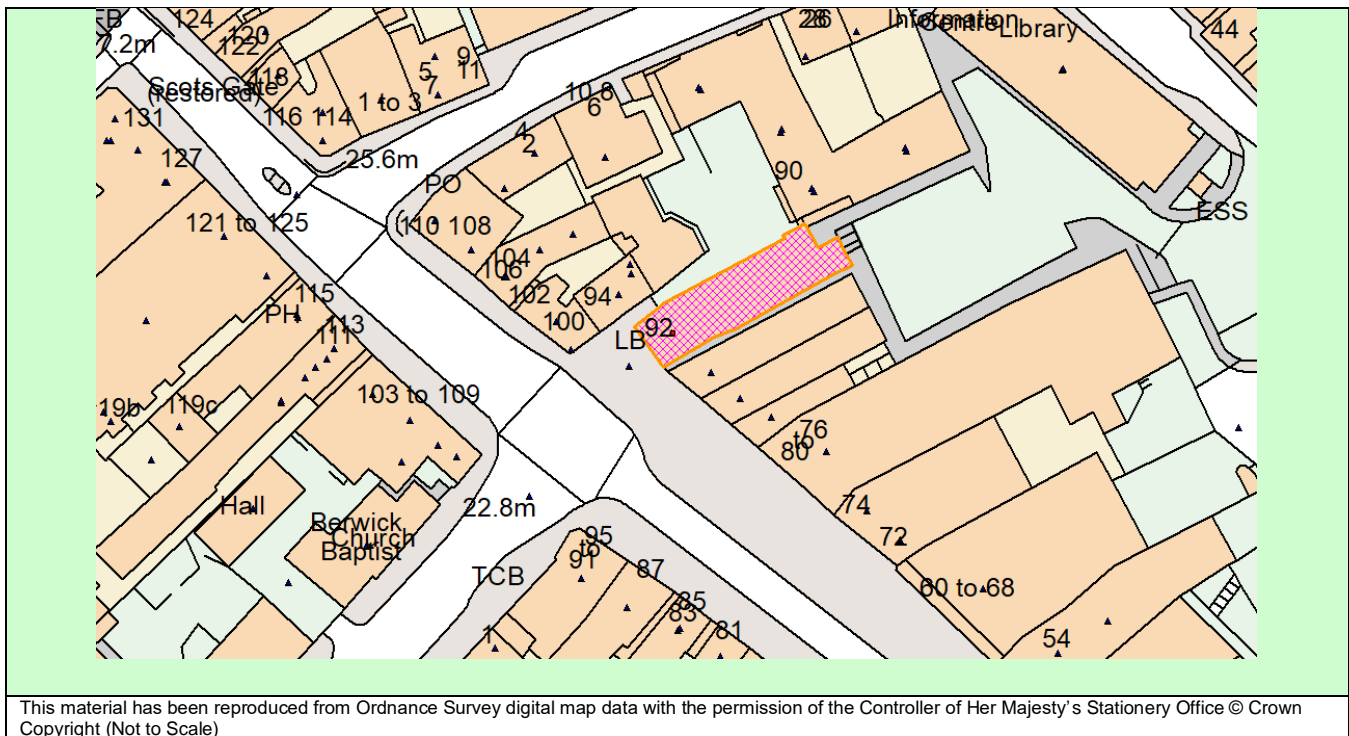




**Northumberland**  
County Council  
L.A.C - North (2pm), 23 February 2023

<b>Application No:</b>	22/00494/FUL		
<b>Proposal:</b>	Proposed change of use to dental clinic (E) and 2no residential apartments (C3). External changes including additional windows and roof lights.		
<b>Site Address</b>	90 - 92 Marygate, Berwick-Upon-Tweed, Northumberland, TD15 1BA		
<b>Applicant:</b>	Mr Shabin Chohan 369 Stamfordham Road, Westerhope, Newcastle upon Tyne, NE5 2LH	<b>Agent:</b>	Mr Ferrer 66 Kenton Road, Newcastle upon Tyne, NE3 4NP, United Kingdom
<b>Ward</b>	Berwick North	<b>Parish</b>	Berwick-upon-Tweed
<b>Valid Date:</b>	24 February 2022	<b>Expiry Date:</b>	31 January 2023
<b>Case Officer Details:</b>	Name: Mrs Hannah Nilsson Job Title: Planning Officer Tel No: 07966329496 Email: hannah.nilsson@northumberland.gov.uk		

