

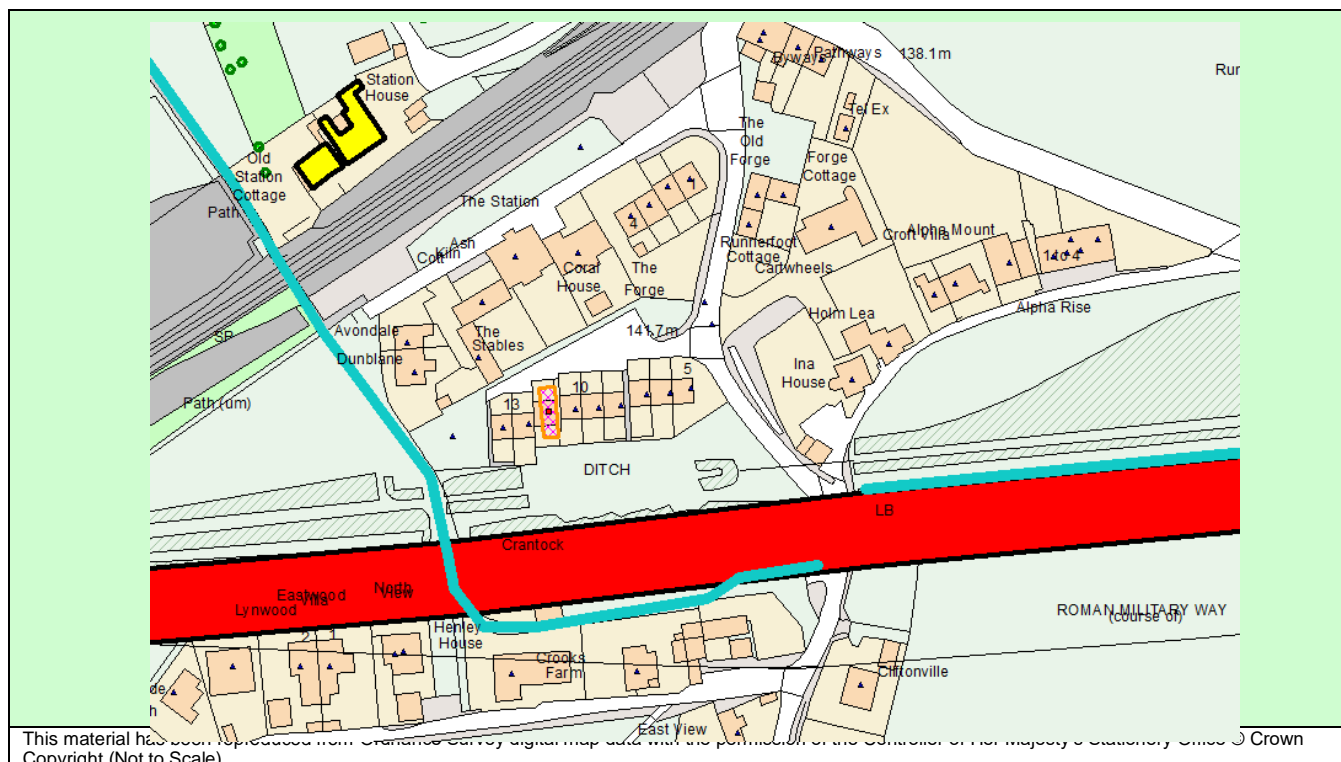


# Northumberland County Council

## Tynedale Local Area Council Planning Committee 15 November 2022

<b>Application No:</b>	21/03549/FUL		
<b>Proposal:</b>	Retrospective permission for one dwelling		
<b>Site Address</b>	11 The Forge, Gilsland, Brampton, Northumberland, CA8 7TF		
<b>Applicant:</b>	Adam Warren And Julia Cheeseman Chapel Lodge, 52 Sharpenhoe Road, Streatly Village, Nr Luton Beds LU3 3PS	<b>Agent:</b>	None
<b>Ward</b>	Haydon And Hadrian	<b>Parish</b>	Thirlwall
<b>Valid Date:</b>	30 September 2021	<b>Expiry Date:</b>	18 November 2022
<b>Case Officer Details:</b>	Name: Ms Rachel Campbell Job Title: Senior Planning Officer Tel No: 07966332006 Email: Rachel.Campbell02@northumberland.gov.uk		

