

Alterations to Bothy 17 Lower Blantyre St Cullen– Mr John Webb

March 2012

Grounds of Appeal

Planning Application Ref No 10/02125/APP



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1.0 Introduction

- 1.1 These grounds for review of a decision to refuse planning permission for proposed alterations to an existing bothy at 17 Lower Blantyre Street, Cullen are submitted under Section 43A of the Town & Country Planning (Scotland) Act 1997 (as amended). This Notice of Review has been lodged within the prescribed 3 month period from the refusal of planning permission dated 5th January 2012.
- 1.2 The grounds for review respond to the reasons for refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant Material Planning Considerations as required by Section 25 of the Town & Country Planning (Scotland) Act 1997 (as amended).

2.0 Summary

- 2.1 The proposal under appeal involves the transformation of an existing unlisted flat roofed bothy, which is completely out of keeping with the appearance and character of its surroundings in a Conservation Area, to a building which will complement and enhance the appearance and character of its surroundings and the Conservation Area.
- 2.2 A new pitched roof with bow fronted dormers facing Lower Blantyre Street and a slim flat roofed dormer to the rear with a small balcony will be provided. The finishes will be traditional including natural slate on the roof, the retention of existing natural stonework facing Lower Blantyre Street and timber painted dormers facing Lower Blantyre Street. The appellants commitment to the sensitive restoration of buildings in the Conservation Area is demonstrated by the painstaking renovation he has already carried out on the existing dwelling at 17 Lower Blantyre Street. The alterations to the bothy will provide ancillary accommodation for the existing house, including the retention of an existing boat store.
- 2.3 The site is in a Conservation Area and the application was refused primarily because the Case Officer considered the proposed dormer/small balcony on the rear elevation of the property to be out of keeping with, and detrimental to, the appearance and character of the surrounding Conservation Area.
- 2.4 National and Development Plan Policy encourage proposals which preserve or enhance the appearance and character of a Conservation Area and National Guidance also makes it clear that new proposals do not have to entirely replicate existing features.

- 2.5 The proposals under appeal will both maintain and enhance the appearance of the Conservation Area and will transform the existing building to one with an appearance and character in keeping with the surrounding traditional dwellings.
- 2.6 The refusal of the application because of the proposed dormer/small balcony on the rear elevation is completely inconsistent with the approval of a virtually identical dormer for the appellant on the adjacent house at No 19 Lower Blantyre Street. This was enlarged in a subsequent consent for further alterations at 19 Lower Blantyre St. In his Report of Handling on the application under appeal the Case Officer argued that the difference between the two is that the dormer at 19 Lower Blantyre Street will be less open to view than the dormer under appeal because of surrounding buildings. However a site visit will demonstrate that this is not the case.
- 2.7 The proposed dormer will only be open to view from a very short distance on Campbell Place between Campbell Street and Lower Blantyre Street to the south east of the site whereas the dormer approved at 19 Lower Blantyre Street will be open to view from a longer section of the Cullen Path Network to the north west of the site between Lower Blantyre Street and Campbell Street. In addition there is a much larger dormer on nearby No 1 Campbell Street which is not only open to view from the appeal site but is also open to view from the Cullen Path Network to the north west of the site. Other properties in the immediate vicinity also have extensions and alterations which are far less sympathetic to their traditional appearance and character than the proposals under appeal.

2.8 It is considered that the proposals under appeal preserve and enhance the appearance and character of the Conservation Area, they comply with National and Development Plan Policy, they are consistent with virtually identical proposals approved for 19 Lower Blantyre Street and are certainly more in keeping with the appearance and character of the surrounding properties than the existing building on the site and other alterations in the vicinity.

3.0 Background to Handling of Application

3.1 The application (Appendix 1) was dated 15th December 2010 and was refused under the Council's delegation scheme by the Case Officer on 5th January 2012.

3.2 The reasons for refusal state that:

The design, scale and proportions of the proposed flat roofed platform dormer and balcony are contrary to the requirements of Policies BE3 and IMP1 in that the scale, design and proportions will have an adverse effect on appearance and character of the Conservation Area. The development fails to preserve or enhance the established character and appearance of the Conservation Area as required by Policy BE3.

