

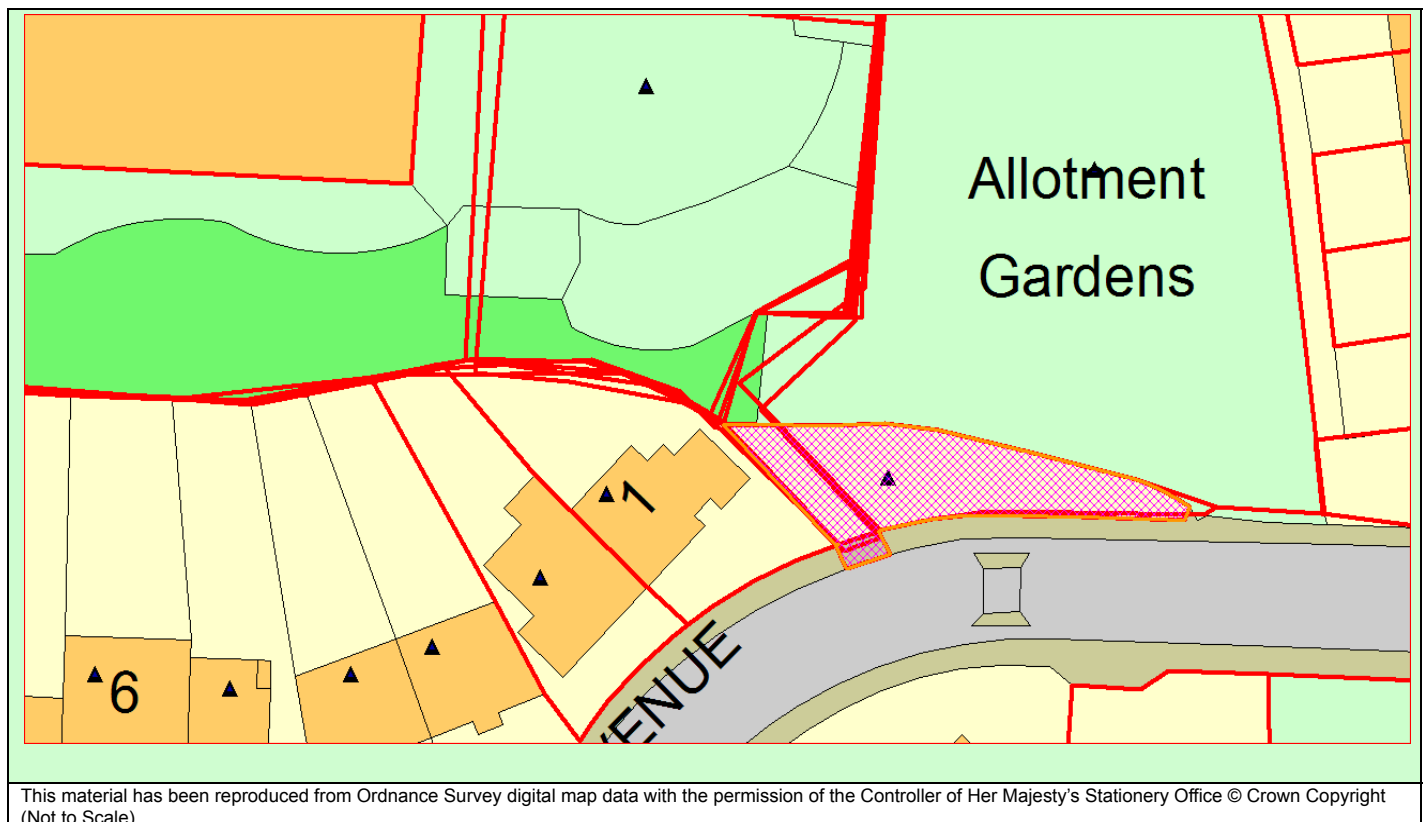


# Northumberland County Council

## Tynedale Local Area Council Planning Committee 14 January 2020

<b>Application No:</b>	19/04203/FUL		
<b>Proposal:</b>	2 bedroom cottage		
<b>Site Address</b>	Land East Of 1 Bywell Avenue, Bywell Avenue, Hexham, Northumberland		
<b>Applicant:</b>	Mr M Ninnim 1 Church Road, Backworth, North tyneside, ,	<b>Agent:</b>	Mr Kish 7 Axwell Park School Houses, Blaydon, Blaydon-on-tyne, NE216RN United Kingdom
<b>Ward</b>	Hexham East	<b>Parish</b>	Hexham
<b>Valid Date:</b>	21 October 2019	<b>Expiry Date:</b>	17 January 2020
<b>Case Officer Details:</b>	Name: Ms Marie Haworth Job Title: Planning Officer Tel No: 01670 623787 Email: Marie.Haworth@northumberland.gov.uk		

**Recommendation:** That this application be GRANTED permission



### 1. Introduction

1.1 Under the Council's current scheme of delegation, this application falls to be determined by the Tynedale Local Area Planning Committee it has been called in by a Local Member.

## **2. Description of the Proposals**

2.1 Full planning permission is sought for the construction of a dwelling on green field land located to the East of 1 Bywell Avenue, Bywell Avenue, Hexham. The application site is located within the built up area of Hexham, to the east of the town centre.

2.2 The application site is a narrow plot of land situated within a residential area. The site is bounded to the north by a high hedge and allotment gardens with dwelling houses to the east, south and west. The application proposes the construction of a 1.5 storey two bedroom dwelling house; the dwelling house would be irregular in shape having a maximum width of 10.6 metres and a maximum depth of 7 metres and would provide upside down living accommodation with the access and bedrooms located to the ground floor and the main living open plan accommodation located on the first floor; it would have an eaves and ridge height of 2.4 metres and 5.5 metres respectively. The dwelling would have an approximate internal floor space of 70 metre square; it would be set back 1 metre