)143 REPORT OF HANDLING ON PLANNING APPLICATION**

**Demolition of Existing Devon Equestrian Centre Building and Construction of SSPCA National Wildlife Centre with 2 houses for management accommodation at Equestrian Centre, Fishcross (Ref. 10/00159/FULL)**

A report of handling on the above Planning Application was submitted by the Principal Planner. The report provided assessment of the proposed development in the context of the Clackmannanshire Development Plan and other material considerations, including consultation responses and representations and made recommendation to Committee based on this assessment.

As the Council has an interest in the planning application as owner of the application site, the application was reported to Committee for decision.

**Motion**

That Committee indicates its intention to approve the application subject to the terms and conditions set out in the report, such approval to be issued following the conclusion of a Section 75 Agreement restricting the occupancy of the two houses and preventing them from being sold off separately from the wildlife centre .

Moved by Councillor Alastair Campbell. Seconded by Provost Derek Stewart.

**Decision**

The Committee agreed unanimously to indicate its intention to approve the application subject to the terms and conditions and Section 75 Agreement as set out in the report.

**Action**

Service Manager (Development)

ENDS 10.45 am



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Report to Planning Committee

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Date of Meeting: 28th October 2010

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**Subject:** Planning Application 10/00250/FULL - Extension to Sauchie Community Group Resource Centre at 11 Mar Place, Sauchie - Report of Handling

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**Applicant:** Laura Turner, Sauchie Community Group, Sauchie

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**Agent:** Bracewell Stirling Architects, 38 Walker Terrace, Tillicoultry

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**Prepared by:** Keith Johnstone, Principal Planner

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**Electoral Ward:** Clackmannanshire Central

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## 1.0 Purpose

- 1.1. This is a report of handling of the above noted application, submitted to Clackmannanshire Council on 22nd September 2010. The report assesses the proposed development in the context of the Clackmannanshire Development Plan and other material considerations including consultation responses. The report makes a recommendation to Committee based on this assessment.
- 1.2. The Council has an interest in the planning application, as owner of the application site, and this is the reason for the application being reported to Committee for a decision.

## 2.0 Recommendations

- 2.1. The application is recommended for **APPROVAL** subject to the undernoted conditions:
  1. No development shall start on site until samples of all external materials to be used on the extension and any hard surfaced areas have been submitted to and approved in writing by the Council, as planning authority. Thereafter, the development shall be completed in accordance with the approved details.
  2. No development shall start on site until protective fencing has been erected around all trees and hedges which are to be retained adjacent to the site and the fencing has been inspected and approved by a

representative of the Council. Once approved, the fencing shall remain in place for the duration of the construction works on site.

3. No construction work shall take place, no machinery shall be operated and no construction related deliveries shall be received at or despatched from the site outwith 0800-1800 hours Monday to Friday , 0800-1300 hours on Saturday and at no time on Sunday or local Bank Holidays, unless otherwise agreed in writing by the Council, as planning authority.
4. A minimum 2.0 metre wide footpath width shall be retained around the site at all times, unless otherwise agreed in writing by the Council.

### Reasons for Conditions

1. In the interests of visual amenity
2. To minimise the risk of damage to the trees and hedges close to the site in the interests of visual amenity.
3. To safeguard residential amenity.
4. In the interests of pedestrian safety and to maintain a suitable level of accessibility.

### 2.2 Reasons for Decision

1. The proposed extension, in terms of its proposed location, design and external finishes would complement and enhance the appearance of the existing building and would not have an adverse impact on the amenity or functioning of adjacent land and footpaths. The proposal accords with the objectives and guidance of the Clackmannanshire Development Plan.
2. There are no other material considerations that would indicate that the application should not be approved.

### 2.3 Section 75 Obligations

2.3.1 None

## 3.0 **Background to the Proposals**

3.1 The site comprises the Sauchie Community Resource Centre building at Mar Place, Sauchie. Permission is sought to extend the building to the rear on land currently part of a paved area on the edge of the area of public open space between Mar Place and the A908.

3.2 The length of the extension would be approximately 5.0 metres although the south western edge would be angled to maintain the width of the existing footpath that connects Mar Place with the A908. The proposed wall and roof design would reflect the appearance of the existing building. The external walls of the extension would be clad with decorative tiles to deter graffiti and vandalism. The existing walls could be rendered. The proposed extension would more than double the existing meeting space area.

