

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00110/FPA
FULL APPLICATION DESCRIPTION:	Re-development of existing golf course to facilitate the staging of seasonal historical show, including associated car parking area, staging facilities, outdoor seating, management offices and associated infrastructure and landscaping
NAME OF APPLICANT:	Anne-Isabelle Daulon, Eleven Arches Trust.
ADDRESS:	Flatts Farm, Toronto, Bishop Auckland, County Durham
ELECTORAL DIVISION:	Bishop Auckland Town
CASE OFFICER:	Steven Pilkington, Senior Planning Officer, 03000 263964, steven.pilkington@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site is in an open area of land located approximately 0.5km to the north of the centre of Bishop Auckland. It covers 48.7 hectares and predominantly comprises a former golf course with ancillary buildings water bodies and circulation space and hard surfaced access,. The site is enclosed to the north, east and south by the River Wear and is bounded by a railway walkway and the Newton Cap Viaduct to the north west and south west. The Public Right of Way of the Weardale Way also runs along the western boundary of the site. The site is accessed from the A689 just to the north of the viaduct which is partially shared with a car park and picnic area in Council ownership serving the railway path and bridleway. The surrounding urban fringe area to the south and west of the site contains a mix of commercial and residential properties and the settlement of Toronto lies on higher ground to the west beyond the viaduct.
2. The site lies immediately to the north of the escarpment on which Auckland Castle (Grade 1 Listed) and Parkland (Grade II Listed), and Bishop Auckland Town Centre (Conservation Area) are located. It is situated within a designated Area of Landscape Value and within the floodplain of the River Wear. Binchester Roman Fort (A Scheduled Ancient Monument) is located approximately 140m to the north of the application site. The Newton Cap viaduct on the western boundary is Grade II Listed.
3. The proposed development involves the provision of infrastructure necessary to facilitate the implementation of an open air night entertainment show. This includes stage and backstage areas, stand seating, lakes, paths, car parking and vehicular access arrangements as well as ancillary buildings, structures and lighting towers.

The existing buildings on site would also be largely incorporated within the development.

4. The night show is proposed to operate on 30 evenings of the year, most likely Fridays, Saturdays, Sundays and bank holidays over the period May to September. It would run for approximately 80 minutes from 9.30pm finishing by 11pm. The show would be a theatrical performance utilising light and music to tell the history of Britain through the eyes of the north east. In addition the performance would be intrinsically linked to the history and heritage of Auckland Castle which would be used as a back drop to the show. It is intended that the cast and crew involved in the performance and backstage running of the show would be made up of 600 volunteers drawn from the local community. This model is based on that operated by the internationally renowned Puy du Fou in Vendee, France which would provide overarching technically and operational support to the scheme. The first show would commence next year subject to necessary authorisations.
5. It is anticipated that the show would attract 180,000 visitors a year who would be accommodated in a tribune (open seating area) that can accommodate up to 8000 spectators. This grandstand would be situated at the south eastern end of the site and would measure approximately 115m in length, 40m in width with a maximum height of 17m. An access and circulation area with number of associated smaller buildings would be located behind it to provide amenities and snacks. The structure would be of modular construction built with cladding to the rear while the seats would have a pixelated appearance to help reduce its visual impact. Earth bunding is also proposed to the north that is intended to soften the appearance of the structure. The stage area would front the grandstand and would consist of pathways bunds and an oval shaped light railway track arranged around a central body of water. Telescopic stages extending to a maximum height of 8m would be housed below ground level which could be raised during performances.
6. Other small ancillary buildings in this area associated with the main set, scenery and technical delivery of the show are also proposed. These include single storey train sheds, and backstage areas positioned to the left and right of the stage. 4 demountable lighting towers ranging in height between 10m - 18m would be positioned around the stage area. These would remain in place over the performance period but would be removed at the end of each season.
7. The existing buildings located centrally on the site were used in connection with the previous golf course use but are now redundant with the exception of a residential dwelling used by a site warden. These would be converted into a merchandising store, offices and a restaurant/food outlet. Minor external alterations are proposed to these buildings to improve their condition and unify their appearance. A further 2 redundant buildings, a barn and a structure associated with the former use would be demolished.
8. A ménage building to provide horse training for the show is proposed at the eastern end of the car park on the south side of the site. This would measure 21m x 11m and would be 5m in height. It would be timber clad and agricultural in appearance. A number of smaller stables and storage structures would be centred around this building.
9. A re-aligned and widened access off the A689 to allow simultaneous entry and exit to the development site would be created and provision would be made for 1811 car parking spaces and 30 coach spaces. These would be arranged in 4 blocks on the western and southern side of the site. The parking areas would be constructed from

a permeable surface to facilitate natural drainage and allow a significant proportion of vegetation to grow through. An existing access to the site under the Newton Cap viaduct would be restricted for emergency vehicles only. The main vehicular and pedestrian route to the site would therefore be confined to the access off the A689. An existing Public Right of Way extends along the western boundary would be partially realigned in parts to take account of infrastructure such as an internal distribution road and round about.

10. A significant proportion of new structure planting is proposed to the north eastern and western portions of the site. This would be provided as ecological and landscape mitigation and consist of native woodland, scrub, wetland and grassland. Elements of brown field habitat would also be created adjacent to the access road.
11. The application was identified as being EIA development by the Secretary of State under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and an Environmental Statement has been submitted in support of the application. This application is being reported to Planning Committee as it falls within the definition of a major development.

PLANNING HISTORY

12. The site has planning history dating back to the late 1980's when planning permission was granted for a new farm house and alterations to existing buildings to form holiday cottages. Subsequent approvals were granted in 2002, 2004, 2006 and 2007 for a golf complex that culminated in the provision of an 18 hole course, driving range, club house and facilities and 24 holiday homes.
13. The site was last used for a golf course and driving range, with fishing lakes However this failed as a going concern has now ceased and buildings are empty or underutilised although a warden still remains on the site. The overgrown mounding and landscaping associated with this former use also remain as a legacy to previous development.
14. The consent for the provision of the 24no. Holiday homes, on the site was renewed in 2011 but expired last year having not been implemented.

PLANNING POLICY

NATIONAL POLICY

15. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
16. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report.

17. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
18. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
19. *Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
20. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
21. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
22. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
23. *Part 12 – Conserving and enhancing the historic environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

NATIONAL PLANNING PRACTICE GUIDANCE:

24. The recently introduced National Planning Practice Guidance (NPPG) supports the core government guidance set out in the NPPF and provides detailed advice

technical and procedural advice having material weight in its own right. It is set out in a number of topic headings and is subject to change to reflect the up to date position of Ministers and Government and is referenced where necessary within the report.