from the footway and would be accessed from the highway via a 3.3m wide driveway with parking provision for 2 vehicles. Its external walls would be of brick construction to match the surrounding housing. The roof would be dual pitched Welsh blue slate covered with UPVC gutters and fascias. The rear flat roof dormer facilitating the living spaces will have a single ply membrane roof covering and be timber clad.

2.3 The application has been the subject of a pre-application enquiry under planning reference number 18/00945/PREAPP. The application is a revision of a previously submitted application 19/00809/FUL which was withdrawn following the advice of the planning officer. The current application has sought to address the concerns raised by the planning officer in relation to the design, layout and scale of the property.

2.4 The following information has been submitted in support of the application:

Design and Access Statement

## **3. Planning History**

**Reference Number:** 16/01160/FUL

**Description:** Proposed construction of ground floor kitchen extension

**Status:** PERMITTED

**Reference Number:** 19/00809/FUL

**Description:** New 3 bedroom dwelling

**Status:** WITHDRAWN

## **4. Consultee Responses**

Hexham Town Council	Objection on the grounds of parking, means of access, highway safety and traffic; layout and density of buildings; design, appearance and materials; and nature conservation.
Highways	<p>No objection subject to recommended planning conditions and informatives.</p> <p>A highways condition survey of the adopted highway at Bywell Avenue is required prior to the commencement of any construction works to address any potential damage caused during the construction stages.</p> <p>S184 Agreement - Required for driveway access to dwelling to accord with NCC Type A (Low Vehicle Use) access.</p>
Strategic Estates	No response received.

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	8
Number of Objections	7
Number of Support	0
Number of General Comments	0

### Notices

General site notice, 14th November 2019

No Press Notice Required.

