
Report to Planning Committee of 15 March 2012

Subject:	Application for Planning Permission: Residential Development - Renewal of Planning Permission in Principle 08/00300/OUT, Land at Broomhall Castle, Long Row, Menstrie (Ref No 11/00293/PPP)
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Applicant:	Mr Kenneth Inglis, 24 Bard's Way, Tillicoultry
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Agent:	N/A
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Prepared by:	Ian Duguid, Development Quality Team Leader
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Ward	Clackmannanshire West
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1.0 Purpose

- 1.1. The purpose of this report is to present the merits of this planning application and the consequential recommended decision. The assessment has regard to legislative provisions for applications of this nature, examines any change in circumstances since the original decision to grant outline planning permission and considers the weight to be attached to representations from third parties.
- 1.2. The Service has concluded that, having regard to the foregoing circumstances, this application to renew an earlier consent should be approved.
- 1.3. The application form confirms that the applicant is related to a member of staff within the planning service. The applicant is also understood to be a member of staff in Clackmannanshire Council. In accordance with the Town and Country Planning (Scotland) Act 1997, as amended, we believe that this application should therefore be decided by members of the Council rather than the Council's Appointed Officer under the Scheme of Delegation. The recommendation has been framed accordingly.

2.0 Recommendations

- 2.1. It is firstly recommended that, in accordance with Section 43A(6) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning Etc (Scotland) Act 2006, this application is determined by the Planning Committee of the Council as planning authority.

2.2. It is further recommended that this application is approved subject to the following conditions (which conditions largely repeat those attached to the original planning permission):

1. Before the development begins, and before or accompanied with the submission of any other matters described below, an initial application for the approval of a design statement shall have been submitted to and approved in writing by the Council. It shall accord with the terms of PAN68, Design Statements, and comprise the first four stages of the design process namely:

- i. site and area appraisal
- ii. identifying the design principles
- iii. analysis
- iv. design concept

2. a. Before development begins, written approval from the Council as Planning Authority must be obtained for the details of the siting, design and external appearance of any buildings, the means of access and landscaping (including its future maintenance).

b. Particulars of the matters referred to in item a. above shall be submitted for consideration by the Planning Authority, and no work shall begin until written approval has been given.

c. Application for Approval of Matters Specified in Conditions shall be made to the Council as Planning Authority within 3 years of the date of this permission.

d. The development hereby permitted shall begin within 3 years from the date of this permission, or within 2 years from the date of approval by the Planning Authority of the last of the Matters Specified in Condition to be approved.

3. The subsequent application for Approval of Matters Specified in Conditions shall include:

a. A detailed tree survey in accordance with BS5837 (2005), detailing trees to be removed or retained, a tree protection plan and any proposed preliminary tree works and future maintenance. The survey shall include details of proximity of trees to buildings, access road, service tracks and any changes to ground levels, and shall seek to retain the maximum number of trees within the proposed development.

b. A site layout plan of the minimum scale of 1: 500 showing the position of all existing and proposed buildings, roads, footpaths, parking areas, private spaces, walls (including retaining walls), fences and landscaping and drainage infrastructure.

c. Plans, elevations and sections of any building showing the dimensions and type and colour of external materials.

- d. A landscaping plan at a minimum scale of 1: 500 showing the location, species and number of existing and proposed trees, shrubs and hedges, including details of native tree/shrub planting.
- e. Details of existing and finished ground levels and finished floor levels in relation to a fixed datum, preferably Ordnance Survey, to show how the development would relate to adjacent buildings and adjacent land.
- f. Surface water drainage proposals prepared in accordance with "Sustainable Urban Drainage Systems", Design Manual for Scotland and Northern Ireland".
- g. The house footprint occupying no more than 30% of the plot areas.
- h. An assessment of potential noise impact on the proposed houses from the adjacent hotel at Broomhall Castle, and details of any noise mitigation measures that may be required.
- i. A flood statement that examines all potential adverse flooding effects of surface water run-off on the site and possible flood risk created by the proposed development. Such an assessment shall examine the effects of a 1 in 200 year (0.5%) storm event on the site, and propose any flood mitigation measures.
- j. The steps taken to comply with Section 5 and Appendix 1 of the Contract Bat Consultancy Final Report by Echoes Ecology Ltd dated 26th January 2012.