LOCAL PLAN POLICY:

25. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report, however, the following policies of the Wear Valley District Local Plan are considered relevant.
26. *Policy GD1 - General Development Criteria* - Identifies that all new development and redevelopment within the District should be designed and built to a high standard. and contribute to the character and appearance of the area. It states that permission will be granted provided it meets certain development criteria as appropriate. This includes having regard to the setting of landscape features, not have a detrimental impact on the landscape quality of the surrounding area, not disturb or conflict with adjoining uses, avoid damage to important wildlife habitats, not cause significant pollution to the environment in terms of noise, not be located on a identified floodplain or areas at risk of flooding, provide save access to the site and adequate parking facilities and not create unacceptable levels of traffic which exceed the capacity of the local road network.
27. *Policy ENV1 - Protection of the Countryside* - Set out that the Council will seek to protect and enhance the countryside of Wear Valley. Development will only be allowed for the purpose of agriculture, farm diversification, forestry or outdoor recreation.
28. *Policy ENV3 - Areas of Landscape Value* - Sets out that development will not be allowed which adversely affects the special landscape character conservation interests and appearance of the Area of Landscape Value.
29. *Policy ENV4 – Historic Parkland Landscapes* – Identifies that within the areas of landscape value the Council will protect and enhance the historic parkland landscapes at Auckland Castle Park. Development will not be allowed which will detract from the special historic character, landscape qualities and nature conservation interests of the park.
30. *Policy BE1 - Protection of Historic Heritage* - Seeks to conserve the historic heritage of the area by the maintenance, protection and enhancement of features and areas of particular historic, architectural or archaeological interest.
31. *Policy BE4 - Setting of a Listed Building* - Development which impacts upon the setting of a listed building and adversely affects its special architectural, historical or landscape character will not be allowed.
32. *Policy BE5 – Conservation Areas* – sets out that the character of Conservation Areas will be protected from inappropriate development.
33. *Policy BE8 – Setting of a Conservation Area* – Sets out that development which impact on the setting of a Conservation Area and which adversely affects townscape qualities, landscape or historical character will not be allowed.

34. Policy BE15 – *Scheduled Ancient Monuments* – Sets out that planning permission will not be granted for development which would have an adverse effect on scheduled ancient monuments and their setting.
35. *Policy BE17 - Areas of Archaeological Interest* - Requires a pre-determination archaeological assessment where development affects areas of archaeological interest. Where possible the remains will be preserved in-situ.
36. Policy BE20 – *Conversion of Buildings in the Countryside* - Sets out that the conversion of buildings in the countryside for small scale employment uses, holiday accommodation, recreational uses and new rural enterprises will be permitted provided the building is capable of conversion without substantial alteration, would not cause an unacceptable loss of amenity for neighbouring land users and would preserve nature conservation interests.
37. *Policy TM1 – Criteria for Tourist Proposals* – States that the Council will encourage schemes which provide tourism facilities provided that are of a scale and intensity compatible with their surroundings, can be absorbed into the landscape, safeguard nature conservation interests, can be accessed safely, adequate parking facilities are provided and the scale of the development does not affect the amenities of local residents.
38. *Policy T1 - General Policy, Highways* - All developments which generate additional traffic will be required to fulfil Policy GD1 and : provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.

RELEVANT EMERGING POLICY:

39. In considering this proposal due regard should be had to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act (2004) which requires that proposals be determined in accordance with the statutory development plan, unless other material considerations indicate otherwise. In respect to this part of County Durham the statutory development plan currently comprises the 'saved' elements of the Wear Valley District Local Plan that are consistent with the National Planning Policy Framework (NPPF). Due regard should also be had to relevant parts of the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) as a material consideration. In conjunction with these material considerations regard should also continue to be had to the most up to date relevant evidence base.
40. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, this amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight in the development management process.

41. In light of the above it is considered appropriate to draw attention to the relevant components of the emerging Plan in this report to which a degree of weight can be attached. However, the weight that can be attributed to these emerging policies is of such a limited level that it should not be the overriding decisive factor in the decision making process.
42. *Policy 1 – Sustainable Development*, sets out a presumption in favour of such through 18 subsections including directing economic growth to existing centres, protecting agricultural land, promoting inclusive and healthy communities, achieving well designed accessible places, making the most effective use of land, and conserving the quality diversity and distinctiveness of the County including the conservation and enhancement of designated and non-designated heritage assets.
43. *Policy 18 – Local Amenity* states that permission will only be granted for proposals providing it can be shown that a significant adverse impact on amenity would not occur including, for example, loss of light and privacy, visual intrusion, overlooking, noise and odour. In addition to this, permission will not be granted for sensitive land uses where suitable mitigation measures cannot be put in place to rectify the adverse impact on amenity.
44. *Policy 19 – Air Quality, Light and Noise Pollution* – All developments will be expected to minimize light pollution and/or prevent unacceptable exposure to such through good design. Planning applications with the potential to result in significant light pollution should be accompanied by an assessment of the likely impact to show that the lighting scheme is the minimum necessary for functional or security purposes and it minimizes potential pollution from glare and spillage. Particular attention will be paid in or close to open countryside, within the setting of heritage assets, close to residential and/or other sensitive land uses, or to areas or features important for nature conservation. Proposals for new lighting on existing developments or to illuminate existing facilities will be subject to the same considerations. Where adverse effects are identified development will only be approved if suitable mitigation can be achieved. All development will be expected to prevent unacceptable levels of noise pollution. Development within areas sensitive to noise such as within the setting of a heritage asset or close to residential properties will be given particular attention.
45. *Policy 27 – Visitor Attractions* – The expansion of key attractions will be permitted providing that there are no significant adverse impacts and the overall benefits outweigh any social, economic and environmental effects, is appropriate to the site's location in terms of scale, design, layout and materials, does not have a significant adverse impact on natural or heritage assets, helps support the future business viability of an existing attraction and enhances and complements visitor attractions and priorities in the County.
46. *Policy 39 – Landscape Character* prevents new development where it would cause significant harm to the character, quality or distinctiveness of the landscape or important features or views unless the benefits of the development clearly outweigh its harm.
47. *Policy 41 – Biodiversity and Geo-diversity* - New development will not be permitted if significant harm to bio-diversity cannot be avoided, adequately mitigated or as a last resort, compensated for.
48. *Policy 44 – Historic Environment* requires development to conserve the fabric, character, setting and cultural significance of designated and non-designated

heritage assets, with an approach proportionate to the significance of non-designated assets.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3272/Wear-Valley-District-Local-Plan> and <http://durhamcc-consult.limehouse.co.uk/portal/planning/>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