### Summary of Responses:

There have been 14 neighbour representations received from 7 Residential dwellings in relation to the proposed development. A summary of those concerns are detailed below;

- Design – Unorthodox design and orientation, scale and massing, out of character with the area, over development of the site
- Highways safety
- Biodiversity – loss of hedgerow
- Impact on Protected Species, loss of habitat
- Drainage

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=PZGJMZQSKBK00>

## **6. Planning Policy**

### 6.1 Development Plan Policy

Tynedale LDF Core Strategy (2007)

GD1 Locational policy setting out settlement hierarchy  
BE1 Principles for the built environment  
NE1 Principles for the natural environment  
H1 Principles for housing  
H3 Location of new housing and the definition of sustainable settlement  
H4 Maximising housing development on Previously Developed Land  
H5 housing density for new dwellings

Tynedale Local Plan (2000, Policies Saved 2007)

GD2 Design Criteria for development, including extensions and alterations  
GD4 Range of transport provision for all development  
GD7 Car parking standards within the built up areas  
H32 Residential design criteria  
NE27 Protection of protected species  
NE37 Landscaping in developments

### 6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2019)  
National Planning Practice Guidance (NPPG) (2014, as updated)

### 6.3 Emerging Policy

Northumberland Local Plan - Publication Draft Plan (Regulation 19) and proposed minor modifications, submitted on 29 May 2019

STP 1 Spatial strategy  
STP 2 Presumption in favour of sustainable development  
STP 3 Principles of sustainable development  
HOU 2 Provision of new residential development  
HOU 9 Residential development management  
QOP 1 Design principles  
QOP 2 Good Design and amenity  
QOP 4 Landscaping and trees  
QOP 5 Sustainable design and construction  
QOP 6 Delivering well-designed places  
ENV 2 Biodiversity and geodiversity  
ENV 3 Landscape  
TRA 4 Parking provision in new development  
WAT 3 Flooding

Policy HNP1 – Sustainable Development in the Neighbourhood Area

Policy HNP2 – High-Quality Sustainable Design in the Neighbourhood Area

Policy HNP7 - Designated Heritage Assets

Policy HNP9 – New Housing Development

## **7. Appraisal**

7.1 In assessing the acceptability of any proposal regard must be given to policies contained within the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration and states that the starting point for determining applications remains with the development plan, which in this case contains policies from the Tynedale Local Plan and Tynedale Core Strategy as identified above.

7.2 Paragraph 48 of the NPPF states that from the day of its publication, weight can be given to policies contained in emerging plans dependent upon the stage of preparation of the plan, level of unresolved objections to policies within the plan and its degree of consistency with the NPPF. The emerging Northumberland Local Plan is in its submission stage and the Authority are therefore affording appropriate weight to policies contained within the emerging plan which form a material consideration in determining planning applications alongside Development Plan Policies.

7.3 The main issues for consideration in the determination of this application are the following;

- Principal of development
- Design and impact
- Impact on residential amenity
- Ecological impact
- Highways Safety
- Water management

### **Principal of development**

7.4 The site lies within the built up area of Hexham which is identified as a main town in the Tynedale Core Strategy under Policies GD1, H1 and H3. There is sufficient access to public transport links, pedestrian routes to and from services within the town centre, and a range of local amenities and services within range sufficient enough to fulfil daily needs. These housing policies align with the NPPF and so may be accorded due weight in the assessment of the application. In contributing towards boosting housing supply, albeit on a limited scale, then the principle of development would also accord with the NPPF.

7.5 The site comprises greenfield land and so the proposal would not accord with Tynedale Core Strategy Policy GD2, which sets out a sequential approach for the location of new development, advising that priority should be given to the development of previously developed sites within built up areas, followed by other

sites within the built up area and then other suitable sites adjoining built up areas. However, the NPPF has no such sequential approach to development, only seeking to encourage the effective use of land by re-using land that has not been previously developed. This means that Tynedale Core Strategy Policy GD2 does not accord with the NPPF and so cannot be given full weight in the assessment of this application.

7.6 The application site is within a sustainable location with access to a range of services and as such the principle of development would accord with Tynedale Core Strategy Policies GD1, H1 and H3, Policies STP2 and STP3 of the emerging Northumberland Local Plan and the NPPF.

### **Design and impact on the Street Scene**

7.7 Tynedale Core Strategy Policy BE1 sets out principles for the built environment and seeks to conserve and enhance the quality and integrity of Tynedale's built environment and to ensure that development is of a high quality design that will maintain and enhance the distinctive character of the District's towns, villages and countryside.