Thereafter, the development shall proceed in accordance with such approved details.

- 4. Further to Condition 2 above, this consent only approves the principle of residential development and NOT the number of plots. In addition, the houses shall be no more than two storey in height, with any first floor accommodation contained entirely within the roofspace, and served as necessary by dormers or rooflights.
- 5. No trees shall be lopped, topped, trimmed or felled without the prior written approval of the Council. Before any works commence on site, the developer will instigate an accurate survey to be carried out by a qualified arborist, of the existing trees on the site. The survey shall be carried out in accordance with BS 5837:2005. The survey shall have been submitted to, and approved in writing, by the Council before any works commence on site. Thereafter, all recommendations of the approved report shall be carried out in full.
- 6. Before any works commence on site, details of a 2m wide footway along the site's entire frontage onto Long Row and reinstatement of the stone wall to the rear of the footway shall have been submitted to, and approved in writing by the Council. The footway and reinstated wall shall be completed prior to the occupation of the first house within the proposed development.

7. For the avoidance of doubt, access to each plot shall be via a standard footway crossing constructed a minimum of 3m wide (4.5m wide if a shared access to more than one plot is proposed) at right angles to the public road.

8. Each plot shall provide visibility splays of 2.5m by 45m in both directions at the junction of the private driveway with the public road. Within the splay there shall be no obstruction exceeding 1.0m in height above the adjacent carriageway level. Thereafter, the splay shall be permanently maintained to the satisfaction of the Council as Planning Authority.

9. Driveways shall be constructed to a gradient not exceeding 1 in 10, be a minimum length of 6.5m and finished in bound material, with any access gates opening inwards.

10. Construction work on the site shall only take place between the hours of 0800-1800 hours Monday-Friday, 0800-1300 hours on Saturday and at no time on Sundays or local Bank Holidays.

11. Before any works commence on site, a detailed construction traffic management plan shall have been submitted to and approved by the Council.

For the Following Reasons

1. To allow the Council to assess all relevant details associated with the proposal.

2. Permission in granted in Principle only.

3. To allow the Council to fully assess all relevant details associated with the proposal.

4. In order to ensure the development respects and enhances the established amenity and character of the area.

5. In the interests of visual amenity; to ensure that all trees worthy of retention are satisfactorily protected before and during construction works.

6. In the interests of visual road and pedestrian safety.

7. In the interests of road safety.

8. In the interests of road safety.

9. In order to ensure the provision of a satisfactory standard of access, commensurate with road safety.

10. In the interests of residential amenity.

11. In the interests of residential amenity and road safety.

2.3. Reasons for the Decision:

1. There have been no material changes in circumstances since the previous grant of planning permission that are relevant to the development

hereby approved, and which would therefore indicate any reason to deviate from that previous decision.

2. The representations from third parties do not weigh against the presumption in favour of a grant of planning permission consistent with the terms of the previous Council decision.

2.4. Plans Relating to the Decision:

1. Site Plan and Location Plan (unnumbered)

3.0 Background to the Proposals

3.1. In September 2008 permission was sought to develop land on the Long Row frontage of the lands of Broomhall Castle in Menstrie for residential purposes. The indicative plan indicated 3 house plots. Permission (08/00300/OUT) was granted in accordance with the Council's Scheme of Delegation at that time in November 2008.

3.2. The planning permission has not been implemented, and the details described in reserved matters have not been submitted for approval. This application seeks to renew that permission, and in effect extend the time period for the submission of what is now termed Matters Specified in Conditions. The application relates to a local development and the site is identified in the location plan attached to this report.