49. *Environment Agency* - Offers no objection provided the mitigation measures detailed in the submitted flood risk assessment are implemented by condition. These include the protection of existing flood defences, identification of safe routes into and out of the site, the provision of a 10m buffer zone from the river embankment and maintenance of flood storage volumes.
50. *Historic England* – Identify that the proposal lies just below the escarpment on which Auckland Castle and Park and Bishop Auckland are situated and where the settlement historically and presently gives way to the broad rural landscape of the Wear Valley. This enduring relationship helps to define and appreciate the significance of the castle as a grade I listed building, the park as a grade II* registered park and garden and the northern edge of the town as part of the Bishop Auckland Conservation Area. The proposal would weaken this relationship by partially urbanising this prominent piece of land and in doing so the significance of these heritage assets is harmed. Whilst recognising the ambition and exciting vision of the proposal, the harm to the significance of heritage assets needs to be acknowledged and considered in the planning process. In line with section 134 of the National Planning Policy Framework the harm caused to the significance of heritage assets needs to be weighed against the potential public benefits of the proposal. This is the balanced judgement that will need to be made in determining the application and it is recommended that the economic and social promise of the proposal is adequately scrutinised in order to test the level of benefit.
51. *Highways Agency* – In order to minimise disruption on the A1(M) Motorway it is recommended that conditions should be attached to any planning permission to control the opening times of car parks on site and the limiting of the capacity of the venue to 8000 visitors.
52. *Highway Authority* – Advise that the timing of the proposed event is such that it does not coincide with the existing highway network peak hours of operation and in principle the use of the access subject is considered acceptable subject to junction modifications. Whilst there is some concern about the scale of the car park no highway objection is raised overall subject to conditions in respect to traffic management controls on entry and exit to the site, the implementation of a parking management scheme, provision of offsite car parking, the implementation of a signing strategy for a temporary speed reduction on the A689, limits on the capacity of the grandstand and number of events to 30 per year. It is also stated that vehicle and pedestrian access except in an emergency would need to be solely taken from the principal access on the A689.
53. *Natural England* – Based upon the information provided advise that the proposal is unlikely to affect any statutorily protected sites or landscapes. The consultation documents indicate that the development includes areas of priority habitat, as listed

in Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for the loss then planning permission should be refused.' No advice is offered in respect to protected species.

54. *Northumbria Gardens Trust* – Raise concerns about the proposal, including the scale of the tribute, design of other buildings and the extent of development which will cause serious damage to the views of the park and its wider borrowed landscape from along the northern edge of the castle. It is acknowledged that assessing the potential benefits of the development is a complicated judgement and outside of the remit of the Northumbria Gardens Trust.
55. *Coal Authority* – Advise that the conclusions of the Mining Risk Assessment are sound and that coal mining legacy issues poses a risk to development. Intrusive site investigations should therefore be carried out on site as a pre-commencement planning condition and appropriate mitigation secured.
56. *Weardale Ramblers Association* – Offer no objections to the scheme but concerns are raised regarding securing the diversion of the Public Right of Way and improved connectivity into the wider right of way network.
57. *Bishop Auckland Town Council* – expresses support for the Trust's plans for the Eleven Arches Project which will create a major visitor destination of regional, national and international significance. The Council is not only excited about the project itself, but also for the considerable economic, cultural and social benefits it will bring to the town and surrounding area.

INTERNAL CONSULTEE RESPONSES:

58. *Environmental Health (pollution control)*- Advise that following consideration of the submitted noise assessments the development will significantly impact on the nearest noise sensitive dwellings amounting to a statutory noise nuisance. Objections are therefore raised for the following reasons:-
 - The event is proposed to run at a time that has maximum impact on residents (outside of the 11pm-7am period), namely when the majority of households want to relax or young children have been put to bed.
 - The event is proposed to run during the summer months when residents are more likely to use outside areas and/or have their windows open
 - The event although 80 minutes long is very regular in frequency being 30 nights, condensed within the summer season.
 - The potential noise level is above the guidance stipulated and will be clearly audible at a significant number of properties. As the same show is run on 30 occasions (every year) the repetitive nature of this is likely to increase the impact of the development.
 - The site is generally very quiet in nature and therefore the noise will be far more noticeable.
 - The noise is made up of considerable fluctuations in volume and the variations in the tone/type of noise including pyrotechnics are also punctuated by lights. This is likely to draw attention to the noise and increase the impact on residents.

- The event is planned to run on consecutive nights possibly 3-4 on a bank holidays, therefore increasing the impact.

It is therefore advised that without significant changes to the proposed development it is not considered appropriate for the site due to its proximity to residential properties and the nature/topography of the land.

In relation to light pollution it is advised that although the lighting is intended to illuminate the staging area using a number of localised and tower lights it is inevitable due to its proximity to housing and the very dark nature of the site that there will be light spill which will change the nature of the area and directly affect receptors. The impact is likely to be increased by the changing light and become more intrusive and noticeable. The development is proposed in a very dark location and the lighting will also be visible at considerable distances for the period of the show. Nevertheless based on the information available it is not considered that the development likely to lead to a statutory nuisance, as defined by the Environmental Protection Act 1990. However it is likely that some loss of amenity would arise.

59. *Ecology Section* – Advise that the development would result in the loss of a significant area of foraging habitat for badgers along with the possible loss of a sett, disturbance to other setts and the displacement of badgers from the site onto the nearby road. It is advised that this is contrary to guidance and planning policy which suggests that there should be no loss of foraging habitat and no increase in the risk of road kill.

The site is also used by a diverse assemblage of local bats, with 8 out of the 10 bats species recorded in the County being found on site. The bat surveys show that an important foraging area will be lost to the development and although mitigation is proposed through habitat creation it would not be effective for a decade or so. The applicants ecologist has attempted to quantify the disturbance effects of the light and sound show but the results still indicate a significant displacement effect. Although this is limited to 30 nights per annum it cannot be easily dismissed as the nights are bunched into the summer feeding and breeding season. On nights when the light show takes place there will be a delay in the emergence time of bats from roosts on and near the site. As yet there is insufficient data to say what that impact might be on the suspected Daubenton's bat roost in the un-surveyed buildings on site. Although these are excluded from development in the current planning application it is clear from the applicants ecologist's report that bats utilise those buildings. It is therefore not possible to make an informed decision on what impacts the development might have at this stage.

Other issues such as dingy skipper butterfly and habitat loss/creation have been adequately assessed and mitigated and require no further work and no concerns are raised over disturbance to otters or the river habitat in general.

60. *Design and Historic Environment Section* – Advise that the scheme offers much in terms of opportunities for Bishop Auckland, its local population and the wider population of the County and region. It presents a rare opportunity to secure a visitor attraction without comparison in this County. However, these positive messages must be balanced against the sensitive location of the proposal and the impact the development will have on the setting of the adjacent heritage assets and their significance. Based on the form, scale and impact of the development it is considered that the setting of various assets will be harmed, namely the grade I listed Auckland Castle, the grade II* listed park and garden surrounding it and the Bishop Auckland Conservation Area. Only if the local planning authority is satisfied that having given considerable weight to the desirability of preserving the setting of

these assets and the public benefits outweigh the identified harm should this application be approved.