**Recommendation:** That this application be GRANTED permission subject to a Unilateral Undertaking to secure a financial contribution to the Council's Coastal Mitigation Service.



## 1. Introduction

1.1 This application falls to be determined by the North Northumberland Local Area Council Planning Committee as the County Council owns a very small piece of the building which is within the red line of the application site and is attached to the building owned by the applicant.

1.2 The application has been reviewed by the Committee Chairs and the Director of Planning who requested a committee decision for the reason that it raises issues of local interest.

## 2. Description of the Proposals

2.1 Planning permission is sought for a change of use to a dental clinic and 2no residential apartments and external changes including additional windows and roof lights at 90 - 92 Marygate, Berwick-Upon-Tweed.

2.2 Marygate is the primary retail street in Berwick-upon-Tweed and the application site is a building which occupies a prominent site being situated in line with the main route into the town centre through Golden Square. The building is well known as being the former site of the Berwickshire Advertiser headquarters and has distinctive signage on two levels of the facade.

2.3 The building to which the current application refers is not listed but makes a positive contribution to the street scene on Marygate. This large building became redundant in approximately 2015 and occupies a large footprint within the mixed retail centre. The subject building is located within an Article 4 Direction Area which is located within the Berwick Conservation Area and Berwick Town Centre.

## 3. Planning History

**Reference Number:** 15/00100/FUL

**Description:** Conversion of existing print works/media office into new dental clinic and private accommodation (residential)

**Status:** PER

**Reference Number:** N/80/B/11

**Description:** Additional sign to newspaper offices on Marygate elevation.

**Status:** PER

**Reference Number:** N/80/B/31

**Description:** Alterations and extension

**Status:** PER

**Reference Number:** N/80/B/109

**Description:** Provision of extension to ground floor.

**Status:** PER

**Reference Number:** N/84/B/33

**Description:** Proposed non-illuminated sign.

**Status:** PER

**Reference Number:** 19/01023/ADE

**Description:** Advertisement Consent: Installation of 1 non-illuminated fascia sign  
**Status:** PER

**Reference Number:** 19/03417/COU

**Description:** Change of use of of part of existing print works/media office into new dental practice and associated external alterations

**Status:** WDN

**Reference Number:** 21/02399/ADE

**Description:** Advertisement Consent for installation of 1no. set of flat cut letters to existing stonework background. O/A size being 4841mm x 326mm, to be flat cut from 12mm & 15mm Medite Tricoya extreme timber, bonded together to make an overall thickness of 27mm & painted white. To be fitted flush to existing stonework with dowels for extra support.

**Status:** PER

**Reference Number:** 21/04398/CLEXIS

**Description:** Certificate of Lawful Development - Proposed use for The application is (as requested by Ms Liz O'Brien) to send evidence that building works started on site before the expiry of the already granted planning approval (application No 15/00100/FUL).

**Status:** APPRET

**Reference Number:** 21/04407/CLEXIS

**Description:** Certificate of Lawful Development of an Existing Use. Evidence that building works started on site before the expiry of the already granted planning approval (application No 15/00100/FUL).