## 4.0 **Consultations**

4.1 Roads and Transportation have no objection. They advise that the existing footpaths to the rear of the building should be retained at a minimum width of

2.0 metres although the paths are not adopted for maintenance by Roads. Comment - *The proposed development would comply with this advice. A condition has been added to the decision notice to give certainty to the position.*

- 4.2 Land Services has no objections subject to the width of the footpaths around the extension being retained at a minimum of 2.0 metres. They are responsible for the maintenance of the land on which the extension would be built and the adjacent open space. Comment. *The development would accord with their advice.*
- 4.3 Facilities Management has no objection to the proposal.
- 4.4 The Police Community Safety Officer has no objection to the proposal.
- 4.5 Environmental Health has no objections. They recommend construction hours are regulated. Comment. *A condition is attached to regulate the hours of construction activity.*
- 4.6 Scottish Water has no objections.

## 5.0 Representations

- 5.1 One neighbouring property was notified of the application and a Neighbour Notification advertisement was placed in the local press on 29th September 2010. No representations have been received as a result of the publicity.

## 6.0 Planning Considerations

- 6.1 The application requires to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 6.2 The site is within the settlement boundary of Sauchie as defined by the Proposals Map of the adopted Clackmannanshire Local Plan, 2004. The site is defined as white land and is not allocated for change by the Plan.
- 6.3 The key issues in relation to the application are considered to be: design, amenity and the integration of the development with the adjacent footpath network and open space.
- 6.4 The proposed design of the extension would complement the appearance of the existing building. The proposed external finishes to the extension and existing elevations would have a positive impact on the appearance of the existing building. The extension has been designed to retain the existing footpaths on both sides of the building which provide a link between Mar Place and the A908 through the open space. The proposal would accord with Local Plan Policy EN11 (Enhancing Environmental Quality).
- 6.5 It is considered that the proposed extension would not have a significant adverse impact on the existing standard of amenity enjoyed by the nearest house to the south nor other properties in the vicinity, including those on the opposite side of Mar Place, having regard to its location, size and juxtaposition with this property and the likely impacts from the use of the enlarged premises. Environmental Health and the Police Community Safety Officer

have no objection. The proposal accords with Local Policy EN15 (Planning and Environmental Protection)

6.6 The extension would encroach on an existing paved area at the rear of the building which abuts the footpath network through the public open space. The extension would still maintain a minimum footpath width of 2.0 metres as recommended by Land Services and Roads and Transportation and would not therefore have a detrimental impact on the safe and efficient functioning of the footpaths or the public's enjoyment of the adjacent open space. The proposal accords with Policy INF3 (Local Access).

6.7 There are no objections from consultees and no representations have been received from third parties. Taking account of the above considerations and the most relevant policies in the Development Plan, it is concluded that;

a. The proposal would accord with the objectives and policies of the Development Plan, and:

b. There are no other material considerations which would outweigh the Development Plan position.

## 7.0 Sustainability Implications

7.1 None

(1) **Our Priorities 2008 - 2011** (Please double click on the check box )

The area has a positive image and attracts people and businesses

Our communities are more cohesive and inclusive

People are better skilled, trained and ready for learning and employment

Our communities are safer

Vulnerable people and families are supported

Substance misuse and its effects are reduced

Health is improving and health inequalities are reducing

The environment is protected and enhanced for all

The Council is effective, efficient and recognised for excellence

(2) **Council Policies** (Please detail)

## 8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes  No

## 9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

## 10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

## 11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)


Yes  (please list the documents below) No

- Clackmannanshire Local Plan (2004)
- Consultation Responses

### Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Keith Johnstone	Principal Planner	452614

### Approved by

NAME	DESIGNATION	SIGNATURE
John Gillespie	Head Of Community & Regulatory Services	



**N**

Date:  
18-Oct-2010

**10/00250/FULL - Sauchie Community Group Resource Centre**  
**11 Mar Place, Sauchie. FK10 3EA**  
**Extension To Community Resource Centre**

**Ward: Clackmannanshire Central**      **OS Grid Ref: NS 893 941**

0      20      40      60      80      100      Meters

Scale: 1:1,250

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**CLACKMANNANSHIRE COUNCIL**

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**Report to Planning Committee**

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**Date of Meeting: 28 October 2010**

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**Subject: Unauthorised Use of Land as Garden Ground to the Rear of 5  
Woodburn Way, Alva**

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**Report by: Julie Hamilton, Development Services Manager, and Andy  
Wyse, Solicitor**

