



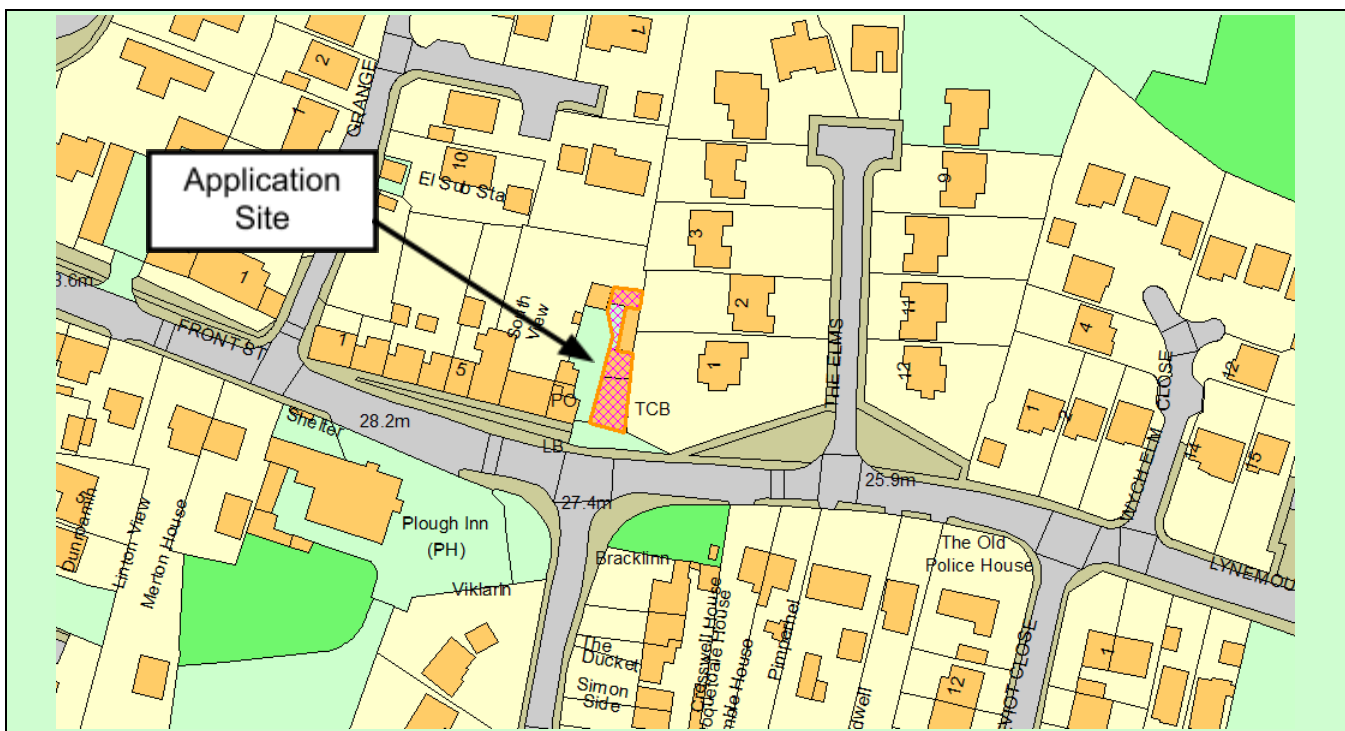
# Northumberland

## County Council

### CASTLE MORPETH PLANNING COMMITTEE

### 8TH OCTOBER 2018

<b>Application No:</b>	18/02273/FUL		
<b>Proposal:</b>	Install a roller shutter housing to kitchen door and install top-hung inward opening windows to the east elevation of first floor flat		
<b>Site Address</b>	Bank Top Stores And Residential Flat, Front Street, Ellington, Morpeth Northumberland NE61 5JA		
<b>Applicant:</b>	Mr Dalvir Singh Bank Top Store, Ellington, Northumberland, NE61 5JA	<b>Agent:</b>	Mr Gerald Dodd 25 Wansford Way, Whickham, Gateshead, County Durham NE16 5SS
<b>Ward</b>	Lynemouth	<b>Parish</b>	Ellington And Linton
<b>Valid Date:</b>	9 July 2018	<b>Expiry Date:</b>	3 September 2018
<b>Case Officer Details:</b>	Name: Mr Connor Willis Job Title: Planning Technician Tel No: 01670 622637 Email: Connor.Willis@northumberland.gov.uk		



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## 1. Introduction

- 1.1 The application is being determined by the Castle Morpeth Local Area Council at the request of Councillor Dunn due to concerns over the loss of privacy for the occupiers of neighbouring dwellings.