3.3 The Case Officer's Report of Handling for the Planning Application (Appendix 2) was dated 5th January 2012. It confirms that there were no objections from neighbours or the public. It also confirms that there were no objections from the statutory consultees.



Existing flat roofed bothy facing Lower Blantyre St



Proposed front elevation above, rear below



4.0 The Proposal

4.1 The proposal involves upgrading an existing unlisted flat roofed bothy at 17 Lower Blantyre Street, Cullen the appearance of which is completely at odds with the appearance and character of the surrounding traditional dwellings. The intention is to retain the upgraded bothy for general domestic storage, including an existing boat store, the storage of gardening tools and provide ancillary accommodation to the appellant's house on the same site at 17 Lower Blantyre Street, Cullen.

4.2 The plans involve returning the bothy to a building with a traditional domestic appearance in keeping with the scale, design, appearance, character and finish of the surrounding properties. This includes:

- A new slated pitched roof with traditional bow fronted dormers with painted windows facing Lower Blantyre Street
- The retention of the natural stonework, existing windows and boat house store within the existing bothy facing Lower Blantyre Street
- A new slim flat roofed dormer on the rear elevation contained entirely within the roof slope and set well in from the ridge, eaves and gables of the building
- A small balcony set in front of part of the new dormer enclosed by a low glass barrier and supported on 3 thin new columns with a thin painted timber fascia

4.3 The overall effect of the proposals will transform the existing bothy which is somewhat of an eyesore into a building complimentary to the appearance and character of the surrounding dwellings whilst retaining the existing stonework and

window openings/boat store door opening facing Lower Blantyre Street.

5.0 The Site

- 5.1 The site is located towards the north west fringe of the smaller of Cullen's two Conservation Areas. It is within a predominantly residential area. For the most part the surrounding buildings are one and a half storey houses of traditional form, appearance and construction. The existing bothy is very noticeably out of keeping with the appearance and character of its surroundings and it is not a listed building.
- 5.2 A number of the surrounding properties have been altered and extended over the years. This includes the addition of flat roofed extensions to nearby houses and very significantly the approval, in February 2010, of virtually identical proposals for the appellant on the adjacent property at 19 Lower Blantyre Street which included a flat roofed dormer on the rear of the building. A subsequent consent in February 2012 allowed the dormer approved in 2010 to be enlarged by the addition of a sloping roof back to the ridge of the property along with the addition of a sloping roofed rear ground floor extension. Copies of the proposals approved for 19 Lower Blantyre Street in 2010 and 2012 are attached as Appendix 3.
- 5.3 The proposals approved at No 19 involved the alteration and extension of an existing house. Unlike the proposals under appeal there was an objection to the plans approved in 2010, specifically about the proposed dormers, which are virtually identical to the dormers under appeal. The Case Officer's Report of Handling for the application at 19 Lower Blantyre Street approved in 2010 (attached as part of Appendix 3) confirmed that the proposed dormers were acceptable in design and amenity terms and would not prejudice the character and appearance of the Conservation Area. The same Case

Officer handled the application for No 19 approved in 2010 and the proposals refused and now under appeal for No 17. The case officer who approved the proposals at 19 in 2012, which included the enlargement of the rear flat roofed dormer approved in 2010, stated in his report of handling (part of Appendix 3) that the enlarged dormer would be set well in from the gables and wallhead and the proposed glazing would reduce the visual bulk/appearance of the structure. This is all the more true of the proposal under appeal which is more contained within the roof, incorporates a significant amount of glazing and is smaller than the revised rear dormer approved at No 19.

6.0 Development Plan Policy

6.1 The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

6.2 The Development Plan for Moray comprises the Moray Structure Plan approved in April 2007 and the Moray Local Plan adopted in December 2008.