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**1.0 Purpose**

- 1.1. This report updates members on action taken to regulate the unauthorised use of land to the rear of 5 Woodburn Way, Alva and concentrates on the planning issues arising at this site. Other aspects in response to the Motion approved by Council on September are being addressed in a separate report to Council on 28 October 2010.
- 1.2. This report confirms that:
  - 1.2.1. The current use of the site as garden ground is unlawful as planning consent has not been granted. Further, conditional planning consent is the most appropriate way to deal with the contamination issue.
  - 1.2.2. A Section 33A notice has been served on the owners of the site, requiring them to submit a planning application within a period of 28 days from the date of service to enable the Council to regularise the breach of planning control.
  - 1.2.3. No application for planning permission has been submitted within the specified period but shortly before expiry of that period a letter was received from the solicitors for the owners of the land that the owners "are of the clear view that garden use is an established use" of the land in question and "On that basis our clients consider that there is no need to complete the Section 33A Notice Form provided to them by the Council."
  - 1.2.4. Accordingly an enforcement notice has been now served upon the owners of the site, as the requested planning application has not been received and in the light of the letter from the solicitors is unlikely to be forthcoming. Had such an application been submitted, it would have enabled the Council to consider the basis on which the unauthorised use could be regularised and if so minded to approve the application subject to appropriate planning conditions.

## 2.0 Recommendation

- 2.1. It is recommended that members note the actions undertaken to seek to regularise the breach of planning control.

## 3.0 Considerations

### 3.1 The current unlawful use of the land:

The site (as shown on the appended plan) was acquired in October 2001 by the owners and occupiers of No. 5 Woodburn Way from British Gas/Transco Property Division for £11,500. It was vacant land that was formerly part of a gas works site. It was not garden ground and, as such, a planning application for change of use from disused vacant ground forming part of a former gas works site to private garden ground was required. The new owners of the land were clearly aware of the planning position as their original offer for the ground, dated 30th January 2001 stated that it was conditional upon them applying for and being granted a change of use consent to allow the site to be used as garden ground, although they subsequently withdrew this condition, because British Gas/Transco Property Division were not prepared to accept any offers which were subject to planning permission.

The owners of the site have since used the ground as an extended garden for No. 5 Woodburn Way. Planning permission has not been applied for and therefore the use is not lawful. Their specific use of the land for soft landscaping and vegetable growing has increased the risk of disturbance of and thus exposure to the otherwise static contamination lying below the land. A grant of Conditional Planning Consent in response to the required application can enable this issue to be addressed by restricting the manner in which the land is used as garden ground e.g. hard landscaping.

### 3.2 Issue of a Section 33A Notice:

The Planning etc. (Scotland) Act 2006 introduced a new section (S33A) such that the Planning Authority could require the owner of land, where development had been unlawfully carried out, to make an application for planning permission for the development. This was introduced in August 2009. The principal purpose of Section 33A is to enable the Planning Authority to deal with an unauthorised development **where it would be minded to approve the application**, particularly where that approval would be subject to conditions. There is no right of appeal against a Section 33A Notice.

The owners were issued with the S33A Notice (dated 09 September 2010) by recorded delivery. To assist them, the application form was substantially completed, and exceptionally, the normal planning application fee was waived. They were given 28 days for submission of the planning application for change of use from disused vacant ground forming part of a former gas works site to private garden ground. No planning application was submitted and the solicitors' letter referred to at paragraph 1.2.3 above was the only direct contact from the owners to the Planning Service. A complaint on behalf of the owners was received about "Enforcement action" appearing publicly in the Planning Register but that was a reference to the service of the Section

33A Notice as, having embarked on formal action, the Council is legally obliged by statute to publish the Section 33A Notice in the Planning Register.

#### 3.4 Enforcement Action:

As no planning application was received, the only course of action available to the Council to seek to regulate the breach of planning control was to pursue further enforcement action. This accords with the Council's agreed Enforcement Strategy. Accordingly, an Enforcement Notice was served upon the owners, dated 15 October 2010. This requires that the unauthorised use of the site as garden ground shall cease, either permanently, or until a scheme acceptable to the Council has been implemented to eliminate the risk of exposure to the contamination lying beneath the ground.

There is a right of appeal against an Enforcement Notice to Scottish Ministers.

#### 4.0 Sustainability Implications

4.1 The actions detailed in this report further the enhancement and improvement of the environmental quality of the land to which this report relates and its environs.

#### 5.0 Resource Implications

5.1 There are no resource implications for the Council from the recommendations of this report.

#### 6.0 Equalities Impact

6.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Not required

#### 7.0 Legality

It has been confirmed that in taking the actions detailed in this report and in adopting its recommendations, the Council is acting within its legal powers.