**Status:** REF

**Reference Number:** N/95/B/0562/P

**Description:** Redevelopment of bus station & adjoining/adjacent land revised plans rec. 12.06.96.

**Status:** PER

#### 4. Consultee Responses

Building Conservation	We object to the introduction upvc framed windows and standard rooflights. We categorise this as harm within the terms of paragraph 202 of the Framework. It was clear in the determination of 15/00100/FUL the LPA required all windows to be timber framed and rooflights to be conservation design and materials. Inappropriate materials and forms should not become acceptable by virtue of being a fait accompli.
Berwick-upon-Tweed Town Council	No objection subject to conditions relating to the windows.
Highways	No objection subject to conditions and informatives.
County Ecologist	Objection - the following information should be submitted to enable ecological advice to be provided: a bat and bird survey of the building and confirmation of agreement to a contribution to the Coastal Mitigation Service.

Following reconsultation	No objection subject to a condition and contribution to the Coastal Mitigation Service.
Public Protection	No comments.

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	14
Number of Objections	1
Number of Support	0
Number of General Comments	0

### Notices

Affecting LB & Conservation, 29th March 2022

Berwick Advertiser 10th March 2022

### Summary of Responses:

One representation from Berwick Civic Society has been received which objects to the application on the following summarised grounds:

The application significantly fails to describe the significance of any heritage assets affected, including any contribution made by their setting. The documents and Heritage Statement do not provide in detail anything like the necessary information of any proper assessment of the impact of the changes on the building and conservation area.

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=R75FE7QSMER00>

## 6. Planning Policy

### 6.1 Development Plan Policy

STP 1 - Spatial strategy (Strategic Policy)

STP 2 - Presumption in favour of sustainable development (Strategic Policy)

STP 3 - Principles of sustainable development (Strategic Policy)

STP 4 - Climate change mitigation and adaptation (Strategic Policy)

ECN 1 - Planning strategy for the economy (Strategic Policy)

TCS 1 - Hierarchy of centres (Strategic Policy)

ENV 2 - Biodiversity and geodiversity

INF 6 - Planning obligations

ICT 2 - New developments

HOU 2 - Provision of new residential development (Strategic Policy)

TCS 2 - Defining centres in Main Towns (Strategic Policy)

TCS 3 - Maintaining and enhancing the role of centres (Strategic Policy)

HOU 1 - Making the best use of existing buildings (Strategic Policy)

HOU 5 - Housing types and mix

HOU 9 - Residential development management

QOP 1 - Design principles (Strategic Policy)

QOP 2 - Good design and amenity

QOP 5 - Sustainable design and construction

TRA 1 - Promoting sustainable connections (Strategic Policy)

TRA 2 - The effects of development on the transport network

TRA 4 - Parking provision in new development

ENV 1 - Approaches to assessing the impact of development on the natural, historic and built environment (Strategic Policy)

ENV 2 - Biodiversity and geodiversity

ENV 7 - Historic environment and heritage assets

ENV 9 - Conservation Areas

POL 1 - Unstable and contaminated land

## 6.2 National Planning Policy

NPPF - National Planning Policy Framework (2021)

NPPG - National Planning Practice Guidance (2021, as updated)

## **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 key planning issue raised by the proposal include:-

- Principle of development
- Impact on primary retail street
- Scale, Design and Visual Impact
- Impact on Amenity
- Impact on conservation area
- Highway Safety
- Ecology
- Broadband Connectivity

#### Principle of development

7.3 The proposed development would bring a large and prominent vacant building back into use, through the introduction of a Main Town Centre Use (dental clinic) and sought after housing within a sustainable location. The proposal would be compatible with the NPPF and policies STP1, STP2, STP3, STP4, TCS1, TCS2, TCS3 and HOU1 of the NLP.

#### Impact on primary retail street

7.4 The proposal would maintain a 'shopfront' at the site and is expected to generate a regular footfall at the centre of Marygate which would be compatible with the town centre aspirations and would 'maintain or add to the vibrancy of the shopping frontage'. This would be in line with the NPPF and policies TCS1, TCS2, TCS3 and TCS4 of the NLP.

