



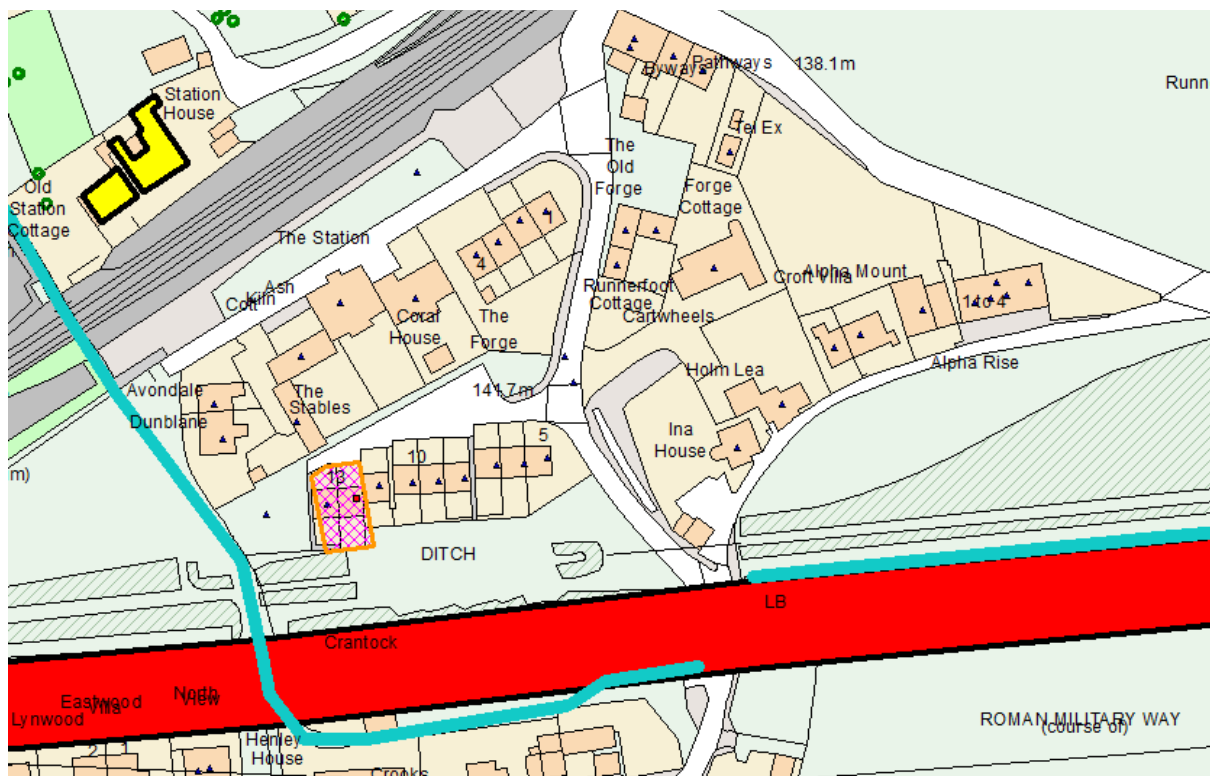
Northumberland County Council

Tynedale Local Area Council Planning Committee

Tuesday 14 February 2023

Application No:	21/03314/FUL		
Proposal:	Retrospective planning application for two dwellings		
Site Address	12 And 13 The Forge, Gilsland, Brampton, Northumberland CA8 7TF		
Applicant/ Agent	Mrs Deborah A Humble 12 The Forge, Gilsland, Brampton, Northumberland CA8 7TF		
Ward	Haydon And Hadrian	Parish	Thirlwall
Valid Date	2 September 2021	Expiry Date	28 October 2021
Case Officer Details	Name: Miss Charlie Hall Job Title: Planning Officer Tel No: 07966326632 Email: Charlie.Hall@northumberland.gov.uk		

Recommendation: That this application be GRANTED



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 In December 2015, planning permission was granted under application reference: 15/02594/FUL for the construction of nine new residential dwellings, within three short terraces, on the former auction mart site in Gilsland. Two of these nine approved dwellings were 12 and 13 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 properties of 12 and 13 The Forge have not been constructed in accordance with the plans approved under the 2015 application. The residential properties have been built in the wrong location resulting in the properties having larger rear gardens than what was approved under the 2015 application. The dwellings have been built further south in addition to the developers taking in extra land from the approved 'buffer zone' between the rear gardens and the site boundary/Hadrian's Wall. This has then resulted in the curtilages of the properties being 3m into the Hadrian's Wall World Heritage Site and Scheduled Monument. These errors were made by the developer/builder at the time of construction. Therefore, the applicants, who now owns the properties, has submitted a retrospective planning application to regularise these works.