61. *Landscape Section* – Advise that there would be some locally significant adverse effects on the special landscape character and appearance of Area of Landscape Value in the area between Bishop Auckland and Binchester. This would be localised within around 250m of the site but would affect an area of particular value in respect of the setting of the town and Auckland Castle Park. The potential adverse effects have been addressed as far as possible both through detailed design and through mitigation proposals contained in the Landscape Strategy. A detailed landscape scheme would need to be agreed for the ongoing management of landscape and screening elements which form part of the mitigation strategy to ensure that design objectives are delivered over time. This should be secured by condition. The colour of certain elements such as tribune seating will also need to be agreed and should be secured by condition.
62. *Spatial Policy* – offer there no in principle policy objections to the location of this proposal beyond the built up framework of Bishop Auckland subject to landscape comments being favourable. The socio economic benefits of the scheme are apparent. However, the acceptability of the overall scheme is certainly dependent on the finer detail according with the provisions of the policies detailed from an environmental perspective in terms of ecology, residential amenity and heritage assets.
63. *Air Quality Officer* – Advises that the site is not within or in close proximity to a declared Air Quality Management Area. In analysing the submitted Transport Assessment and based on the number and timing of shows a year the proposal is not considered to have a significant impact on local air quality.
64. *Contaminated Land Section* – Advise that following review of historical uses of the site no further work is required to be carried out in relation to potential contaminated land.
65. *Archaeology Section* - Advise that the development will have a limited impact on archaeological assets. Previous evaluation prior to the development of the site as a golf course found no archaeological features or deposits. The previous redevelopment as a golf course involved considerable landscaping which will have sterilised the site further from an archaeological perspective. Some low level photographic recording of the extant farm buildings, particularly the U-shaped farm buildings, would be the only work to be considered and controlled by condition should planning permission be granted.
66. *Drainage and Coastal Protection Team* - Advise that a surface water drainage scheme should be developed prior to the commencement of development that utilises soakaways where appropriate, limits discharge from the development to greenfield run off rate and incorporates design features within buildings to mitigate flood damage.
67. *Regeneration and Economic Development* – Offer support for the application, highlighting the likely economic and regeneration benefits to Bishop Auckland through increase visitor numbers which has the opportunity to support local businesses. The developer is encouraged to enter into a targeted recruitment and training programme to secure local employment opportunities

68. *Rights of Way Section* – Offer no objections to the proposed diversion of the Public Rights of Way but highlight that surface improvements would be expected.

EXTERNAL NON STATUTORY CONSULTEE RESPONSES:

69. *Bishop Auckland Civic Society* – Support the application and consider that the proposal to be an inspired scheme that represents a unique opportunity for Bishop Auckland. The potential for regenerating the local and regional economy is something that must be embraced and supported and the proposal represents a one in a lifetime opportunity for the town and surrounding region.
70. *Durham Badger Group* – Identify that the site is of high importance to badgers. Based on the submitted surveys the badgers main foraging ground would be lost due to construction work, increased human pressure and eventually the operation of the site. It is suggested that there would not be any mitigation that could be proposed that retain the badgers on the site. The proposal is not considered to accord with paragraph p.118 of the NPPF.
71. *Northumbrian Water Limited* – Offer no objections provided that the development is carried out in accordance with the Flood Risk Assessment.
72. *Visit County Durham* - Offer support in principle for the proposal, advising that investment of this scale to the visitor economy is at a premium. The proposal has the potential to be an economic benefit for Bishop Auckland and the surrounding hinterland increasing the visitor economy and will likely result in increased overnight stays increasing tourism revenue across the county.

PUBLIC RESPONSES:

73. The application has been publicised by way of press and site notices, and individual notification letters to neighbouring residents. 27 letters of objection and 75 letters of support have been received in relation to the issues summarised below. An additional 2 letters or representation offering comment on the application have also been received.
74. Objections:-

Traffic/Highway Safety

- The existing access is considered inadequate to serve the development, due to limited sight lines and width and the speed at which vehicles travel on the A689.
- The submitted transport assessment supporting the application is not robust and makes flawed assumptions. It takes no account of footfall onto the surrounding road network from the viaduct
- A significant amount of traffic will be generated at peak times. This has not been modelled and will create congestion for all roads.
- Traffic entering and exiting the site will back up on the roundabout and cause significant delays within the area. This will impact on highway safety while generating noise and additional air pollution.
- The proposed secondary access is inadequate to accommodate additional traffic or pedestrians.
- The intended mitigation measures are considered inadequate, volunteers do not have training and are unable to enforce on the highway. Proper traffic management will need to be brought in to manage the event.
- The site is not considered sustainable given the distance to walk from the town centre, location of bus stops and train stations. Public transport does not run

effectively around start and finish times. The development would significantly increase car journeys.

- The length of time it would take visitors to exist the site is unacceptable and this would put pressures upon residential areas which would serve as overflow parking as people would be likely to park in residential areas.

Noise Impact

- The submitted noise assessment is considered flawed, due to the limited background readings taken and assumptions made on how sound will travel. It does however highlight there will be an impact on surrounding residents due to the noise, frequency, timings and nature of the show.
- The show will likely breach acceptable noise limits set out by the World Health Organisation which raises the possibility of a significant effect on human health.
- The noise impact will extend to Toronto and the Market Place and further afield and will also affect other leisure businesses such as cafes and pubs.
- No assessment of road traffic noise has been undertaken.
- Other outdoor events have restrictions to limit noise levels to 5db above background. The proposal will significantly exceed this and noise will also likely exceed statutory nuisance levels
- Rehearsals and use of PA equipment should be limited to certain times
- Concerns are raised regarding potential vibration impact caused by the development.

Ecology

- The conclusions made in the submitted ecology report are based on insufficient evidence, and are questioned particularly in relation to the amount of Otters, Butterflies and the failure to identify the site as a Durham Biodiversity Action Plan habitat.
- 8 species of bat have been recorded which are a European protected species. Although mitigation is proposed there will be an impact on the species, particularly on foraging areas and disturbance by human activities.
- The development of this site will fragment interconnecting areas of habitat while noise and lighting has the potential to adversely effect species
- The legal framework around protected species is highlighted and concerns are raised that the development would contravene this.
- The lighting levels particularly on the car park will also impact on bats including insects such as moths.
- The lighting assessment has ignored the impact on birds and there are general concerns about impacts on ground nesting birds

Landscape and visual amenity

- The development is not in keeping with the Wear Valley Area of Landscape Conservation or the Durham Coalfield Pennine fringe Landscape Character area as designated by Natural England
- The development, particular the car park and grandstand will have a significant and inappropriate impact on this undeveloped site.
- Views will be significant from a range of heritage assets including Auckland Castle and Binchester Fort will be impacted upon. The development will detract from views of these and the viaduct in the landscape. This will reduce the enjoyment of the countryside and remove the sense of openness urbanising the countryside
- The development will conflict with policies of the local and emerging plan in this respect by detracting from the significance of heritage assets

Flooding and drainage and land stability

- The development is located within flood zone 3 where the NPPF seeks to limit development
- The Flood Risk Assessment which has been submitted is inadequate to support the conclusions which have been made.
- This assumes that there is no impact from the car park while flood volume of the area will be reduced.
- The soil composition does not allow infiltration and storm water will reach the river quickly and cause downstream and localised flooding particularly if connected to the sewer system where there are capacity issues. This will also change peak river flows.
- The river meanders and will change its course impacting on the development
- The additional weight of parked cars and the built development will cause land stability issues particularly in proximity to coal seams.