6.3 Material considerations are not defined statutorily. Examples of possible material considerations are set out in an Annex to Scottish Government Circular 4/2009 (Appendix 4) and they include;

- National Scottish Planning Policy, advice and circulars
- The environmental impact of a proposal
- The design of a development and its relationship to its surroundings
- Access, provision of infrastructure and planning history of the site
- Views of statutory consultees
- Legitimate public concern, or support, expressed on relevant planning matters

6.4 The circular describes how planning applications should be determined when balancing the Development Plan and material considerations. It sets out the following approach;

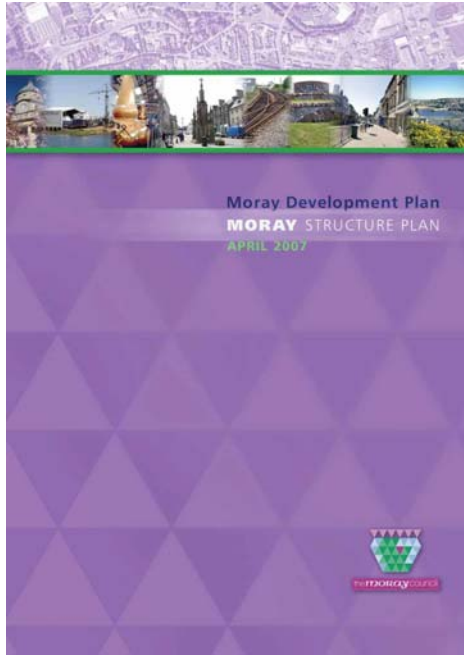
- Identify the provisions of the development plan which are relevant to the decision,
- Interpret them carefully, looking at the aims and objectives of the plan as well

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.

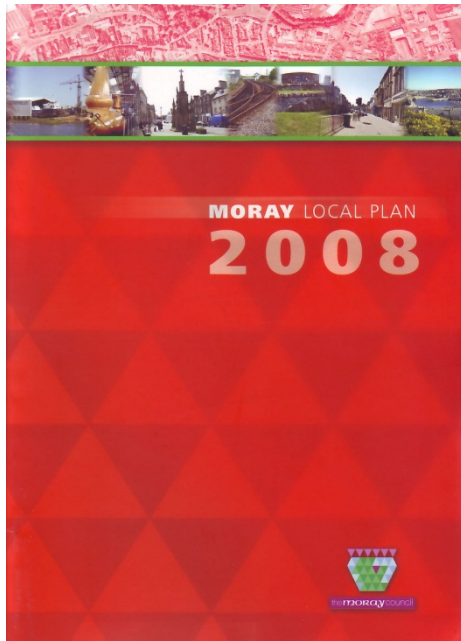
The circular goes on to state that there are two main tests in deciding whether a consideration is material and relevant;

- It should serve or be related to the purpose of planning. It should therefore relate to the development and use of the land, and
- It should fairly and reasonably relate to the particular application.



7.0 **Moray Structure Plan 2007 (Appendix 5)**

7.1 The development strategy in the Structure Plan promotes growth and its strategic aims also promote the enhancement of the environment whilst mitigating any impacts caused by new development (P8). The section in the plan about the built environment states that the conservation and enhancement of Moray's built heritage is important (P27). As a result Policy 2 of the plan (Environment and Resources – P31) promotes the conservation and enhancement of the areas' built heritage resources and their settings (Policy 2f). Policy 2g supports proposals aimed at regenerating the areas' natural and built environment including good design.



8.0 Moray Local Plan 2008 (Appendix 6)

8.1 The Local Plan reflects the Structure Plan and the lead policy for development in Conservation Areas is Policy BE3 – Conservation Areas. It requires development within a Conservation Area to preserve or enhance the established traditional character and appearance of the area and states that applications will be refused if they adversely affect the character or appearance of the Conservation Area in terms of scale, height, materials, colour, detailed design and use. The justification for the policy states that if a building in a Conservation Area has fallen into a state of disrepair then a positive attempt should be made to retain, restore or convert the building before proposals to demolish are seriously investigated.

8.2 Policy IMP1 – Development Requirements – This is a general policy applying to all development and requires new development to be sensitively sited, designed and serviced and to be appropriate to the amenity to the surrounding area. There is a list of criteria in the policy which must be met. These include:

- Scale, density and character being appropriate to the surrounding area
- Development to be integrated into its surroundings
- Conservation of natural and built environment resources must be demonstrated

8.3 For the most part the remainder of the criteria in Policy IMP1 relate to ensuring that there is adequate servicing, infrastructure and the avoidance of impacts related to flooding, contaminated land, etc.