7.8 Tynedale Local Plan Policy GD2 sets out the design criteria for the built environment and advocates that design should be appropriate to the character of the site and its surroundings, existing buildings and their setting, in terms of the scale, proportions, massing, positioning and appearance of buildings, use of materials, structures and landscaped and hard surfaced areas. The emerging Northumberland Local Plan Policy QOP1 is closely aligned with the above policies and NPPF.

7.9 Paragraph 124 of the NPPF states that "*the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*", whilst paragraph 130 states that "*where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.*"

7.10 The proposed development has been the subject of a pre-planning application and there has been a previously withdrawn application. Amendments have been made in line with officer comments in relation to the design, scale, massing, positioning and appearance. The site presents a narrow and constrained development plot situated within a residential area, overlooking allotment land to the north with dwellings to the east, south and west. There is a mixed materials palette and differing architectural designs in close proximity to the site with the properties along Bywell Avenue being predominantly two storey, semi-detached properties constructed of red brick, red roof tiles with render detailing. To the east of the site lies a small group of attractive period terraces constructed of stone and slate.

7.11 The application site at present provides a natural break between the differing periods of architecture and development. The proposed dwelling house would represent an unusual design and seeks to make the best use of the limited size of the plot, providing a two bedroom starter home; the proposed materials palette in considered in keeping with those of surrounding properties. It is acknowledged that there is a variation in architectural types with the residential property of Monks Gate

which is located to the south east of the site being a single storey dwelling house; whilst it is considered that the design is not in keeping with the majority of properties within the locality it is officer opinion that the design is not a sufficient reason for refusal.

### **Impact on residential amenity**

7.12 The NPPF sets out as one of the core planning principles, that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This principle aligns with the provisions of Tynedale Local Plan Policies GD2 and H32 and the emerging Northumberland Local Plan Policy QOP2 so these policies may be accorded due weight in the assessment of this application.

7.13 Tynedale Local Plan Policy H32 sets out residential design criteria for new housing development. Part (e) of the Policy states that private and usable open space would normally be provided to each dwelling in accordance with the following minimum guidelines:

- i) Houses: a rear garden depth of 10 metres
- ii) Flats: 25m<sup>2</sup> per unit of accommodation
- iii) Houses for the elderly and sheltered accommodation: 25m<sup>2</sup> per unit of accommodation.

Part (f) of Policy H32 seeks adequate privacy, outlook and daylight to be maintained by the appropriate spacing of dwellings. This part of the policy sets the following minimum guidelines unless specific measures to avoid overlooking and give a reasonable outlook are incorporated into the design:

- i) A 25m distance between the rears of new two storey dwellings and existing dwellings
- ii) A 21m distance between the rears of new two storey dwellings
- iii) A 15m distance between rear elevations and opposing gables and walls.

7.14 Tynedale Local Plan Policy GD2 (f) requires that there will be no adverse effect on adjacent land or buildings, in terms of loss of light, noise or other disturbance, overbearing appearance or loss of privacy.

7.15 The site presents a narrow and constrained development plot situated within a residential area, the front elevation of the proposed dwelling house would be situated to the west of the site and due to its orientation the requirements of Tynedale Local Plan Policy H32 (e) cannot be met. It is proposed that the residential amenity space would be provided to the east of the proposed dwelling house by way of a side garden which would be considered adequate garden space would be provided. It is considered that the interface distances between the neighbouring and adjacent properties is acceptable; the proposed development is unlikely to have any significantly adverse impact upon the amenity of local residents and there would be no physical loss of sunlight or daylight. It is therefore considered that the layout would be accordance with the general provisions of the NPPF, Tynedale Core Strategy Policy BE1, Tynedale Local Plan Policies GD2 and H32 and the emerging Northumberland Local Plan Policy QOP2.

## **Ecological impact**

7.16 Under Section 25 (1) of the Wildlife & Countryside Act (1981) local authorities have a duty to take such steps as they consider expedient to bring to the attention of the public the provisions of Part I of the Wildlife & Countryside Act, which includes measures to conserve protected species. The Natural Environment and Rural Communities Act (2006), places a Statutory Biodiversity Duty on public authorities to take such measures as they consider expedient for the purposes of conserving biodiversity, including restoring or enhancing a population or habitat.