4.0 Consultations

4.1 Roads and Transportation re-iterate their previous comments on the earlier planning application. At that time Roads and Transportation Service had no objections to the development, subject to the compliance with a number of conditions. These are reflected in the terms of the planning permission.

4.2 Scottish Natural Heritage was consulted on a bat survey which the applicant supplied as additional information with the application. SNH endorse the informal views expressed by the Council's Countryside Ranger, who indicated that a thorough survey had been undertaken, and with the absence of any evidence of bats found roosting on the site, an SNH licence would not be required. If bats were discovered when work was taking place, work would need to stop and SNH consulted, as bats are a protected species. The requirement to undertake any further survey work can be dealt with as a condition of Planning Permission in Principle.

5.0 Representations

5.1 8 neighbouring households and 1 other neighbouring property were notified of this application. It was also advertised in the local paper. As a result of this publicity, representations have been received from the following parties:

Andy and Catrina Yule, 24 Clifford Park, Menstrie

Andrew Snowden and Helen Findlay, 22 Clifford Park, Menstrie

The comments received by these parties may be summarised as follows:

There is a significant site history and planning history associated with this site. Planning permission was also refused for development of another site within the ground of Broomhall Castle. Reasons for that decision should apply equally to the development proposed in the current site. *Comment: we disagree with this conclusion. Although both sites are well within the grounds of Broomhall Castle, their locations and circumstances are entirely different.*

Both Roads and Land Services recommended refusal of the original application for which renewal of consent is now being sought. It is therefore hard to understand why this application is approved. *Comment: this statement is false. The Roads Service advised that it had no objections in principle to the proposed development. Land Services did recommend refusal as the development would result in the loss of a substantial quantity of mature trees included within a Tree Preservation Order. However, in our judgement there is no need to lose a substantial quantity of trees, and the Tree Preservation Order for Broomhall excludes virtually all of the application site.*

Neighbours are confused with the terminology of the proposal, specifically "renewal of planning permission". *Comment: for the avoidance of doubt, this application is simply seeking to extend the duration of the Planning Permission in Principle. It is not an application for full planning permission. Detailed proposals would be submitted after the planning permission was renewed.*

A number of Development Plan policy issues are identified, where there is conflict with or potential conflict arising from the proposal. These include the significant loss of trees covered by the Broomhall Castle Tree Preservation Order, the visual impact of the development, the impact on the biodiversity of the site, the setting of a precedent for development on the southern slopes of Ochil Hills, the potential road safety implications arising from additional traffic on Long Row, the proximity of the site to a Site of Special Scientific Interest and Area of Great Landscape Value, the impact on the historical value of Broomhall castle and its setting, potential adverse drainage implications arising from the capacity of the site and the existing foul drainage connections, electricity cables within the site, surface water and flood management problems, the privacy of neighbours on the south side of Long Row (Clifford Park), potential conflict between use of Broomhall Castle as an events venue and the amenity of proposed houses and the screening of the development from Broomhall Castle. *Comment: in their entirety, these collective comments on Development Plan policies, were all examined at the time of the previous planning application. The development was judged to comply with the relevant policies and there has been no change to the status or relevance of these policies in the intervening period. Many of these issues can be addressed at the detailed design stage.*

There are a number of practical difficulties on health and safety issues that arise in relation of the provision of access to the site for construction traffic. This relates mainly due to the characteristics of the public road, the adjacent swale, and the ability for vehicles to manoeuvre without adversely affecting the safe use of the road. *Comment: we agree that the characteristics of the public road environment may necessitate specific management measures to safeguard the condition of the road and ensure convenient use for other road*

users. This will be prescribed by a planning condition. It is not a reason for withholding planning permission.