Scottish Planning Policy (SPP)

9.0 National Planning Policy and Guidance

9.1 National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP), Planning Advice Notes (PANs), letters from the Chief Planner and in the Scottish Historic Environment Policy (SHEP) and related guidance.

9.2 Scottish Planning Policy -SPP - (Appendix 7)

9.3 Scottish Planning Policy sets out the Government's overarching policy on land use planning.

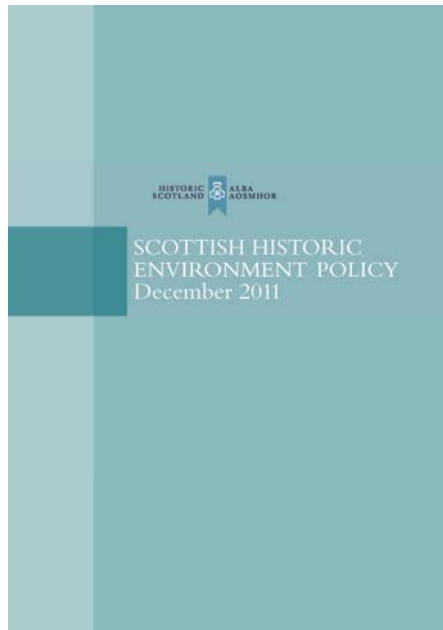
9.4 The section on the historic environment makes it clear (para 111) that in most cases the historic environment can accommodate change which is informed and sensitively managed, and can be adapted to accommodate new uses whilst retaining its special character.

9.5 Planning Advice Note 71 (PAN 71) – Conservation Area Management – (Appendix 8)

9.6 In the section of this PAN regarding managing change it is made clear that physical change in Conservation Areas does not necessarily need to replicate its surroundings. The challenge is to ensure that all new development respects, enhances and has a positive impact on the area (P4).

9.7 Scottish Historic Environment Policy (SHEP) – December 2011 – (Appendix 9)

9.8 SHEP promotes Conservation Areas as being areas of Special Architectural or Historic Interest the character or appearance of which it is desirable to preserve or enhance (para 2.37).



Scottish Historic Environment Policy (SHEP)

9.9 **Managing Change in the Historic Environment**

9.10 As part of explaining how to apply the policies contained in SHEP the Scottish Government has produced a series of guidance notes on managing change in the historic environment. One of these relates to extensions (Appendix 9).

9.11 At the outset the guidance note on extensions states that most historic buildings can be extended sensitively. It makes it clear that extensions must protect the character and appearance of the building, should be subordinate in scale and form, should be located on a secondary elevation and must be designed in a high quality manner using appropriate materials.

9.12 Another of the guidance notes relates to roofs (Appendix 9). It points out that when planning works to a roof it is important to understand its contribution to the building's character and to protect the special interest of the building through the re-use of existing historic materials and close matching of new materials. The section of the guidance regarding dormers and rooflights (para 4.8) states that new dormers should be appropriately designed and located with care but there is nothing to preclude the type of rear dormer proposed in the application under appeal. The section on roof extensions (para 4.12) allows for an additional storey, or storeys, where the existing roof is not of significance to the character of the building.



Existing flat roofed bothy



Existing flat roofed bothy and adjacent houses

10.0 Main Issues

10.1 Policy Compliance

10.2 The main thrust of both National and Local Development Plan Policy in relation to Conservation Areas is to ensure that the appearance and character of a Conservation Area is preserved or enhanced. National Planning Guidance makes it clear that physical change in a Conservation Area does not necessarily mean replicating its surroundings.

10.3 There can be no doubt that the appearance and character of the existing flat roofed bothy on the site is manifestly out of keeping with the appearance and character of the surrounding residential properties which are predominantly of single or one and-a-half storey traditional appearance, a number with alterations and additions.