#### Scale, Design and Visual Impact

7.5 The NPPF (paragraph 14) seeks to achieve sustainable development through overarching objectives including environmental objectives. The environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

7.6 Local Plan Policy QOP1 sets out a number of design principles. Proposals will be supported where design makes a positive contribution to local character and distinctiveness, creates or contributes a strong sense of place, incorporates high quality materials, respects and enhances the natural and built environment, including heritage, ensures that buildings are functional for future uses, supports health and wellbeing and enhances quality of life, protect general amenity, supports positive social interaction, incorporates where possible green infrastructure, mitigates climate change and ensures the longevity of the buildings and spaces.

7.7 Local Plan Policy QOP 5 relates to sustainable design and construction. In order to minimise resource use, mitigate climate change, and ensure development proposals are adaptable to a changing climate, proposals will be supported where they incorporate passive design measures which respond to existing and anticipated climatic conditions and improve the efficiency of heating, cooling, ventilation and lighting amongst other matters.

7.8 The supporting documents which accompany the application do not provide any information with respect to sustainable design and construction. It is therefore appropriate to attach a condition to the permission in order to ensure that the proposal will be constructed in accordance the requirements of Local Plan Policies QOP1 and QOP5.

7.9 Policy HOU 9 of the NLP supports residential development that contributes to a sense of place, functions well, and is of a high quality of design. There are limited external changes to the fabric of the host building involving four additional windows and roof lights. The majority of the changes are internally to facilitate the proposal.

7.10 It is considered that the external and internal alterations are such that the proposed change of use would have no impact on the scale, design or visual appearance or the property or the wider street scene. The proposals are therefore considered to be in accordance with QOP 1 and HOU 9 and the NPPF in this respect.

7.11 It is therefore considered that the proposal would be acceptable in relation to Policies QOP 1, QOP 4 and HOU 9 of the NLP and the principles of Chapter 12 of the NPPF.

#### Impact on Amenity

7.12 Policy QOP 1 of the NLP sets out a number of design principles, one of which is that development proposals should not cause unacceptable harm to the amenity of existing and future occupiers of the site and its surroundings. Policy QOP 2 of the NLP seeks to ensure that new development has a positive impact on amenity.

7.13 It is considered that there would not be any substantive impacts on amenity resulting from the proposal in terms of loss of light, outlook or privacy. As such the proposal is considered to be in accordance with the NPPF in this respect.

7.14 The proposals are therefore considered to be in accordance with Policies QOP 1 and QOP 2 of the NLP and the principles of the NPPF in relation to impact upon residential amenity.

#### Impact on conservation area

7.15 The application site is located within the Berwick Conservation Area and consequently Policies ENV 7 and ENV 9 of the NLP apply.

7.16 Under Policy ENV 7 of the NLP, development proposals will be assessed and decisions made that ensure the conservation and enhancement of the significance, quality and integrity of Northumberland's heritage assets and their settings. Under Policy ENV 9 of the NLP decisions affecting a heritage asset will be based on a sound understanding of the significance of that asset and the impact of any proposal upon that significance. General duty as respects conservation areas in exercise of planning functions - 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

7.17 Whilst it is considered that the proposals would maintain a prominent building in appropriate use at the centre of the conservation area which is considered to be a

positive and desirable outcome, it is noted that the application documents and plans propose the use of UPVC windows which would not be considered acceptable. It is noted that in the determination of application 15/00100/FUL, with regards the windows, the LPA required these to be timber frame and rooflights to be conservation design and materials.

7.18 It was noted during the officers site visit that works have commenced on the building including the installation of UPVC windows on the north and east elevations. These have been installed without the benefit of planning permission. In response to the consultation on this application, the council's conservation officer, Berwick town council and Berwick civic society have all raised concerns about this element of the proposal. Indeed the conservation officer has commented that they categorise the harm caused by this element of the proposal within the terms of paragraph 202 of the NPPF as being 'less than substantial'. Whilst it is noted that the conservation officer has stated that "Given much of this has already taken place we do not consider it prudent to leave this to a condition" it is considered reasonable to do so.