2.2 The retrospective dwellings are two storey with 12 The Forge being mid terrace and 13 The Forge being, end of terrace property. Both dwellings comprise 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 dwellings both measure measure 5.9 metres in width by 6.3 metres in length, with an eaves height of 5.3 metres and a ridge height of 7.3 metres. The rear gardens are bound by a low lying post and rail fence and have a garden shed in them.

2.3 The application site is located within the village of Gilsland. The majority of 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

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Status: Permitted

4. Planning Policy

4.1 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

4.2 National Planning Policy

National Planning Policy Framework (NPPF) (2021)

National Planning Practice Guidance (NPPG) (2021)

5. Consultee Responses

Thirlwall Parish Council	Our parishioners and 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. We object to the encroachment of these two properties beyond the boundaries granted in the planning permission and wish to see the original boundaries being adhered to. We therefore object most strongly to the application for retrospective permission.
Highways	No objection
Historic England	<p>Historic England has no objection to the application on heritage grounds.</p> <p>Whilst we do not object to the principle of this development, we do believe it would be reasonable for a small piece of archaeological work, to understand more about the impact of the works undertaken in error, to be required by condition here. We would ask for you to liaise with your own Conservation colleagues on a suitable wording for this condition, including a time limit for compliance.</p>
County Archaeologist	<p>Regarding this application as a new development, I can confirm that in its current form, the scheme would have an adverse indirect impact of the proposals on the setting of the scheduled monument of Hadrian's Wall and the Universal Value of the World Heritage site with the potential to have an adverse direct impact on nationally important archaeological remains within the scheduled area. This would be sufficient to request refusal of this application and enforcement pursuing the removal of structures within the scheduled area.</p> <p>However, given the retrospective nature of this application, I have focussed on what actions can be undertaken to reduce the impact on nationally important remains within the current application. These comprise:</p> <ul style="list-style-type: none"> • A time-limited condition requiring the removal of the upstanding structures and paths within the scheduled area (southern 3m (north-south) of both gardens) with the areas to be subsequently reinstated to the former ground level (This will also require Scheduled Monument Consent) • A condition for the archaeological monitoring of groundworks removing structures and paths from the scheduled area with sufficient time to record, but not excavate, any archaeological remains that are revealed • The removal of permitted development rights from the gardens for all works including change in boundary treatment, erection of extensions, buildings or structures and any groundworks within the scheduled area This appears to be the most pragmatic approach in the circumstances.

County Ecologist	No objection
Highways	No response received.
Northumbrian Water	No response received.
United Utilities	No response received.

6. 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, 11th November 2021
No Press Notice Required.

Summary of Responses:

None received.

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; and
- 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 two dwellings 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.

Design and visual appearance

7.7 The retrospective dwellings are two storey with 12 The Forge being mid terrace and 13 The Forge being, end of terrace property. Both dwellings comprise 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 dwellings both measure 5.9 metres in width by 6.3 metres in length, with an eaves height of 5.3 metres and a ridge height of 7.3 metres.

7.8 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 dwellings were previously considered acceptable under the 2015 application (reference: 15/02594/FUL). The design scale and materials of the retrospective dwellings 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 dwellings (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, a small grassed area and shed 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 both properties is considered to be proportionate to the modest, two-bedroom dwellings and is larger than the amenity space that was

previously granted as part of the 2015 application and therefore larger than the neighbouring properties to the east.

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. The dwellings are located within a row of properties, comprising of three short terraces. Therefore, to the east and west of the application site are the other residential properties at The Forge.

7.11 12 The Forge adjoins no. 11 but is stepped back so only adjoins to the north east corner of the property. 13 The forge is located to the west of no.12 and has no dwellings to the west. The southern part of the site is within 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.

7.12 The residential properties directly to the north of the application site are located approximately 20 metres from the front (north) elevation of the properties. It is recognised that these neighbouring properties 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) elevations and it is recognised that these neighbouring properties are located on much higher ground. The separation distances between the retrospective dwellings 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.

7.13 12 The Forge adjoins 11 The Forge, which is located to the north east. 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. Given the properties new locations this staggered approach to the dwellings has remained with no. 11 The Forge being sited further forward (north) than 12 and 13 The Forge. Therefore, the impact on the adjoining property, 11 The Forge, would in fact be very similar to that which was approved and considered acceptable under the 2015 application.

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 Policy QOP 2 of the Northumberland Local Plan and the principles of the NPPF.