Economic and social impact

- Limited job opportunities are actually provided and these are likely to go to specialists from outside of the area. Job conversion from volunteering to permanent employment is unlikely.
- Wider social and community cohesion is not considered a material planning consideration.
- The mass movement of people in and out of the area will not support Bishop Auckland. The emphasis on arrival by car means that Bishop Auckland may be bypassed by the majority of visitors. An example of this is the Locomotion in Shildon
- The development does not integrate with the retail offer of Bishop Auckland and competition would be provided to existing businesses by the facilities on site.
- This development conflicts with nature conservation, heritage and other kinds of visitor experience.
- The French example is provided in an entirely different context, more connected to the rest of Europe, it operates within wider open space and is not imposing on local business or the local community.
- The negative issues associated with the development may detract from the offer.

Other Issues

- Even with the proposed mitigation measures the proposal will impact on local residents due to the lighting levels. These will exceed statutory nuisance levels. Concerns are also raised regarding light spillage into the night sky.
- The development is likely to exacerbate anti social behaviour which exists under the old bridge and along the river bank and will act as a focal point for disturbance,
- Part of the site is in council ownership and therefore there is a conflict of interest in determining this application
- Concerns are raised regarding the availability of information on the Council's website and the level of consultation undertaken is inadequate
- It is unclear whether the public right of way is being diverted or not
- Concerns are raised regarding the lack of renewable energy integration and the lack of a waste management plan
- The loss of eight houses could be viewed as insignificant but it is still a loss
- Although key sectors of the community have been engaged with the proposal, the developer has not engaged with residents who will be severely impacted on by the proposal
- Concerns are raised regarding the requirement for the Council to contribute to improving transport infrastructure for the event
- Impact on value on homes

- The scheme is EIA development and an Environmental Statement should have been submitted alongside the planning application.

75. Support:-

- The regeneration benefits of the proposal are highlighted while attention is drawn to the lack of investment into the town and its recent decline. The proposal would bring much needed support to the future of the town, bringing jobs and visitors.
- The proposal alongside others from Auckland Castle would provide a landmark visitor attraction putting the town on the map and complementing other regional attractions such as Beamish.
- The involvement and commitment to the community would give valuable support to the future of the. Future generations would benefit from improved social cohesion and the revenues generated.
- The proposal provides an opportunity to bring people together with a shared aim and to re-ignite pride in and enthusiasm for the town and surrounding area. It is a brave and challenging step which deserves support.
- There would be a reduction in anti-social behaviour when people engage with the project
- The town has demonstrated it can stage big events such as the food festival.
- The benefits that the development would bring outweigh any harm although this has to be carefully considered
- The proposal would improve the appearance of this derelict site

76. In addition to statutory planning publicity the applicant carried out a community engagement programme prior to submission of the planning application. This is documented in a statement and involved consultation events and workshops with local residents, business and other interested bodies. It also included the distribution of a Questions and Answer fact sheet distributed to local residents and the construction of a dedicated website. In response to this publicity a total 1309 replies offering support for the development were received and 6 objections and 2 no comments received. The statement of community involvement also highlights support from local schools, businesses and organisations.

77. *Local Councillor Joy Allen* offers support for the application highlighting that it is a once in a lifetime opportunity for Bishop Auckland, County Durham and its surrounding villages. It is considered that the development will significantly boost tourism and has the potential to become one of the must see visitor attractions in the UK. The proposal would provide a family focussed quality attraction, creating over 200 jobs. It would also encourage visitor and tourists to stay longer and spend more in the local economy giving a much needed boost to the retail/commercial sector. The majority of residents are very supportive of the scheme and recognise the efforts the Trust has made to engage with local individuals, groups and welcome their intentions to train and develop 600 local volunteers in a range of specialisms.

APPLICANTS STATEMENT

78. Eleven Arches is a £24m charitable scheme - fully funded privately and part of a £90 million charitable enterprise based around Auckland Castle, bringing economic prosperity and job creation to County Durham, lifting Bishop Auckland and the region generally.

79. Eleven Arches is set up to produce an open air night spectacle featuring 2,000 years of British history through the eyes of the North East; it has partnered with Puy du Fou, the Oscar-winning entertainment company (Applause Award Nov '14): its

French-equivalent offering in France has completely transformed the Vendee region by harnessing 3,400 volunteers from the local community in its night show, a show seen by more than 10 million people over the last 37 years. Today, Puy du Fou welcomes 1.9mIn visitors a year, employs 150 permanent and 1,500 seasonal staff, and generates €74mIn revenues and 3,500 jobs in the area. Its creative team has worked with Eleven Arches over the last 24 months; Puy du Fou's entire resources and intellectual property stand ready to help us deliver in June 2016 the show we have written together. Due to Puy du Fou's international commitments (Russia in 2017 and China in 2018), there is a unique window of opportunity to bring a world class show to County Durham in 2016.

80. Eleven Arches is only its second iteration –bringing, quite literally, the ‘best show in the world’ to the North East. A unique family attraction in the country, the show will draw visitors from the all over the country and beyond, attracting new audiences and overnight visitors to County Durham: as overnight visitors spend £157/day vs £19/day for day trippers in County Durham, this translates into more than 200 jobs created from visitor expenditures alone. Other attractions in the county will be beneficiaries as well of those enjoying a short-stay circuit, snowballing the economic impact for each extra day and night spent in the region. Overall, Eleven Arches development and operations are expected to have a total net impact of 390 FTE jobs at local and 492 at regional level.
81. Building on the success of London 2012 and the 2014 Glasgow CW Games, County Durham will welcome the next chapter of volunteer-led power entertainment, generating incredible pride among participants and a sense of belonging and achievement for the people of the North East –not just for a one-off, but for a season of up to 30 shows every Summer. There is an overwhelming desire from members of the community “to be part of it”, so a target of 1,000 volunteers is achievable. Some of our volunteers will be involved outside the show area (ushering, parking attendants, first aid, security, visitor services...) or outside of show time (landscaping, animal care, promotion and ticket bookings, costume, set & prop making...), others on stage as cast (general cast, riders or stunt cast) or off stage as technical crew, but all on their leisure time.
82. Eleven Arches Creative Director and Mass Cast Coordinator is Steve Boyd, who has masterminded inter alia the public involvement of every Olympic since 1992. In May 2015, Steve has already organized masterclasses in Bishop Auckland in several key disciplines that will be needed for the production, leveraging local and regional training facilities and organizations (Pyrotechnics, Stage Combat, Horse riding and Mass Choreography). 350 people are included into this initial effort -each nightshow next Summer will require the participation of the same number of performers. The Mass Choreography itself is a historic coming together of 320 kids from the 3 Bishop Auckland secondary schools and the college to perform a human animation under Steve Boyd's direction. All masterclasses were designed to illustrate how the volunteer experience will be fun, challenging, socially meaningful, and how personal transformation can occur in a very short time. Over 400 people are already registered to volunteer with Eleven Arches, and yet it was important to show the volunteer's arc of achievement in terms that other can see themselves doing as well or better, and to show that everyone in the community has a place in this production no matter their current abilities. Engagement, recruitment, training and retention of ALL our volunteers are the cornerstones of the quality of our performances (a must-see show) and their longevity (a success year after year). Subject to planning, an open day on 6th June 2015 will kick off the One Year to Go countdown and start this process formally. Last is the establishment of the Eleven Arches Academy- as our ongoing commitment to education and training. Our legacy education programme will