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



### 1. Introduction

1.1 Thirlwall Parish Council have raised an objection to the application, which would be contrary to the officer recommendation of approval. Therefore, under the provisions of the Council's current Scheme of Delegation, the application has been referred to the Director of Planning and the Chair and Vice Chair of the Tynedale Local Area Council Planning Committee for consideration to be given as to whether the application should be referred to a Planning Committee for determination. This matter has been duly considered under these provisions and it has been confirmed that the application should be referred to the Committee for determination.

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

2.1 Retrospective planning permission is sought for the construction of one residential dwelling, with associated car parking and garden space, at 11 The Forge in Gilsland.

2.2 In December 2015, planning permission was granted under application reference: 15/02954/FUL for the construction of nine new residential dwellings, within three short terraces, on the former auction mart site in Gilsland. One of these nine approved dwellings was 11 The Forge, which is the subject of this current retrospective planning application. In recent years it has been brought to the Local Planning Authority's attention that the residential property at 11 The Forge has not been constructed in accordance with the plans approved under the 2015 application. The residential property at 11 The Forge has been built 1.5 metres further south than shown on the plans approved under the 2015 application. This has resulted in the rear garden of 11 The Forge extending 1.5 metres further south than shown on the plans approved under the 2015 application. These errors were made by the developer/builder at the time of construction. Therefore, the applicant, who now owns the property, has submitted a retrospective planning application to regularise these works.

2.3 The retrospective dwelling is a two storey, end of terrace property comprising of a living room area, kitchen and WC at ground floor level and two bedrooms and a bathroom at first floor level. The retrospective dwelling is constructed of cream coloured render with slate roofing tiles and with uPVC windows and doors. Solar panels are attached to the southern (rear) roof slope. The car parking area/driveway to the front of the property is block paved and to the rear of the property is a small patio area and a small grassed garden. The retrospective dwelling measures 5.75 metres in width by 6.5 metres in length, with an eaves height of 5.5 metres and a ridge height of 7.4 metres. The retrospective dwelling would be similar in scale and appearance to the other properties within the wider street scene at The Forge. The retrospective dwelling would also be similar in design, layout and scale as previously approved under the 2015 application, except for one small feature, that the dwelling does not have a chimney.

2.4 The application site is located within the village of Gilsland. The application site is to the immediate north of the boundary of Hadrian's Wall World Heritage Site and scheduled monument and is therefore within an area of considerable archaeological sensitivity.

## **3. Planning History**

**Reference Number:** 15/02594/FUL

**Description:** Proposed development of 9no. residential dwellings

**Status:** Permitted

**Reference Number:** 19/03702/DISCON

**Description:** Discharge of conditions: 10 (Contaminated Land) related to planning approval 15/02594/FUL

**Status:** Permitted

#### 4. Consultee Responses

Thirlwall Parish Council	Thirlwall Parish Council are proud of the designation of Hadrian's Wall as a World Heritage Site and the Scheduled Monument status of the Wall and various sites associated with it. Thirlwall Parish Council object to the encroachment of this property beyond the boundaries granted in the original planning permission and wish to see the original boundary being adhered to. Thirlwall Parish Council therefore object most strongly to the application for retrospective permission.
Highways	No objection subject to one condition.
County Archaeologist	The southern boundary of 11 The Forge's rear garden is located 1.5m to the north of the northern boundary of the scheduled monument of Hadrian's Wall. The location of the garden in relation to known archaeological remains and limited groundworks means that the potential damage to nationally important archaeology in this retrospective application is likely to be negligible. As a result, it is concluded that test pits are not required to test potential damage caused in this area. A condition to remove permitted development rights within the garden of 11 The Forge is recommended.
Historic England	Historic England believes it would not be fair or reasonable to deny this retrospective permission in this case. Whilst we remain very disappointed that this situation has occurred, the redress and enforcement allowed through the planning system would in our view achieve only a very marginal gain for the monument, at very considerable cost to those who have purchased the property in good faith. However, it would be proportionate for a condition to be attached to any permission granted to require a small element of archaeological mitigation in connection with this. This should consist of one small trench over that part of the monument that has been encroached on, to provide information on the likely impact caused by this encroachment.
United Utilities PLC	No response received.
Northumbrian Water Ltd	No response received.
Public Protection	No objection.
County Ecologist	No objection subject to conditions.