7.19 In order to address the issues relating to the windows and rooflights, it is proposed to attach a condition to the application requiring all windows to be installed under this consent to be timber framed with details to be submitted and approved in writing by the LPA prior to their installation. In addition, it is proposed to attach a condition requiring all rooflights to be of a conservation design.

7.20 In conclusion, it is therefore considered that subject to this condition, the proposals would be acceptable in relation to Policies ENV 7 and ENV 9 of the NLP and the NPPF.

#### Highway Safety

7.21 Policies TRA 1, TRA 2 and TRA 4 of the NLP relate to the transport network and seek to ensure sustainable connections, highway safety and appropriate parking provision in new development.

7.22 In response to the consultation on this application, the councils' highways advisor has raised no objection subject to conditions and informatives which it is proposed to attach to the permission.

7.23 It is therefore considered that subject to appropriate conditions, the proposal would be acceptable in relation to Policies TRA 1, TRA 2 and TRA 4 of the NLP and the NPPF.

#### Ecology

7.24 Policy ENV 2 of the NLP seeks to minimise the impacts of development on biodiversity and geodiversity and to secure net biodiversity gains and /or wider ecological enhancements through new development.

7.25 In response to the consultation on this application, the councils ecology advisor initially raised an objection and requested further information. Following this, the agent has provided the requested additional information and in response to the reconsultation on this, the ecology advisor has raised no objection subject to a condition and a contribution to the Coastal Mitigation Service.



7.26 It is therefore considered that subject to such, the proposed development would be acceptable in relation to the NPPF and Policies ENV 1 and ENV 2 of the NLP and the NPPF.

### Broadband Connectivity

7.27 Policy ICT2 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 states 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 viable.

7.28 The current application does not state whether full-fibre broadband connections are proposed. It is recommended that further details of the proposed broadband connectivity for the development be secured by condition, in accordance with Policy ICT2 of the Northumberland Local Plan and Paragraph 114 of the NPPF.

### Other Matters

7.29 In response to the representation received from Berwick Civic Society objecting to the application on the following grounds:

- The application significantly fails to describe the significance of any heritage assets affected, including any contribution made by their setting. The documents and Heritage Statement do not provide in detail anything like the necessary information of any proper assessment of the impact of the changes on the building and conservation area.

It is considered that sufficient and appropriate information has been provided to make a determination on this application. Furthermore, conditions are proposed to address some of the issues identified by the Civic Society in their response (relating to windows and rainwater goods).

### Equality Duty

7.30 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

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

### Human Rights Act Implications

7.32 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.

7.33 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.

7.34 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**

The proposed change of use represents an acceptable form of development which would not be detrimental to the main retail area or to the Berwick-upon-Tweed conservation area.

## **9. Recommendation**

That this application be GRANTED permission subject to the following conditions and a Unilateral Undertaking securing:

A financial contribution of £1,230 towards the Council's Coastal Mitigation Service.:

### 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 complete accordance with the approved plans. The approved plans for this development are:-

Application form dated as submitted 11 Feb 2022

Plan titled Proposed Elevations sheet no DP004B Rev B

Plan titled Second and Third floor as proposed drawing no TBC-SK1002 Rev T01

Plan titled Ground and first floor as proposed drawing no TBC-SK1001 Rev P02 Preliminary Bat Roost Appraisal 90-92 Marygate, Berwick-upon-Tweed (A1 Ecology, August 2022).

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

03. Notwithstanding the approved plans and any description within the application documents, all new and any replacement windows to be installed under this permission shall be timber framed and details of such (including profile and colour) shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The development thereafter shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To ensure works are carried out in a manner consistent with the character of the building and the conservation area in accordance with Policies ENV 7 and ENV 9 of the Northumberland Local Plan and the NPPF.

05. No development will take place unless in accordance with the recommendations of the report Preliminary Bat Roost Appraisal 90-92 Marygate, Berwick-upon-Tweed (A1 Ecology, August 2022).

Reason: to maintain and enhance the biodiversity value of the site in accordance with Policy ENV2 of the Northumberland Local Plan.