7.17 The National Planning Policy Framework (NPPF) requires that the planning system minimises impacts on biodiversity and provides net gains where possible.

7.18 Tynedale Core Strategy Policy NE1 sets out the principles for the natural environment and seeks to protect and enhance the character and quality of the landscape and to manage the relationship between development and the natural environment. Tynedale Local Plan Policies NE27 and NE27 seek to protect protected species and their wildlife habitats. Whilst Tynedale local Plan Policy NE33 seeks to protect and conserve the landscape and Policy NE37 seeks to ensure that landscaping is prominent in all new development. Policies ENV 2 and ENV3 of the emerging Northumberland Local Plan seek to protect Northumberland's biodiversity and geodiversity and landscape character.

7.19 The application site is considered green field and located within an urban area close to the centre of Hexham; the site has been mainly laid to lawn, there is hedging to the rear which separates the site from community allotments; there is a small risk of foraging animals on site; it is proposed that the existing hedgerow would be retained; taking the above into deliberation it is considered that subject to the imposition of planning conditions the development would accord with Tynedale Core Strategy Policy NE1 and with Tynedale Local Plan Policies NE26, NE27, NE33 and NE37.

## **Highways Safety**

7.20 Tynedale Local Plan Policy GD4 sets out the criteria for highways and pedestrian safety which includes the provision of adequate links, access to and provision for public transport systems, safe access to the site and consideration of safe routes for pedestrians and cyclists. Tynedale Local Plan Policy GD7 sets out the criteria for parking provision inside of the built up areas of Hexham, Haltwhistle, Prudhoe and Corbridge and requires that car parking provision would be required to be made in accordance with Northumberland County Council car parking standards for development.

7.21 The application site located on an area of land to the northern side of the U8294 Bywell Avenue, Hexham. A new vehicular access over the existing footway is proposed to the site and parking provision for 2 vehicles. The site located approximately 1 kilometre from Hexham Town Centre and has good transport links and access to services. Bywell Avenue is an adopted road subject to a 20mph speed limit and street lit footways on both sides of the carriageway. There are no parking restrictions in place although this road is designated as a route to school and as such is traffic calmed along its length. The County Highways Development Management Team has been consulted and has raised no objection subject to the



imposition of planning conditions and informatives. The proposal is therefore considered in accordance with Tynedale Local Plan Policies GD4 and GD7, the emerging Northumberland Local Plan Policy TRA 4 and the NPPF.

## **Water management**

7.22 Tynedale Core Strategy GD5 sets out the principles for flood risk management and seeks to ensure that as a result of development the risk of flooding to the locality is not increased. The application site is within an area identified by the Environment Agency as Flood Zone Risk 1 which is identified as land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding. The information submitted in support of the application states that the property would be connected to the existing sewer for foul and surface water drainage and that the proposed driveway would be constructed from permeable materials. The proposal therefore accords with Tynedale Core Strategy Policy GD5, the emerging Northumberland Local Plan Policies WAT 2 and WAT 3.

## **Other Considerations**

### Equality Duty

7.23 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

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

### Human Rights Act Implications

7.25 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.

7.26 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.

7.27 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.

## **8. Conclusion**

8.1 The application has been considered above against the relevant local planning policies and the National Planning Policy Framework; it is considered that the proposed development is appropriate in the context of its location and would not be detrimental to the character or amenity of neighbours of the surrounding area and therefore to withhold consent would be unreasonable.

## **9. Recommendation**

That this application be GRANTED permission subject to the following:

### Conditions/Reason

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. The development hereby permitted shall not be carried out otherwise than in accordance with the approved plans and documents. The approved plans for this development are:

1. Location Plan
2. Site Plan as proposed: Drawing No. 1903/20
3. Proposed Ground Floor Plan: Drawing No. 1903/21
4. Proposed First Floor Plan: Drawing No. 1903/22
5. Proposed Roof Plan: Drawing No. 1903/23
6. Proposed Sections and Elevations Plan: Drawing No. 1903/24

Reason: To ensure that the development is carried out in complete accordance with the approved plans.