#### 5. Public Responses

## Neighbour Notification

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

## Notices

General site notice – Displayed 28th October 2021  
No press notice required.

## Summary of Responses:

None received.

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=QZ0OZDQS0MK00>

## **6. Planning Policy**

### 6.1 Development Plan Policy

*Northumberland Local Plan (2022)*

Policy STP 1 – Spatial Strategy (Strategic Policy)  
Policy STP 2 – Presumption in Favour of Sustainable Development (Strategic Policy)  
Policy STP 3 – Principles of Sustainable Development (Strategic Policy)  
Policy STP 4 – Climate Change Mitigation and Adaptation (Strategic Policy)  
Policy HOU 2 – Provision of New Residential Development (Strategic Policy)  
Policy HOU 5 – Housing Types and Mix  
Policy HOU 9 – Residential Development Management  
Policy QOP 1 – Design Principles (Strategic Policy)  
Policy QOP 2 – Good Design and Amenity  
Policy QOP 4 – Landscaping and Trees  
Policy QOP 5 – Sustainable Design and Construction  
Policy QOP 6 – Delivering Well-Designed Places  
Policy TRA 1 – Promoting Sustainable Connections (Strategic Policy)  
Policy TRA 2 – The Effects of Development on the Transport Network  
Policy TRA 4 – Parking Provision in New Development  
Policy ICT 2 – New Developments  
Policy ENV 1 – Approaches to Assessing the Impact of Development on the Natural, Historic and Built Environment (Strategic Policy)  
Policy ENV 2 – Biodiversity and Geodiversity  
Policy ENV 7 – Historic Environment and Heritage Assets  
Policy ENV 8 – Frontiers of the Roman Empire – Hadrian’s Wall World Heritage Site  
Policy WAT 2 – Water Supply and Sewerage  
Policy REN 1 – Renewable and Low Carbon Energy and Associated Energy Storage

### 6.2 National Planning Policy

## **7. Appraisal**

7.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, and following its recent adoption by the Council, the development plan comprises policies in the Northumberland Local Plan.

7.2 The main considerations in the determination of this application are:

- Principle of the development
- Design
- Amenity
- Archaeological impact
- Highway safety
- Ecological impact
- Drainage and sewerage
- Sustainability measures
- Connectivity

### *Principle of the Development*

7.3 The application site is located within the village of Gilsland, which is identified as a Service Village under Policy STP 1 of the Northumberland Local Plan. Policy STP 1 states that the Service Villages of Northumberland will provide for a proportionate level of housing and will be the focus for investment in rural areas, to support the provision of local retail, services and facilities.

7.4 Policy HOU 2 of the Northumberland Local Plan, which relates to the provision of new residential development, is supportive of the delivery of new open market and affordable dwellings in a range of tenures, types and sizes where it is consistent with several criteria. The criteria include where the residential development is consistent with the spatial strategy for Northumberland as set out in Policy STP 1.

7.5 As a material consideration, the NPPF seeks to significantly boost the supply of housing. Paragraph 79 of the NPPF states that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities”*.

7.6 This retrospective application for one dwelling within the village of Gilsland is considered to be acceptable as a matter of principle in accordance with Policies STP 1 and HOU 2 of the Northumberland Local Plan and the principles of Chapter 5 of the NPPF.