A condition of the planning permission requires the re-building of a stone boundary wall. This will necessitate felling which will destroy almost all the trees on the site. Is this a sensible arrangement? *Comment: this work may need some trees to be felled, however, we anticipate a significant number of trees to be retained as part of the development, trees which are not covered by a Tree Preservation Order.*

There are bat roosts within the site, and as such this must represent a presumption against the development. The bat survey completed following those initial representations is an excellent piece of work but insufficient to determine the application until additional work is undertaken to confirm the presence of bats (the work is too superficial). *Comment: we are minded to accept the advice and recommendations of our Countryside Ranger and Scottish Natural Heritage, in the knowledge that we can, in addition to the existing survey, require further precautions to be put in place as part of implementation works. However, the requirements of the Habitats Regulations will be met. The submission of the bat survey fulfils the guidance provided by the Scottish Government to planning authorities on protected species.*

There is potential conflict between houses being built within felling distance of existing trees. *Comment: the Council does not have a specific policy on this matter. Any detailed proposals to follow must be designed to minimise the impact on trees that are to be retained within the site.*

Combined with other developments in the village, the proposals will place pressure on existing community and infrastructure facilities, and should be halted until these problems are resolved. *Comment: the modest nature of this site and development will have no material implications for existing infrastructure of this nature in the village. However, the alleged under-provision of community facilities and infrastructure is neither accurately attributed to other developments in the village, nor relevant to the current proposal.*

6.0 Planning Considerations

6.1 This application to renew an existing planning permission has to be examined in the context of any changes to the Development Plan position that have materialised since the original decision to grant planning permission. The Development Plan changes can be summarised as follows:

1. Adoption of the First Alteration to the Clackmannanshire Local Plan which comprises an up to date schedule of housing site allocations within Clackmannanshire, with associated development guidelines. This has no specific relevance to the current site under consideration as it is not of a scale that would be allocated in the Development Plan.
2. The publication of a Main Issues report and consequential preliminary policy development for the forthcoming Local Development Plan. However, this does not amend the existing adopted Local Plan position. Accordingly, the Local Plan policy position remains

unchanged, and the presumption therefore is in favour of planning permission being renewed.

- 6.2 The other material consideration is the representations against the development. 2 neighbours submitted representations. 7 neighbours made no representations on the proposal. In our judgement, and despite the comprehensive nature of these written submissions, there are no grounds for withholding the renewal of planning permission. The site is located within the village settlement boundary, it is land attached to the Broomhall Castle hotel, it is not covered by the Broomhall Tree Preservation Order. Issues of access, residential amenity, tree protection and biodiversity can all be addressed at the detailed stage. The principle of the development is therefore acceptable.

7.0 Sustainability Implications

- 7.1 The native conservation interests of the site, and related policy implications have been addressed.

8.0 Resource Implications

8.1 Financial Details

- 8.2 The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes ☒

9.0 Exempt Reports - Reasons for Exemption

- 9.1 This is not an exempt report.

10.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

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

The area has a positive image and attracts people and businesses	<input type="checkbox"/>
Our communities are more cohesive and inclusive	<input type="checkbox"/>
People are better skilled, trained and ready for learning and employment	<input type="checkbox"/>
Our communities are safer	<input type="checkbox"/>
Vulnerable people and families are supported	<input type="checkbox"/>
Substance misuse and its effects are reduced	<input type="checkbox"/>
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	<input checked="" type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input type="checkbox"/>

(2) Council Policies (Please detail)

Clackmannanshire Local Plan

Local Biodiversity Action Plan

11.0 Equalities Impact

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

Yes ☐

No ☒

12.0 Legality

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

13.0 Appendices

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

None

11.0 Background Papers

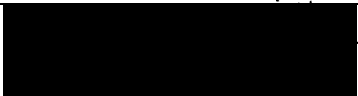
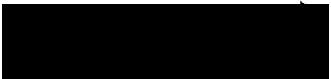
11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