03. The development shall not be occupied until details of the proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is occupied and thereafter retained accordingly.

Reason: In the interests of visual amenity and highway safety, in accordance with the National Planning Policy Framework.

04. The development shall not be occupied until the car parking area indicated on the approved plans, including any disabled car parking spaces contained therein, has been implemented in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

Reason: In the interests of highway safety, in accordance with Tynedale Local Plan Policy GD7 and the National Planning Policy Framework.

05. Development shall not commence until a Construction Method Statement including plan has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the demolition/ construction period. The Construction Method Statement shall, where applicable, provide for:

- i. vehicle cleaning facilities;
- ii. the parking of vehicles of site operatives and visitors;
- iii. the loading and unloading of plant and materials;
- iv. storage of plant and materials used in constructing the development

Reason: To prevent nuisance in the interests of residential amenity and highway safety, in accordance with the Tynedale Core Strategy Policy GD2 and the National Planning Policy Framework.

06. No external refuse or refuse containers shall be stored outside of the approved refuse storage area except on the day of refuse collection.

Reason: To ensure sufficient and suitable facilities are provided for the storage and collection of household waste in accordance Tynedale Core Strategy Policy BE1 and with National Planning Policy Framework.

07. Notwithstanding the details submitted, the development shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plans including the first 6.0m of the access being hard surfaced with no loose or unbound materials.

Reason: In the interests of pedestrian and highway safety, in accordance with Tynedale Local Plan Policy GD4 and the National Planning Policy Framework.

08. The development shall not be occupied until details of cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before the development is occupied. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be kept available for the parking of cycles at all times.

Reason: In the interests of highway safety and sustainable development, in accordance with Tynedale Core Strategy Policy GD4 and the National Planning Policy Framework.

09. Prior to occupation, details of surface water drainage to manage run off from private land have been submitted to and approved by the Local Planning Authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the development is occupied and thereafter maintained in accordance with the approved details.

Reason: In order to prevent surface water run off in the interests of the amenity of the area and to ensure suitable drainage has been investigated for the development and implemented, in accordance with Tynedale Core Strategy Policies GD5 and NE1 and the National Planning Policy Framework.

10. All trenches and excavations deeper than 0.30m left open overnight should have a ramp installed at an angle of no more than 45 degrees to allow the escape of entrapped mammals. Gaps shall be created and retained in all boundary fences between dwellings to allow the passage of small mammals such as hedgehog. Gaps shall measure no less than 13cm by 13cm.

Reason: To enhance the biodiversity of the site for a UK BAP priority species and in accordance with the provisions of Policies NE26 and NE27 of the Tynedale Local Plan.

11. No demolition, development, tree felling or vegetation clearance shall be undertaken between 1 March and 31 August unless a suitably qualified ecologist has first confirmed that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed. Netting of hedgerows or trees shall only be used in exceptional circumstances in accordance with the Chartered Institute of Ecology and Environmental Management/Royal Society for the Protection of Birds advice. A methodology and management plan for the installation and maintenance of the netting will be agreed in writing with the Local Planning Authority prior to installation.

Reason: To protect nesting birds, all species of which are protected by law and in accordance with Tynedale Local Plan NE27.

12. All trees that are to be retained shall be protected from root compaction during the course of the development works in accordance with the guidance set out in 'BS5837:2012 Trees in Relation to Design, Demolition and Construction: Recommendations' British Standards Institution, 2012.'

Netting of hedgerows or trees shall only be used in exceptional circumstances in accordance with the Chartered Institute of Ecology and Environmental Management/Royal Society for the Protection of Birds advice. A methodology and management plan for the installation and maintenance of the netting will be agreed in writing with the Local Planning Authority prior to installation.

Reason: To maintain and protect the existing landscape and biodiversity value of the site and in accordance with the provisions of Policy NE37 of the Tynedale Local Plan.

**Background Papers:** Planning application file(s) 19/04203/FUL