7.7 This retrospective application also includes the installation of solar panels to the southern (rear) roof slope of the property. Policy REN 1 of the Northumberland Local Plan is relevant to this element of the proposal and is generally supportive of proposals for renewable energy, including where it is to be used to supply energy to a development. Policy REN 1 follows on to state that applications will

be supported where it has been demonstrated that the environmental, social and economic effects of the proposal are acceptable, or can be made acceptable. Policy REN 1 also lists several factors which must be taken into consideration when assessing applications for renewable energy. These considerations include impact on Hadrian's Wall World Heritage Site, impact on amenity and impact on highway safety. The principle of renewable energy development in this location is acceptable in accordance with Policy REN 1 of the Northumberland Local Plan; however, the considerations relevant to this application as set out within Policy REN 1, will be discussed further below in the following sections of this appraisal.

### Design

7.8 The retrospective dwelling is a two storey, end of terrace property comprising of a living room area, kitchen and WC at ground floor level and two bedrooms and a bathroom at first floor level. The retrospective dwelling is constructed of cream coloured render with slate roofing tiles and with uPVC windows and doors. Solar panels are attached to the southern (rear) roof slope. The car parking area/driveway to the front of the property is block paved and to the rear of the property is a small patio area and a small grassed garden. The retrospective dwelling measures 5.75 metres in width by 6.5 metres in length, with an eaves height of 5.5 metres and a ridge height of 7.4 metres. The retrospective dwelling would be similar in scale and appearance to the other properties within the wider street scene at The Forge. It is also recognised that the other properties within the wider street scene at The Forge have solar panels to their southern (rear) roof slopes. The design, scale and materials of the retrospective development were previously considered acceptable under the 2015 application (reference: 15/02594/FUL). The design scale and materials of the retrospective development is considered to be appropriate and is in keeping with the wider street scene and would be acceptable in this respect in accordance with Policies STP 2, STP 3, STP 4, QOP 1, HOU 9 and REN 1 of the Northumberland Local Plan.

### Amenity

7.9 The land to the north and south of the dwelling (land within the red line boundary on the proposed plans) has been incorporated within the curtilage of the dwelling, amounting to a change of use of the land to residential use. The dwelling has a small patio area and a small grassed area to the rear and a block paved driveway to the front and this provides a small, yet modest amount of amenity space for the dwelling. The amenity space at 11 The Forge is considered to be proportionate to the modest, two-bedroom dwelling and is of a similar size to the amenity space of the neighbouring properties to the east and west.

7.10 The application site is located within a predominantly built-up residential area within the village of Gilsland. The land in this area generally slopes in a south-north direction. 11 The Forge is located within a row of nine properties, comprising of three short terraces. Therefore, to the east and west of the application site are the other residential properties at The Forge. Given that 11 The Forge is an end of terrace property, it adjoins 12 The Forge, which is to the west. To the south of the application site is Hadrian's Wall World Heritage Site and scheduled monument, with other residential properties and farm buildings beyond that. To the north, and on lower ground below the access road along The Forge, are residential properties.

7.11 The residential property directly to the north of 11 The Forge (Ash Kiln Cottage) is located approximately 25 metres from the front (north) elevation of 11 The Forge and it is recognised that this neighbouring property is located on much lower ground. The residential properties to the south, beyond Hadrian's Wall, are located in excess of 50 metres from the rear (south) elevation of 11 The Forge and it is recognised that these neighbouring properties are located on much higher ground. The separation distances between the retrospective dwelling and the immediate neighbouring properties to the north and south are considered acceptable, and the retrospective development is not considered to have an adverse impact on the amenity of these neighbouring properties in respect of overlooking, loss of outlook or privacy or from an overbearing appearance.

7.12 11 The Forge adjoins 12 The Forge, which is located to the west. The property has been built 1.5 metres further south than its position which was approved under the previous 2015 application. The approved site plan from the 2015 application demonstrated the short terrace, comprising 11, 12 and 13 The Forge, was to be staggered so 11 The Forge would be sited further forward (north) than 12 and 13 The Forge. Despite 11 The Forge having been built 1.5 metres further back (south) than originally approved, this short terrace still has a staggered appearance and 11 The Forge continues to be sited further forward (north) than 12 and 13 The Forge. Therefore, the impact on the adjoining property, 12 The Forge, would in fact be very similar to that which was approved and considered acceptable under the 2015 application.