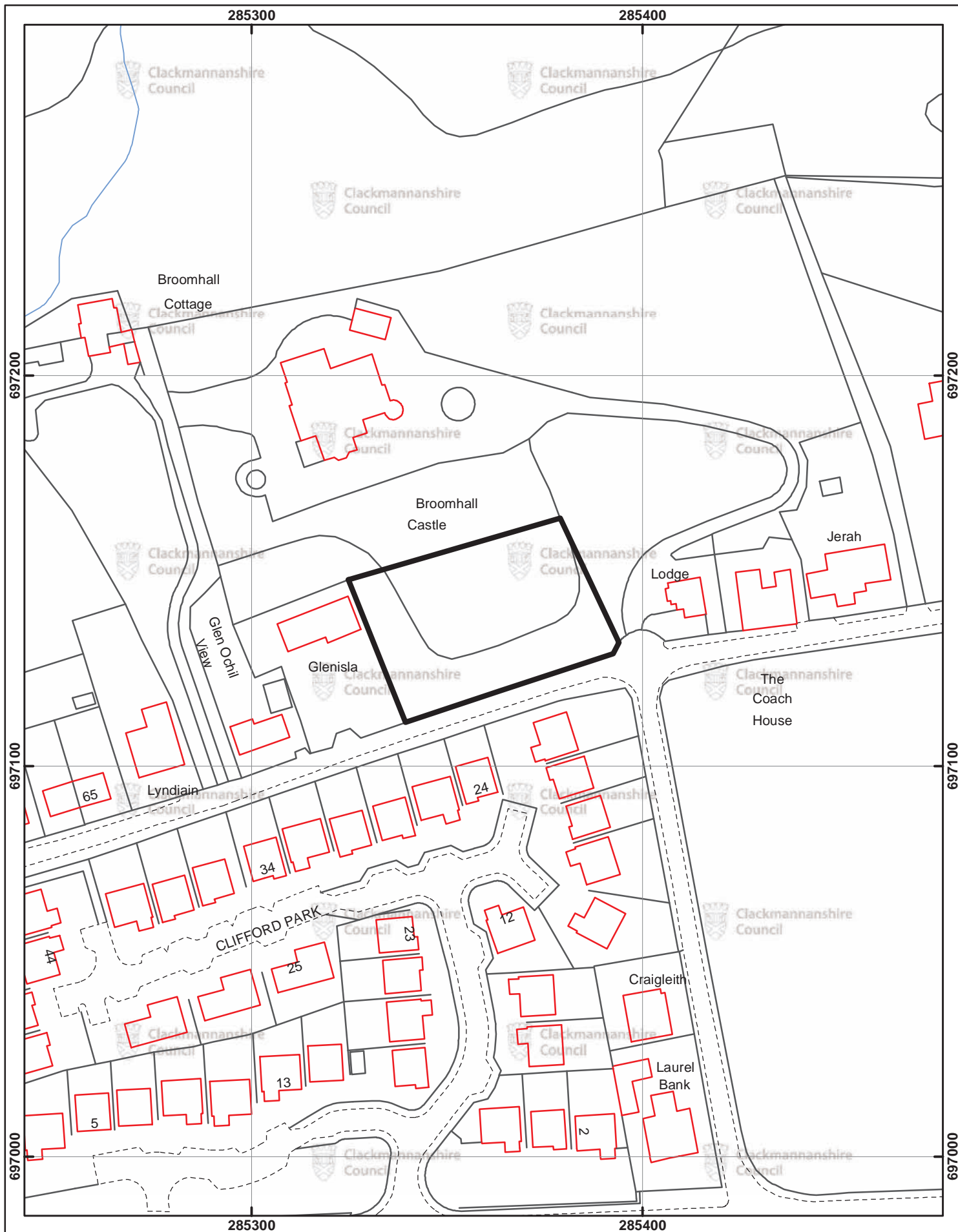
Yes ☐ (please list the documents below) No ☒


Author(s)

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Approved by

NAME	DESIGNATION	SIGNATURE
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Date:
28-Feb-2012

11/00293/PPP - Broomhall Castle, Long Row, Menstrie
Residential Development - Renewal Of Planning
Permission 08/00300/OUT, Land


Ward: Clackmannanshire West

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