10.4 The proposals seek to alter the bothy in such a way that it will have the form, proportions, appearance and character of the surrounding traditional residential properties whilst still acknowledging its former role through the retention of existing stonework and the existing boat shed door and window openings onto Lower Blantyre Street. Traditional materials and detailing are being used throughout. The applicant's commitment to the sensitive restoration of buildings in the Conservation Area is clearly demonstrated by the renovation of his existing house on the site at 17 Lower Blantyre Street which has been painstakingly restored using traditional detailing and materials throughout the house itself and as far as ensuring that the paths within the garden make use of traditional stone flagging.

10.5 Not only do the proposals comply with the thrust of policy but they also respect the guidance notes produced by Historic Scotland on Managing Change in the Historic



Existing house at 17 Lower Blantyre St as renovated by applicant

Environment under the Scottish Historic Environment Policy (SHEP). These guidance notes allow for extensions and alterations to properties but make it clear that extensions must protect the character and appearance of the building and should be subordinate in scale and form and should be located on a secondary elevation. New dormers require to be appropriately designed and located with care. The two new dormers facing Lower Blantyre Street are entirely traditional and replicate the form and proportions of other traditional bow-fronted dormers on existing properties nearby facing Lower Blantyre Street.

10.6 The dormer which is referred to in the reasons for refusal has been designed with care and is on a secondary elevation (the rear elevation) as required by Historic Scotland's Guidance Notes on managing change in the historic environment. It is entirely and very well contained within the roof at the rear of the property. It will have a visually light appearance due to the extensive use of glazing with a thin fascia and small infill and haffit panels finished with natural slate to match the roof. The associated small balcony, which only extends along part of the proposed dormer, will also have a visually light appearance being supported on three thin new columns with a thin timber painted fascia and a glazed protective enclosure.

10.7 Compared to the overall extent of the proposals to transform the flat roofed bothy into a building which relates to its surroundings, the dormer/balcony on the rear elevation is a relatively small and ancillary component. Given that the thrust of policy is to preserve *or* enhance the appearance and character of the Conservation Area these proposals don't just achieve one or the other they achieve both. They incorporate the existing bothy, retaining the existing natural stone detailing and window/door opening

onto Lower Blantyre Street, whilst transforming the building so that it has an overtly traditional form, appearance and character consistent with the other properties in Lower Blantyre Street. Rather than falling short of policy these proposals exceed it by preserving and enhancing the appearance and character of the Conservation Area.

10.8 Reasons for Refusal

10.9 The reasons for refusal focus on the proposed rear dormer and balcony saying that they are contrary to policy as their scale, design and proportions will have an adverse effect on the appearance and character of the Conservation Area. They go on to say that the proposal fails to preserve or enhance the established appearance and character of the Conservation Area as required by policy.

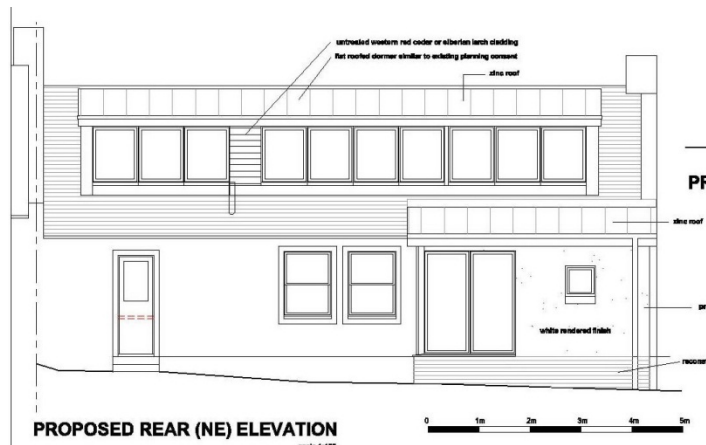
10.10 It has already been argued above that the proposals satisfy both National Planning Policy and Guidance as well as Local Development Plan Policy. Not only is it considered that the proposals comply with policy but it is also very important to consider them in the context of the surroundings of the site within the Conservation Area and the terms of a very recent planning consent for an almost identical dormer on the adjacent house at 19 Lower Blantyre Street. These are important material considerations to be taken into account as part of the appeal process.