draw on the founding blocks of the first season training modules with our partners to ensure a successful 2nd season and beyond. Eleven Arches will also look into the education opportunities and outcomes, for volunteers and visitors, in relation to the content of the show (show programme, Key Stage talks, etc...). From Roman conquest to Viking invasions, from the early Christianization of Britain to Norman era to the battle of Neville's Cross, with Henry VIII, Elizabeth I King Charles and Queen Victoria, from Civil War to Industrial Revolution to 2 world wars, with 4 Bishops and Auckland Castle as a backdrop through centuries, from the mining legacy to brass band traditions, the show will remind us all –in the region and all over the country- of our roots; this exciting family entertainment will engage all generations to understand what has shaped them over the last 2,000 years.

83. Eleven Arches has already committed £3 million ahead of planning, and subject to consent and licensing, will spend the next £24 million within 12 months: workshops will be set up locally to create sets, props and 1,843 costumes. Leveraging as much as possible the existing facilities and training resources in the area, Eleven Arches will unlock local talent and train 1,000 volunteers and 56 horses to orchestrate a show on par with the Opening Ceremony of London 2012. 114,000 hours of volunteering and intergenerational activities will foster social cohesion; at the individual level, involvement in the show or enrolment in the academy for the younger volunteers will enhance life skills and provide upskilling, leading to improved pathways to employment.
84. The visual connection to Auckland Castle is inherent to the scheme and the very foundation of its historic storytelling. The site is not without challenges, and Eleven Arches worked hard at minimizing the impact on the environment, as evidenced by the support (or lack of objection) from statutory consultees. Eleven Arches acknowledges however the residual impact on ecology and on noise on a minimal number of neighbouring properties. Eleven Arches remains committed to reduce noise to acceptable levels throughout the process of creating its soundtrack, setting up, testing and fine tuning its sound system, as well as through exemplary event management procedures.
85. Today, Eleven Arches stands ready for a June 2016 delivery, with the overwhelming support of thousands of local people throwing their weight behind a scheme that will radically change the fortunes of the area: the profits of the show will be used to reinvest in the show and keep it at its best, year after year. They will also fund the charity's education and community development objectives, with a long-lasting social and economic regeneration loop from inception. The unique volunteer-led enterprise is a key tool to radically transform the community Eleven Arches serves: it empowers people to create a sustainable and cohesive joint pursuit with tangible benefits at regional, community and individual level, for generations to come.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N9SHZ7GDHLV00>

PLANNING CONSIDERATIONS AND ASSESSMENT

86. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the principal planning issues raised relate to the principle of development, economic and social considerations, impact on heritage assets, visual

amenity, highway safety, amenity of adjacent land uses, ecological interests and flooding and drainage issues.

The Principle of Development

87. The application site is located in the open countryside, outside of the defined development limits of Bishop Auckland. Saved policy TM1 of the Wear Valley District Local Plan (criteria for tourist proposals) states that schemes which provide tourism facilities, including those outside of defined settlement limits, will be supported in principle. This is provided the development is compatible with its surroundings in terms of its scale and intensity, can be absorbed into the landscape, adequately accessed with an appropriate level of car parking and protects the amenities of local residents.
88. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. In this respect it is considered that the general approach of policy TM1 in setting a framework to assess tourism proposals is consistent with the NPPF and the promotion of sustainable development and therefore significant weight can be afforded to this policy. It is therefore considered that there is support in principle to the creation of a significant tourist facility in this location under saved policy TM1 of the Local Plan provided the detailed impacts of the scheme can be acceptably accommodated. The approach to tourism related proposals adopted under policy TM1 is also reflected in policy 27 of the County Durham Plan which sets out a framework for the assessment of new visitor attractions that are located in sustainable and accessible location (where practical). However limited weight can be afforded to this policy at this time.

Economic and Social Considerations

89. At the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 7 sets out the 3 dimensions of sustainable development defining these in terms of its economic, social and environmental roles. In assessing the development in this context, it is recognised that the proposal has the opportunity to significantly contribute to the economic and social roles of sustainable development.
90. The proposal is one of a number of significant schemes being developed by the Auckland Castle Trust at the present time in and around Bishop Auckland that are intended to increase the visitor attraction offer in the town. Some of these including proposed developments at the Castle are at an advanced stage having received planning permission and serve to demonstrate a commitment to invest in the future of the town. The present scheme would reference the history and heritage of the area in a different and theatrical way but would be very much part of the package of developing visitor experiences that are emerging from the Trust and integral to the vision to make Bishop Auckland a key visitor destination. As a key component of the Auckland Castle project the proposed development is intended to contribute to the overall financial viability of the Trust's attractions going forward. Monies from the show would also be reinvested in an ongoing programme to maintain and enhance the quality of the 11 Arches production and visitor experience.
91. The proposed development would take place in the foreground of the Castle and its grounds and would utilise these and the Chapel in particular to provide an atmospheric visual backdrop to the night show. The technical delivery of the show and provision of associated infrastructure would involve significant financial cost and investment and a socio- economic report has been submitted in support of the planning application which highlights these considerations. This indicates that the

physical works associated with construction and set up would cost an estimated £19.4million and generate an estimated 44 full time equivalent jobs (FTE) over this period. Thereafter in terms of visitor numbers and based on a 70% capacity 168,000 visitors are expected a year that would generate an estimated off site annual spend of £9.5million. Through direct employment on site, supplier linkages and off site visitor expenditure it is further estimated that around 250 FTE jobs would be created at a regional level. The report goes on to point out that the current night time tourism offer in the area is minimal and as a result this imposes limits on visitor stay extensions into the evening or overnight and on the evening economy potential. It is considered that the lead in period to the night show proposal and its late finish offers the potential to extend visitors stay around the area thereby generating additional revenue for the local economy.