#### 8.0 Appendices

1. Location Plan

#### 9.0 Background Papers

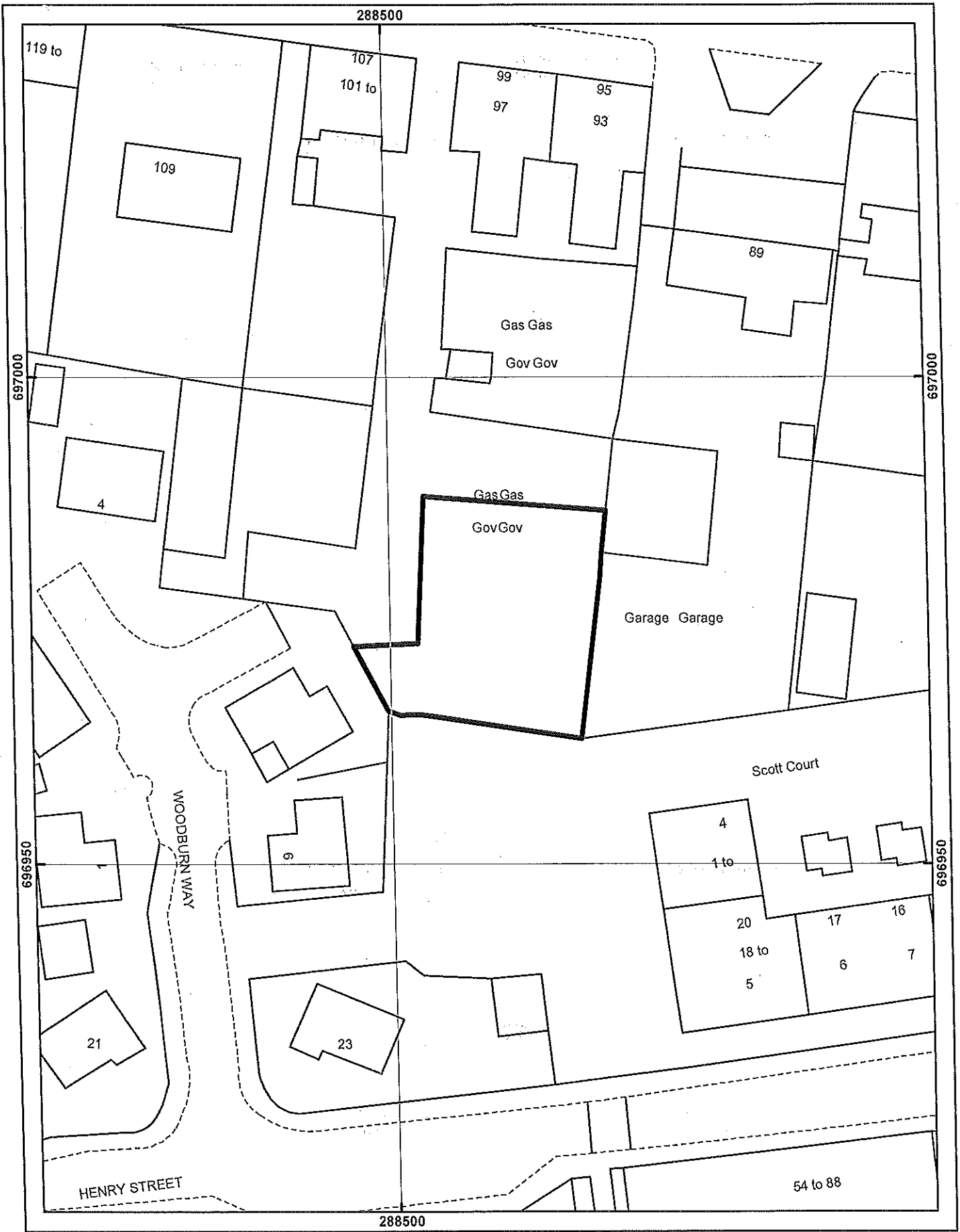
Town & Country Planning (Scotland) Act 1997  
Planning etc. (Scotland) Act 2006  
Council's Enforcement Strategy  
Clackmannanshire Local Plan  
Section 33A Notice dated 09 September 2010  
Enforcement Notice dated 15 October 2010

**Author(s)**

<b>NAME</b>	<b>DESIGNATION</b>	<b>TEL NO / EXTENSION</b>
Julie Hamilton	Development Service Manager	01259 452657
Andy Wyse	Solicitor	01259 452088

**Approved by**

<b>NAME</b>	<b>DESIGNATION</b>	<b>SIGNATURE</b>
John Gillespie	Head of Community & Regulatory Services	
Elaine McPherson	Head of Strategy & Customer Services	

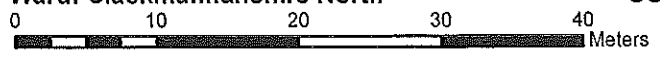


Date:  
18-Oct-2010

**Unauthorised Use Of Garden Ground To Rear Of  
5 Woodburn Way, Alva. FK12 5LB**

Ward: Clackmannanshire North

OS Grid Ref: NS 884 969



Scale: 1:500

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