7.13 To the east of 11 The Forge is 10 The Forge. These properties are separated by a narrow lane which allows access into their rear gardens. The approved site plan from the 2015 application demonstrated that 11 The Forge would be sited adjacent to, and level with, 10 The Forge. As 11 The Forge has been built 1.5 metres further back (south), it would be set back from 10 The Forge by 1.5 metres. The distance that 11 The Forge has been set back is considered to be very minor and is not considered to have an adverse impact on the amenity of 10 The Forge in respect of overlooking, loss of outlook or privacy or from an overbearing appearance.

7.14 Overall, the retrospective development is considered to be acceptable in respect of the impact of the development on the amenity of neighbouring properties in accordance with Policies REN 1 and QOP 2 of the Northumberland Local Plan and the principles of the NPPF.

### Archaeological Impact

7.15 The application site is to the immediate north of the boundary of Hadrian's Wall World Heritage Site and scheduled monument and is therefore within an area of considerable archaeological sensitivity. The southern boundary of the rear garden of 11 The Forge is located 1.5 metres to the north of the northern boundary of Hadrian's Wall World Heritage Site and scheduled monument. The Council's Archaeologist and Historic England have both been consulted on this retrospective application.

7.16 The Council's Archaeologist has considered this retrospective application in light of the potential archaeological impact of the proposals. The Council's Archaeologist considers that due to the location of the garden of 11 The Forge in relation to known archaeological remains and given the limited groundworks within the garden of 11 The Forge, the potential damage to nationally important

archaeology in this retrospective application is likely to be negligible. As a result of these findings, the Council's Archaeologist concludes that test pits are not required to test the potential damage caused in this area. However, the Council's Archaeologist considers it to be necessary to impose a condition to any permission granted to remove permitted development rights from the rear garden of 11 The Forge due to its close proximity to nationally important archaeological remains.

7.17 Historic England do not consider it would be fair or reasonable to deny this retrospective permission in this case. Whilst Historic England have expressed their concern and expressed that they are disappointed that this situation has occurred, the redress and enforcement allowed through the planning system would in their view achieve only a very marginal gain for the scheduled monument, at a very considerable cost to the applicant who has purchased the property in good faith. It is acknowledged that the applicant, who now owns the property, was not responsible for the error which created this situation. However, within their formal response, Historic England consider it would be proportionate for a condition to be attached to any permission granted to require a small element of archaeological mitigation in connection with this and that this could consist of one small trench, to provide information on the likely impact caused by this encroachment.

7.18 During the course of the application, the Council's Archaeologist's response was forwarded on to Historic England, because it indicated that in their professional opinion and following an assessment, a condition regarding archaeological mitigation work, such as test pits, would not be required in this instance. During informal discussions, Historic England noted an error within their comments, which they clarified, and this was that they didn't realise at the time of making their comments that the retrospective development did not in fact encroach onto the scheduled monument, but simply closer to its northern boundary. Therefore, Historic England advised that there is not a need for a condition relating to archaeological mitigation work, as originally advised, and indicates the advice and condition provided by the Council's Archaeologist should be followed.

7.19 It is noted that Thirlwall Parish Council strongly object to this retrospective application due to its impact upon Hadrian's Wall World Heritage Site and scheduled monument. It suggests that the southern boundary of the rear garden of 11 The Forge be reinstated to its position as approved in 2015. These concerns have been taken into consideration when compiling this section of the appraisal. However, given that both the Council's Archaeologist and Historic England have taken a pragmatic approach when appraising the proposals, and both consider it would be unreasonable to refuse this retrospective application on the grounds of archaeological impact, the application, on balance, can be supported in this respect, subject to the condition to remove permitted development rights from the rear garden, despite not being fully in accordance with Policies ENV 1, ENV 7 and ENV 8 of the Northumberland Local Plan. It is also considered that if the Local Planning Authority were to request the southern boundary of the rear garden be relocated 1.5 metres further north, back to its position as approved under the 2015 application, this would result in a very limited, insufficient amount of outdoor amenity space for the dwelling which would be unacceptable from an amenity perspective.