92. The Eleven Arches night show is based on a successful similar model (Puy du Fou) in France that also utilises a significant number of volunteers from the community to deliver the show. The project is expected to offer over 600 positions and 114,000 hours of volunteering to people without pre-existing artistic or technical skills. Volunteers would be welcomed from across the age range and training would be made available for 300 people each year as part of the project in the associated off site Eleven Arches Academy in order to develop the necessary skills base. This would be geared towards young people who it is anticipated would make up at least half of the volunteers. The academy would provide the opportunity for training across a wide curriculum in after school and evening classes and in partnership with education bodies and would cover such areas as costume making, set design and stunts, artistic direction, landscaping, horsemanship and animal care.
93. Whilst direct employment opportunities arising from the seasonal show would be limited the socio-economic report highlights that the Puy du Fou model has been successful in building performing arts, crafts and related skills within the local community. This has also helped to generate an increased sense of aspiration and empowerment, social pride and cohesion as the local community comes together to make the event happen and as they are given the tools to do so. An additional benefit from training and skills development of this nature is highlighted in relation to support to the local economic base and local services. This assumes added importance in an area that is characterised by low level of employment and weak economic performance relative to the national average.
94. The methods used in compiling the socio-economic report have been assessed by the Council's Spatial Planning Policy Team and Economic Development Regeneration Team and the suggested revenue streams and level of job creation are considered realistic. Visit County Durham has also offered support for the scheme advising that investment in the visitor economy on this scale is at a premium and the proposal has the potential to be an economic benefit for Bishop Auckland and the surrounding hinterland. It is also suggested that the proposal is likely to result in increased overnight stays enhancing tourism based revenue across the county.
95. On the basis of the above it is considered that the scheme would perform particularly well when assessed against the economic and social elements of sustainable development, representing a rare opportunity to secure a major privately funded visitor attraction without comparison in the region. Bishop Auckland is a major County town possessing a range of services and facilities and the attraction of significant numbers of visitors would provide an opportunity to help invigorate the town which has suffered a decline in its vitality over the recent years. Although there would be retail and food offerings on site that would be in competition to an extent with local traders, these would be limited and local shops and businesses would still have the potential to capitalise from increased spending in the local economy. Whilst

full time seasonal work would be limited a range of other jobs would be created and from a social perspective the focus on volunteers and partnership with local institutions also has the potential to increase social inclusion and community empowerment. The proposal has strong linkages to other development proposals associated with Auckland Castle that are being brought forward and would contribute to these as a related attraction and financially as part of the creation attraction to the provision of a sustainable visitor programme for Bishop Auckland.

96. Notwithstanding the above the NPPF sets out that the three roles of sustainable development should not be viewed in isolation and are mutually dependent. Full consideration therefore needs to be given to the potential environmental effects of the development and these are assessed below.

Landscape and visual impact

97. Part 11 of the NPPF aims to protect and enhance valued landscapes. The application site lies within an Area of Landscape Value as designated by saved policy ENV3 of the Wear Valley District Local Plan. This states that development will not be allowed which adversely affects the special landscape character nature conservation interests and appearance of areas of landscape value. Saved policy GD1 of the local plan also seeks to avoid a detrimental impact on areas of landscape quality. The site also lies adjacent to Auckland Park which is identified on English Heritage's Register of Parks and Gardens of National Interest (grade II*) and saved policy EV4 seeks to protect and enhance the historic parkland of Auckland Castle Park.
98. The site is a relatively flat area of land within the floodplain of the River Wear immediately below the escarpment on which Auckland Castle and Bishop Auckland town centre are located. It is located within the Wear Floodplain Broad Character Area for landscape classification purposes which is of relatively high scenic quality and reflective in its designation as Area of Landscape Value. This area is predominantly rural in character with built development and infrastructure is largely absent. However the scenic quality of the site itself is lower, with existing man made features such as earth mounding that are out of keeping with the character of the floodplain, but forming part of wider views of higher quality.
99. In the local context the site is visible in shallow views from the valley floor across the River Wear from The Batts, Binchester Road, and the Weardale Way to the west. It is also overlooked from higher ground and visible in deeper views from vantage points on the northern edge of Bishop Auckland (North Bondgate), from parts of Auckland Castle and from points within the Park, and footpaths on higher ground to the east. Encircling ridges of higher ground provide a fairly strong degree of visual containment to the north, south and west. More distant views from higher ground to the east, south-west and north-west are achievable.
100. The scheme proposes some remodelling of the existing terrain to accommodate the development including the incorporation of bunding to provide screening where appropriate. For the most part this would affect areas where the landform has already been modified. The Council's Landscape Officer advises the remodelling of the disturbed and engineered landform in the southwest of the site to a more naturalistic form would have a beneficial effect, although in the short term this would have a visual impact. The proposals would also entail the loss of some trees and sections of hedgerow but these are largely of low value.
101. The proposals would also provide substantial areas of new native woodland on the northern part of the site together with strategically placed structure planting on its

south side and areas of new woodland on the western bluffs. This would compensate for the loss of immature trees elsewhere on the site and create a more naturalistic vegetation structure. This would also be consistent with the wider objectives of the County Durham Landscape Strategy which identifies it as a priority area for new riparian woodlands, native woodlands and community woodlands.

102. The Council's Landscape Officer advises that the overall effect of the proposals on the wider character area would be localised due to the degree of visual containment in views along the valley floor and would therefore be of low and minor significance. However the effect on the character of the area immediately north of Bishop Auckland the site and its immediate surroundings would be more substantial.
103. The built elements of the proposals particularly the tribune and lighting structures and extensive areas of car parking would be visible in general views across the floodplain as demonstrated in the submitted Landscape Visual Impact Assessment. These features would be out of keeping with the present rural character of the floodplain. Although some elements would be concealed or absent outside of show hours or taken down between seasons the overall magnitude of the impact would be high in the early years of development. Nevertheless this would diminish over time (10+ years) as vegetation became established reaching a point where it is considered that the effect on this medium –high sensitive landscape would be moderate.
104. Views towards the site from the more sensitive valley slopes in the higher parts of Auckland Castle Park would be largely obscured by mature vegetation and therefore the overall magnitude of the impact is identified as being low. The site would be more visible from the more open slopes to the west and north as part of wider panoramas and having a moderate landscape impact.
105. Having assessed the implications of the scheme on the landscape it is considered that in wider views the visible elements of the proposals would appear as small features in visually complex views of a settled landscape. However, the effect on the character of the area immediately north of Bishop Auckland, the valley slopes overlooking the floodplain and the special landscape qualities of Auckland Castle Park would be more pronounced. It is accepted that the potential effects of the proposal have been addressed as far as possible through the detailed design and mitigation proposals contained in the Landscape Strategy. These would become progressively more effective as planting becomes established although given the moderate longer term landscape impacts the scheme would still conflict with policies ENV3, GD1 and ENV4 to a level that would need to be outweighed by other material considerations.