## 2. Description of the Proposals

- 2.1 Planning permission is sought retrospectively for the installation of a roller shutter and housing to the external face of the ground floor kitchen door on the West (side) elevation of Bank Top Stores, Front Street, Ellington and for the installation of top-hung inward opening obscure glazed windows to the first floor East (side) elevation of the residential flat above.
- 2.2 The application site consists of a convenience store with associated storage and kitchen areas on the ground floor and an unoccupied dwelling on the first floor toward the Northern (rear) end of the building. The existing grant of planning permission for the site with reference 10/S/00566/FUL includes a condition stipulating that the windows on the East elevation to serve the first floor residential flat shall remain obscure glazed and non-opening in the interests of the privacy of the neighbouring occupiers to the East.
- 2.3 The application at hand therefore seeks to regularise the installation of inward opening windows to the first floor East elevation and the roller shutter and housing to the ground floor West elevation, which have been carried out without the necessary planning consent.
- 2.4 The host building faces toward the Front Street highway which runs through the centre of the village, and is directly opposite the intersection with Ashington Road. The site is bounded by the highway to the South, a shared private access to the West, and the adjacent neighbouring dwelling at 1 The Elms to the East.

## 3. Planning History

**Reference Number:** 10/S/00566/FUL

**Description:** Conversion of storage area at rear of shop to a small cafe/tea rooms. 1st Floor conversion (part of roof space) over the storage area to a self-contained flat as amended by plans received 4 October 2010 and further amended by letter and plan received 27/10/10

**Status:** Permitted.

**Reference Number:** 11/03144/NONMAT

**Description:** Non-material amendment for application 10/S/00566/FUL

**Status:** Permitted.

**Reference Number:** 13/03774/VARYCO

**Description:** Variation of condition no.6 of planning permission 10/S/00566/FUL (revised window detail at upper level in east-facing elevation) for the conversion of

storage area at rear of shop to a small cafe/tea rooms and first floor conversion (part of roof space) over the storage area to a self-contained flat as amended ....

**Status:** Application Returned.

**Reference Number:** 15/03350/FUL

**Description:** Proposal to move door of shop front and replace with window

**Status:** Permitted.

**Reference Number:** 15/00150/LIC

**Description:** Application to vary a premises licence

**Status:** No Objection.

**Reference Number:** 15/00151/LIC

**Description:** Licence application

**Status:** Application Returned.

**Reference Number:** 16/02048/FUL

**Description:** Installation of Bank of Ireland ATM with reflective advertising collar surround

**Status:** Permitted.

**Reference Number:** 16/02049/ADE

**Description:** Advertisement consent for an advertising collar to surround the ATM

**Status:** Permitted.

**Reference Number:** 17/01436/FUL

**Description:** Retrospective application for disabled persons access ramp

**Status:** Application Returned.

**Reference Number:** 17/03016/RENE

**Description:** Retrospective: Installation of solar panels to main South-facing elevation of slate roof and to felt roof of dormer style existing extension.

**Status:** Permitted.

**Reference Number:** 17/03203/FUL

**Description:** Retrospective: Installation of disabled access ramp

**Status:** Withdrawn.

**Reference Number:** 18/01114/FUL

**Description:** Retrospective - Installation of an ATM through a white composite security panel to the right hand side of the shop front

**Status:** Permitted.

**Reference Number:** 18/01115/ADE

**Description:** Retrospective - Advertisement consent for integral illumination and screen to the ATM fascia, internally illuminated Free Cash Withdrawals sign above the ATM and blue LED halo illumination to the ATM surround

**Status:** Permitted.

**Reference Number:** CM/03/D/426

**Description:** Illuminated fascia sign

**Status:** Permitted.

**Reference Number:** CM/03/D/425

**Description:** Replacement shop front

**Status:** Permitted.

**Reference Number:** 10/S/00566/FUL

**Description:** Conversion of storage area at rear of shop to a small cafe/tea rooms. 1st Floor conversion (part of roof space) over the storage area to a self-contained flat as amended by plans received 4 October 2010 and further amended by letter and plan received 27/10/10

**Status:** Permitted.

#### 4. Consultee Responses

Ellington And Linton Parish Council	No response received.
Highways	No issues arise from the proposal.

#### 5. Public Responses

##### Neighbour Notification

Number of Neighbours Notified	4
Number of Objections	3
Number of Support	0
Number of General Comments	0

##### Notices

No Site Notice Required.

No Press Notice Required.

##### Summary of Responses:

3 no. objections were received stating that the opening windows on the first floor East elevation would cause a loss of privacy for neighbouring dwellings to the East, with increased overlooking of private garden areas and habitable room windows.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PAX9IXQS0K400>

## **6. Planning Policy**

### 6.1 Development Plan Policy

Castle Morpeth District Local Plan (2003):  
C1 – Settlement Boundaries;  
H14 – Improvements to Existing Housing.

### 6.2 National Planning Policy

National Planning Policy Framework (2018) (NPPF);  
National Planning Practice Guidance (2014, as updated) (NPPG).

## **7. Appraisal**

7.1 In determining this application, the main planning issues are considered to be:

- Principle of development;
- Design;
- Highways;
- Residential amenity.

### Principle of the development

7.2 In accordance with Paragraph 12 of the NPPF, the Development Plan remains the starting point for decision making in the determination of planning applications. The adopted development plan for the area within which the application site lies comprises the saved policies of the Castle Morpeth District Local Plan (2003) (CMDLP).