10.11 Site Surroundings – Existing and Approved Developments (see map P23 for locations referred to in paras 10.12 to 10.19 below)

10.12 The proposed dormer referred to in the reasons for refusal is not unique in this location. The appellant received Planning Consent in 2010 for alterations to the adjacent house at 19 Lower Blantyre Street, Cullen which included bow fronted



Dormer approved on rear elevation at 19 Lower Blantyre St in 2010



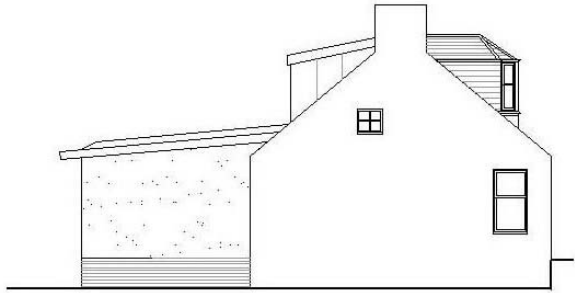
Enlarged dormer approved on rear elevation of 19 Lower Blantyre St in 2012 with sloped roof to ridge of building along with sloping roofed rear extension.

dormers facing Lower Blantyre Street (as proposed in the development under appeal) and a virtually identical dormer on the rear elevation of 19 Lower Blantyre St. Approval was then granted in 2012 for an enlargement of the rear dormer approved in 2010.

10.13 The approved plans and the related Reports of Handling for the proposals approved in 2010 and 2012 are attached as Appendix 3. Even though there was a specific objection to the 2010 proposals for 19 Lower Blantyre Street relating to the proposed dormers the Case Officer's Report of Handling said that they were acceptable in design and amenity terms and would not prejudice the character and appearance of the Conservation Area. The report also identified that the building was not listed which is the case with the building under appeal. The case officer who approved the proposals at 19 in 2012 for an enlargement of the dormer approved in 2010 stated in his report of handling that the enlarged dormer would be set well in from the gables and the wallhead and the proposed glazing would reduce the visual bulk/appearance of the structure. This is all the more true of the proposals under appeal which is more contained within the roof, incorporates a significant amount of glazing and is smaller than the revised dormer approved at No 19 in 2012.

10.14 The Report of Handling for the proposals under appeal (Appendix 2) acknowledges the consent granted at 19 South Blantyre Street. However it suggests that the difference between the two is that the dormer at 19 South Blantyre Street is located on the rear of the dwelling and will not be readily seen from the surrounding public ways as the surrounding properties help to screen the rear of the property from public view.

10.15 When viewed on site this distinction is not apparent. The dormer/balcony under



scale 1:100

Side elevation of enlarged dormer on rear elevation of 19 Lower Blantyre St approved in 2012 showing sloped roof on dormer up to ridge of roof of property and sloping roofed rear extension.



Dormer refused on rear elevation of bothy at 17 Lower Blantyre St. Dormer contained entirely within roof and without sloped roof to ridge as per enlarged dormer approved at 19 Lower Blantyre St in 2012

appeal cannot be seen from either Lower Blantyre Street or Campbell Street. There is a short enclosed section of Campbell Place between Lower Blantyre Street and Campbell Street, to the south east of the site, from which the dormer may be visible for perhaps a distance of 20-25 metres and only then when viewed primarily travelling from Campbell Street towards Lower Blantyre Street. Even then it will be seen in the context of existing flat roofed extensions at 13 Lower Blantyre Street and 3 Campbell Street which are not of a form and proportion complimentary to the character of the existing dwellings and Conservation Area.

10.16 The dormer approved on the rear elevation of 19 Lower Blantyre Street will be open to view from a nearby path which is part of the Cullen Path Network to the north west of the site between the northern end of Lower Blantyre Street and the northern end of Campbell Street. This path is part of a network leading to a variety of locations evidenced by the signpost for the path network at the north end of Lower Blantyre Street. The dormer at the rear of 19 Lower Blantyre Street will be clearly visible along approximately 70 metres of this path from what is a more exposed location than the short enclosed section of Campbell Place over which the dormer under appeal will be seen for approximately 20-25 metres.