### Highway Safety



7.20 The Council's Highway Development Management (HDM) team has been consulted on this application and raises no objection subject to one condition relating to car parking. The Council's HDM team consider that the retrospective development would not have a severe impact on highway safety. The retrospective application is therefore acceptable in accordance with Policies REN 1, TRA 1, TRA 2 and TRA 4 of the Northumberland Local Plan and the principles of the NPPF.

### Ecological Impacts

7.21 The Council's Ecologist has been consulted on this application and raises no objection. The application site is within the River Eden catchment. On 16<sup>th</sup> March 2022 Natural England issued guidance stating that developments should achieve nutrient neutrality within identified catchment areas. During the course of the application, the Council's Ecologist has received confirmation from Natural England that this application is not subject to the "nutrient neutrality" guidance because it is retrospective and because the property was already occupied prior to the guidance being issued. As there is no increase in nutrients above the current baseline, it is considered to be exempt from the guidance on nutrient neutrality in the River Eden catchment. It was concluded to be eliminated from further assessment because it could not have any conceivable effect on a European site. Therefore, the application is acceptable in this respect in accordance with Policies ENV 1 and ENV 2 of the Northumberland Local Plan and the principles of the NPPF.

### Drainage and Sewerage

7.22 The application form states that foul sewage and surface water would be disposed of by the mains sewer. Both Northumbrian Water and United Utilities have been consulted on this application; however, no responses have been received. The application is considered to be acceptable in this respect in accordance with Policy WAT 2 of the Northumberland Local Plan.

### Sustainability Measures

7.23 Policy QOP 5 of the Northumberland Local Plan relates to sustainable design and construction and seeks to minimise resource use, mitigate climate change, and ensure proposals are adaptable to a changing climate. This policy indicates that proposals will be supported, where feasible, where it incorporates sustainability measures, such as renewable and low carbon energy systems. The application incorporates renewable energy systems, through the installation of solar panels to the roof of the building. Therefore, the retrospective development is considered to be in accordance with Policy QOP 5 of the Northumberland Local Plan and the principles of the NPPF in this respect.

### Connectivity

7.24 Policy ICT 2 of the Northumberland Local Plan requires provision of full fibre broadband connections in new developments. Where this cannot be provided, alternative solutions may be appropriate where justified. The Policy goes on to state that where no broadband provision is included, developers will be required to demonstrate, including through consultation with broadband providers, that connections are not deliverable, and/or unviable.

7.25 The current application does not state whether full-fibre broadband connections are proposed, although it is noted that this is available within the area and that the application is retrospective so connections are already likely to have taken place. The proposal would therefore be acceptable in accordance with Policy ICT 2 of the Northumberland Local Plan and Paragraph 114 of the NPPF.

### Equality Duty

7.26 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

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

### Human Rights Act Implications

7.28 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.

7.29 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.

7.30 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. Recommendation**

That this application be GRANTED permission subject to the following:

## Conditions/Reason

1. The development hereby permitted shall be maintained in complete accordance with the approved plans. The approved plans for this development are:

- Proposed Plans, Drawing No: 21008 – P – 01
- Proposed Plans, Drawing No: 21008 – P – 02
- Proposed Plans, Drawing No: 21008 – P – 03

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order amending, revoking or re-enacting that Order), no freestanding buildings, structures or means of enclosure shall be constructed within the curtilage of the dwellinghouse hereby permitted, unless an application for planning permission has first been submitted to and approved in writing by the Local Planning Authority.

Reason: In order that the impact on Hadrian's Wall World Heritage Site and scheduled monument may be properly assessed in accordance with Policies ENV 1, ENV 7 and ENV 8 of the Northumberland Local Plan and the principles of the National Planning Policy Framework.

3. The area allocated for manoeuvring and parking on the submitted plan shall not be used other than for the manoeuvring and parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that there is adequate space within the site for the manoeuvring and parking of vehicles in accordance with Policy TRA 4 of the Northumberland Local Plan and the principles of the National Planning Policy Framework.

**Date of Report: 21.10.2022**

**Background Papers:** Planning application file(s) 21/03549/FUL