7.3 The CMDLP uses boundaries, as defined on the Proposals Maps, to identify the limits to settlements. Policy C1 of the CMDLP states that development in the open countryside beyond settlement boundaries will not be permitted unless the proposal can be justified as essential to the needs of agriculture or forestry or are permitted by other relevant development plan policy.

7.4 The application site lies within the settlement boundary for Ellington, as defined in the CMDLP Proposals Maps. Since the application proposes minor alterations to an existing building within the defined settlement boundary, the principle of the development can be considered acceptable in accordance with Policy C1 of the CMDLP and the provisions of the NPPF.

### Design

7.5 In accordance with the NPPF, design is a significant consideration in the determination of development proposals. The proposed roller shutter and housing is of typical design for such a structure and is not prominent within the

public realm, only becoming easily visible when viewed from the private shared access way to the West side of the building. It is not considered that the proposed alterations to the windows on the East elevation would have any material visual impact. As such, Officers consider the proposals acceptable in design terms in accordance with the provisions of the NPPF.

### Highways

- 7.6 Highways Development Management (HDM) were consulted with regard to this application and have confirmed that no issues arise from the proposal since the kitchen door and associated roller shutter do not overhang any public highway and as such the proposal would not adversely impact the safety of the highway network. Accordingly, following consultation with HDM, Officers consider the proposals acceptable in highways terms in accordance with the provisions of the NPPF.

### Residential amenity

- 7.7 The principal consideration in the assessment of the proposal therefore rests on the impacts of the development on matters of residential amenity. As outlined previously in this report, 3 no. objections have been received stating that the obscure glazed top-hung inward opening windows on the East elevation proposed under this application to serve the first floor residential flat would lead to a loss of privacy for the neighbouring dwellings to the East at Nos. 1 and 2 The Elms respectively, and the application is to be determined by the Local Area Committee after having been called in by Councillor Dunn.
- 7.8 The proposal for these obscure glazed windows to be inward-opening, rather than obscure glazed and non-opening in accordance with Condition 6 of a previous grant of permission for the site, constitutes an alteration to a residential dwelling and as such should be considered with regard to CMDLP Policy H14. The relevant provision within Policy H14 is that which states how proposals to alter or improve dwellings will be permitted if there is no adverse impact on the amenity of nearby residents.
- 7.9 The East elevation of Bank Top Stores and the residential flat above forms the boundary between the application site and the rear garden area of the dwelling at 1 The Elms. As with the previous grant of permission for the site, Officers consider that the use of obscure glazing would allow light into the host property while reducing the degree of overlooking onto neighbouring dwellings to the East, thereby ensuring no significant loss of privacy.
- 7.10 Although not necessarily material to the determination of the proposal, the objections received questioned the necessity of installing opening windows in place of the approved non-opening windows. For clarification, it is understood that the applicant wishes to install opening windows on the East elevation for potential escape purposes in case of emergency. The specified use of inward opening windows would ensure that the window opening would not overhang land which does not belong to the applicant.
- 7.11 In terms of overlooking and privacy, Officers do not consider that the proposed inward opening windows would adversely impact the residential amenity of

neighbouring dwellings to the East to a materially significant degree. When closed, the windows would cause no loss of privacy given that they would be obscure glazed, and the fact that they would be inward opening would help to reduce the extent to which future occupants of the first floor flat would be able to overlook the garden area and windows of the dwellings to the East despite the relatively close proximity. As such, Officers consider the proposal acceptable with regard to amenity in accordance with CMDLP Policy H14 and the provisions of the NPPF.

## **8. Other matters**

### Equality Duty

- 8.1 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

### Crime and Disorder Act Implications

- 8.2 These proposals have no implications in relation to crime and disorder.

### Human Rights Act Implications

- 8.3 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 8.4 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 8.5 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an

independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **9. Conclusion**

- 9.1 The main planning considerations in determining this application have been set out and considered above in accordance with relevant Development Plan Policy. The application has also been considered against the relevant sections within the National Planning Policy Framework (NPPF) and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.
- 9.2 The concerns of neighbouring residents as highlighted by the objections received have been taken into consideration, however, Officers do not consider that the development would cause a materially significant impact on residential amenity and as such the application is recommended for approval.

## **10. Recommendation**

- 10.1 That this application be GRANTED permission subject to the following:

### Conditions

01. The development hereby permitted shall be retained in complete accordance with the approved plans:
1. Location Plan (received 10th July 2018);
  2. Drawing No. 2010/25/9(B) 25.6.18 - Proposed Plans and Elevations (received 10th July 2018).

Reason: For the avoidance of doubt, and in the interests of proper planning.

02. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), the proposed obscure glazed inward opening windows shown on the first floor East elevation shall be retained as obscure glazed and inward opening in perpetuity.

Reason: To safeguard the privacy and amenity of the occupiers of adjacent properties, in accordance with Policy H14 of the Castle Morpeth District Local Plan and the provisions of the NPPF.

**Date of Report:** 26th September 2018

**Background Papers:** Planning application file(s) 18/02273/FUL