10.17 In addition to the recently approved dormer at 19 Lower Blantyre Street there is also a very substantial sloped roof dormer on the rear of 1 Campbell Street which is not only visible from the appeal site but is also visible from along the section of the Cullen Path Network linking Lower Blantyre Street and Campbell Street. Unlike the dormer under appeal this dormer fills almost the entire roof from ridge to eaves and between the gables. Major additions to the rear of the property at No 2 Campbell Street (including a



Existing dormer at rear of 1 Campbell St



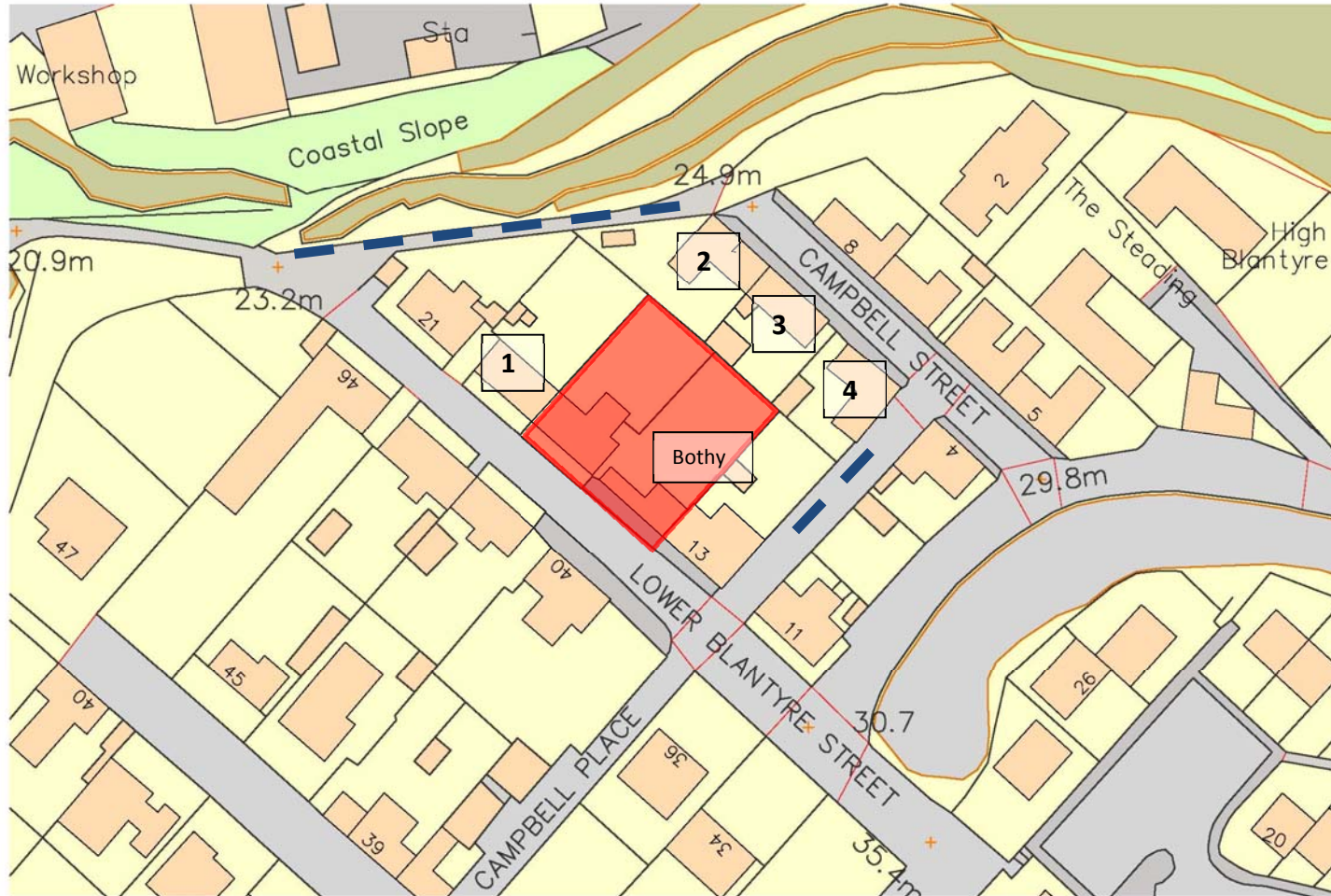
Extensions rear of 2 Campbell St

flat roofed dormer) are also visible from the appeal site although less so from the Cullen Path Network and the link between Campbell Street and Lower Blantyre Street. It is fair to say that the dormer at the rear of 1 Campbell Street is a very dominant feature on the rear of the property and the additions to the rear of 2 Campbell St are also dominant on the property.