06. The development shall not be occupied until details of refuse storage facilities and a refuse storage strategy for the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the facilities and arrangements for the provision of the bins. The approved refuse storage facilities shall be implemented before the development is brought into use. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

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

07. Prior to the occupation of the development, details confirming the installation of a full fibre broadband connection shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented and made operational prior to the occupation of the development.

Where an alternative broadband connection is proposed, prior to the occupation of the development, sufficient justification for such an alternative shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented and made operational prior to the occupation of the development.

Where no broadband connection is proposed, prior to the occupation of the development, sufficient justification for the lack of broadband provision shall be submitted to and approved in writing by the Local Planning Authority in order discharge this condition.

Reason: To ensure the development is served by high quality communications infrastructure, in accordance with Policy ICT2 of the Northumberland Local Plan and Paragraph 114 of the National Planning Policy Framework.

08. Notwithstanding the details submitted with the application, prior to the occupation of the accommodation hereby approved, a scheme to demonstrate how the development will minimise resource use, mitigate climate change and ensure proposals are adaptable to a changing climate to achieve sustainable design and construction in the design of the development shall be submitted to and approved in writing by the Local Planning Authority. The development and measures shall thereafter be implemented in accordance with the approved details, including prior to the dwellings being brought into use where relevant, and shall be retained thereafter.

Reason: To achieve a sustainable form of development, and in the interests of the satisfactory appearance of the development upon completion, the character and appearance of the site and surrounding environment and the amenity of surrounding residents, in accordance with Policy QOP 5 of the Northumberland Local Plan and the National Planning Policy Framework.

09. Notwithstanding the approved plans, the areas shaded in green as being excluded from this development as identified on the approved plans on the second and third floors do not have the benefit of planning permission as part of this development.

Reason: For the avoidance of doubt.

10. Notwithstanding the approved plans and any description within the application documents, all new and any replacement rooflights to be installed under this permission shall be of "conservation" design and materials and shall thereafter be so retained. Details of such (including profile) shall be submitted to and approved in writing by the LPA prior to their installation. The development thereafter shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To safeguard the character of the building and the conservation area in accordance with Policies ENV 7 and ENV 9 of the Northumberland Local Plan and the NPPF.

11. Notwithstanding the approved plans and any description within the application documents, all replacement rainwater goods shall be black painted aluminium and thereafter shall be retained as such.

Reason: In the interests of the satisfactory appearance of the development upon completion and in accordance with the provisions of Policies ENV7 and ENV9 of the Northumberland Local Plan and the NPPF.

12. Prior to the occupation of the development the details and materials for new signage for the front elevation shall be submitted to the Local Planning Authority for written approval, including method and specification for making good stonework following removal of existing signage.

Reason: To ensure that the development does not detract from the character of the conservation area and complies with shopfront guidance.

13. The dental practice (E) hereby approved shall not be open for business outside the following hours:

Monday - Saturday : 08:00 to 20:00

Sunday : 09:00 to 16:00

Reason: In the interests of amenity and in accordance with Policy QOP 2 of the Northumberland Local Plan and the NPPF.

### **Informatives**

1. Building materials or equipment shall not be stored on the highway unless otherwise agreed. You are advised to contact the Streetworks team on 0345 600 6400 for Skips and Containers licences.
2. In accordance with the Highways Act 1980 mud, debris or rubbish shall not be deposited on the highway.
3. This is a planning permission granted under the Town and Country Planning Act. It does not convey any other form or consent that may be required from the Council. In particular building works may require approval under the Building Regulations and works affecting listed buildings may well require Listed Building Consent. Further information on these approvals can be obtained from the planning department at Northumberland County Council.
4. The applicant's attention is drawn to the requirements of the Party Wall Etc. Act 1996 in relation to work close to a neighbour's building/boundary. The applicant should seek independent legal advice about this legislation.

**Background Papers:** Planning application file(s) 22/00494/FUL