Archaeological Impact

7.15 The rear gardens of the dwellings, the fencing, pathways and sheds have been constructed within the scheduled area on the line of the Hadrian's Wall counterscarp bank. The area to the north of Hadrian's Wall, including the ditch and counterscarp bank, has been largely maintained as open space through Gilsland, providing views of the extant earthworks and the route of Hadrian's Wall in this area. The Hadrian's Wall Path runs east-west across the field to the immediate south of the development.

7.16 As part of the 2015 application there was an agreed 'buffer zone' separating the rear gardens and the site boundary to the south which is located on Hadrian's Wall World Heritage Site and Scheduled Monument. The location of the dwellings has resulted in the rear gardens of both properties extending 3m into the scheduled

monument boundary for Hadrian's Wall in an area most likely to contain remains of the counterscarp bank.

7.17 Historic England and The Council's Archaeologist have been consulted on the application due to the sensitive nature of the site. Whilst both consultees note that the works have breached both planning law and the 1979 Ancient Monuments and Archaeological Areas Act. Historic England accepts that this was not the fault of the current owners.

7.18 Both consultees note that it is highly likely that the construction works in the scheduled monument will have caused a level of harm to its archaeological remains. By encroaching onto the World Heritage Site there is no doubt that that the setting of this great Roman frontier has been harmed to a degree, creating a domestic setting closer than the originally approved development. Prior to development having taken place an application which encroached in this way would not have been supported.

7.19 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.

7.20 The Council's Archaeologist agrees with Historic England and feels in this instance it would be unreasonable to refuse the application. The Council's Archaeologist has suggested actions that can be taken and conditioned that would mitigate any further harm and would reduce the impact on nationally important remains. These actions can be conditioned and relate to the removal of any existing structures on the land and the removal of permitted development rights for structures, groundworks, boundary treatments etc to be allowed. In addition, archaeological monitoring and recording would need to take place. Based on the conditions suggested by The Council's Archaeologist and Historic England this would prevent any further damage to the World Heritage Site and Scheduled Monument. It is also worth noting that no works can take place on the land to the rear of the garden 3m from the southern boundary without scheduled monument consent due to this land falling on the scheduled monument.

7.21 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

7.22 The Council's Highway Development Management (HDM) team has been consulted on this application and raises no objection. 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

7.23 The Council's Ecologist has been consulted on this application and raises no objection. The application site is within the River Eden catchment. On 16th 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

7.24 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

7.25 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

7.26 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.

7.27 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

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

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

Human Rights Act Implications

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.

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.

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. Recommendation

That this application be GRANTED 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:

- Location & Proposed Site Plan, Drawing no. 1004 - P – 01, Rev A
- Proposed Floor Plans, Drawing no. 21004 - P – 02
- Proposed Elevations, Drawing no. 21004 - P – 03, Rev C

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 Order 2015 (or any Order revoking or re-enacting that Order), the following works shall not be carried out to the dwelling(s) hereby approved without the prior permission of the Local Planning Authority:

- The construction of any extension.
- The construction of any freestanding buildings or structures or engineering operation within the curtilage of the dwelling.
- The construction of any means of enclosure including fences and walls shall be constructed within the curtilage of the dwelling, including replacement.

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 Within 6 months of this application being permitted the removal of the existing structures and paths within the scheduled area (southern 3m (north-south) of both gardens) shall be removed and this area of land shall be subsequently reinstated to the former ground level. Archaeological monitoring of these groundworks, the removal of the structures and paths from the scheduled area shall be undertaken. The findings of the monitoring works shall be submitted to the LPA within one month of taking place.

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.

4 A programme of archaeological work is required in accordance with NCC Environment and Design Team (NCEDT) Standards for Archaeological Mitigation and Site-Specific Requirements document (dated 8/12/22). The archaeological scheme shall comprise three stages of work. Each stage shall be completed and approved in writing by the Local Planning Authority before it can be discharged.

- a) No development or archaeological mitigation shall commence on site until a written scheme of investigation based on NCEDT Standards and Site-Specific Requirements documents has been submitted to and approved in writing by the Local Planning Authority.

- b) The archaeological recording scheme required by NCEDT Standards and Site-Specific Requirements documents must be completed in accordance with the approved written scheme of investigation.
- c) The programme of analysis, reporting, publication and archiving if required by NCEDT Standards and Site-Specific Requirements documents must be completed in accordance with the approved written scheme of investigation.

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.

Informatives

1. It is worth noting that area of the scheduled monument encroached on by development will remain scheduled, with all of the restrictions that apply to such spaces. As such prior to carrying out the works required within condition 6 Scheduled Monument Consent would need to be sought

Background Papers: Planning application file(s) 21/03314/FUL