10.18 Both individually and collectively it is difficult to see how the dormer approved at the rear of 19 Lower Blantyre Street and the dormer at the rear of 1 Campbell Street can be argued to have less impact on the appearance and character of the Conservation Area than the dormer/balcony under appeal. Both of these dormers were additions to existing traditional dwellings whereas the rear dormer under appeal is an ancillary component of proposals to transform the existing flat roofed bothy from a building which is out of keeping with the appearance and character of the Conservation Area into a building which both maintains and enhances the appearance and character of the Conservation Area.

10.19 When viewed on site in the context of the comments made above the justification in the Case Officers Report of Handling for accepting the dormer at the rear of 19 Lower Blantyre St whilst rejecting the virtually identical dormer under appeal at 17 Lower Blantyre St do not stand up to scrutiny.

Map showing appeal site and surroundings



Key

— Section of Cullen Path Network to NW of site from which approved dormer at 19 Lower Blantyre St and existing dormer at 1 Campbell St are visible and section of Campbell Place to SE of site from which refused dormer will be visible

- 1 - 19 Lower Blantyre St
- 2 - 1 Campbell St
- 3 - 2 Campbell St
- 4 - 3 Campbell St

11.0 Conclusions

- 11.1 The Planning Act requires planning applications to be determined on the basis of Development Plan policies unless there are material considerations to justify doing otherwise.
- 11.2 Development Plan Policy and National Planning Policy promote development that preserves or enhances the appearance and character of Conservation Areas. The proposals under appeal exceed these requirements as they both preserve and enhance the appearance and character of the Conservation Area. An unlisted building manifestly out of keeping with the appearance and character of its surroundings will be transformed to improve both the appearance and character of the building itself and its surroundings.
- 11.3 The application was refused primarily because of the proposed dormer and related small balcony on the rear elevation. The dormer refused is virtually identical to a dormer approved in 2010 for the appellant on the adjacent property at 19 Lower Blantyre St. Planning consent was then granted in 2012 to enlarge the dormer approved in 2010. This is a material planning consideration. The impact of the dormer under appeal and the dormer approved will be little different. If anything the approved dormer will be more open to view than the one under appeal and the approved dormer at No 19 will be larger based on the revised plans for it approved in 2012. Other properties in the area have been altered and extended including a very large dormer on the rear of 1 Campbell St which is much more open to view than the dormer under appeal. Once again this is a material consideration in terms of assessing the design of the proposal and its relationship to the surroundings.

11.4 It is requested that as the proposal complies with Development Plan policies are there are no material considerations to the contrary planning consent should be granted.

Existing flat roofed bothy beside appellants renovated house at 17 Lower Blantyre St.

Photograph 1



House at 17 Lower Blantyre St
renovated by appellant.

Photograph 2



Large dormer filling almost all of roof at rear of 1 Campbell St directly to rear of appellants renovated house at 17 Lower Blantyre St (appeal site)

Photograph 3



Large sloping roofed extension and flat roofed dormer at rear of 2 Campbell St directly to rear of bothy on site of appellants renovated house at 17 Lower Blantyre St.

Photograph 4



Rear of roof at 19 Lower Blantyre St (central house) approved for dormer similar to one refused at 17 Lower Blantyre St.

Photograph 5



Flat roofed extension at rear of 13
Lower Blantyre St at junction of
Blantyre St and Campbell Place
adjacent to bothy.

Photograph 6



Flat roofed extension at rear of 3 Campbell St at junction of Campbell St and Campbell Place adjacent to North East corner of site.

Photograph 6