Impact on the Historic Environment

106. Local Plan Policies BE1, BE4 and BE5 seek to preserve the historic environment, particularly the character and appearance of Conservation Areas and the setting of Listed Buildings. These policies reflect the requirements of Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in terms of having regard to the desirability of preserving the special interest of listed buildings and giving this considerable weight and importance. The NPPF also seeks to conserve or enhance heritage assets in a manner appropriate to their significance. Sections 132 to 134 of the NPPF states that the significance of heritage assets can be harmed by development within their setting. Where this harm is substantial it must be demonstrated that the development is necessary to achieve substantial public benefits. When harm is of a lesser degree, then a proposal should only be accepted

with a proportionally strong level of public benefit.

107. Identifying the key heritage assets, English Heritage advise that the Grade 1 listed Auckland Castle is one of the best preserved and most interesting Bishop's Palaces in England. Continually used by the Bishops of Durham from the 12th century to early 21st century the castle reflects the changing, often defining, role the Bishops had in the governance of County Durham and the spiritual and political life of England. It is the principal monument of the town and contributes to regional identity through its association with the Bishops of Durham.
108. Auckland Park is a grade II* registered parkland with formal and functional gardens immediately around the Castle. The parkland has an 18th century character which uses the course of the River Wear to create picturesque encounters with the Castle and the Wear Valley and so makes an important contribution to the Castle's setting.
109. Bishop Auckland Conservation Area encapsulates the growth and history of one of Durham's principal towns. Its significance is expressed primarily through the visual and historic values of a largely 19th century townscape laid on a medieval plan around the market place and a post medieval expansion along the course of the Roman Road Dere Street (now Newgate Street). It is a varied and complex conservation area of considerable historic and architectural interest and potential.
110. Binchester Roman Fort situated to the north east of the site is a Scheduled Ancient Monument and one of the most significant Roman sites in Britain. The Newton Cap Viaduct, a Grade II listed structure is located to the south west of the site.
111. English Heritage considers that as the application site forms part of the landscape setting to each of these heritage assets it contributes to their significance. This is reflected visually in the appreciation of the relationship between landscape and settlement. In the medieval period it is likely that the castle was a prominent landmark in a landscape largely controlled by the Bishops. From the 17th to 19th centuries the 'romantic' quality of views across the Wear Valley were increasingly brought into the design of the castle and park and the distinctive silhouette of the chapel against its parkland backdrop was formed. The town is more inward looking and centred on its commercial and civic spaces but its original northern boundary remains defined by the river's edge with historic boundary plots running down to the Batts and North Bondgate visible on the skyline above.
112. A Heritage Statement and other supporting information has been submitted with the application assessing the impact of the development on key heritage assets. English Heritage consider that the analysis of impact on the historic environment within the documentation is robust, with sound research and a good visual impact assessment and illustrations.
113. In assessing the impact on the heritage assets both English Heritage and the Council's Design and Conservation Team advise that the impact on the setting of the designated assets would primarily result from the considerable change in the character of the land. This would cease to be broadly open and rural in character with sporadic built development and would become much more urban in nature reflecting the operational requirements of the new use. Because the justification for the location of the development is underpinned by the use of the iconic castle and chapel buildings as a backdrop to the historic show this would bring these sensitive buildings into immediate conflict with the new development, primarily in respect to the raked stadium seating. Despite the intended design modifications a structure of this scale and form would not be recessive in the landscape. Whilst other associated

storage and operational buildings would be far less intrusive in their own right and in isolation their cumulative visual impact would be considerable.

114. In relation to the conservation area, primary views from the North Bondgate edge would be dominated by the proposed car parking layouts and to a lesser extent the performance related structures. These impacts would be greater during operating periods, although it is accepted these would be relatively short and temporary throughout the year. The proposed hours of operation would also help to minimise the potential impact on the more tranquil and reflective environment around the castle and park on the days when the show is taking place.
115. Whilst the proposed landscape mitigation measures would have some effect in reducing the impact of certain parts of the physical development it would be impossible to effectively screen these elements entirely. Overall therefore it is considered that the proposal would cause harm to the significance of the castle, park and conservation area. Nevertheless as the proposal would be seen in a wide panorama into which it would visually intrude but not dominate, the level of harm would be less than substantial for purposes of the NPPF. In addition the proposal would not affect the setting of these heritage assets from other locations that often make a stronger contribution to the assets' significance such as the market place or from within the sections of parkland nearest to the castle.
116. Whilst the proposals would conflict with local plan policies in that there would be some harm to heritage assets it is considered that these do not entirely accord with the NPPF in terms of identifying the level of harm or in giving weight to public benefit in the planning balance. However considerable weight and importance has been given to the desirability of preserving the identified heritage assets in coming to a view on the scheme in terms of the primary legislation and NPPF. Subject to being satisfied on issues surrounding the substantial public benefits arising from the development it is considered that the heritage impacts could be accommodated.

Highway Safety

117. Saved Local Plan Policy T1 requires that development proposals achieve a satisfactory means of access to the wider highway network, while seeking to protect highway safety in terms of vehicle movements and traffic generation. Policy GD1 of the local plan also seeks to locate developments in accessible locations that can be reached by a range of transport methods.
118. The existing access to the site is taken from the A689 via a single width track down to the site. The scheme proposes to improve this access in terms of its realignment with the A689 and increased width to allow simultaneous entry and exit to the development site including the proposed parking area. An existing access to the site under the Newton Cap viaduct is proposed to be restricted for emergency vehicles only. This means that vehicular and pedestrian access would be confined to the access off the A689. Although a high level of on-site car parking is proposed the applicant also intends to operate a park and ride system to car parks in both private and public ownership within the town centre. It is also proposed to introduce a traffic management system to implement a temporary reduction in the speed limit on the A689 around the site together with temporary traffic lights at the access to regulate traffic flow. Parking restrictions would be imposed around the town centre to prevent event parking in residential areas.
119. A Transport Assessment (TA) has been submitted with the application and this has been reviewed by The Highways Authority and Highways Agency as part of their respective development appraisals. The Highways Authority considers that the

proposed site access improvements are acceptable and that the implementation of a signal control junction in event time would be an appropriate method of managing event traffic. Concerns are raised regarding the size of the proposed car park and the likely discharge time when this is full (estimated to be in excess of 1 hour) and the potential this may have for parking by visitors in the town centre and residential areas. However no objections are raised on balance given the timing of the shows subject to traffic management arrangements regulating site entry and exit, details of the proposed park and ride scheme and off site car parking, appropriate onsite parking management and the implementation of a signing and road user information strategy to cover a temporary speed reduction and delays on the A689. The highway authority also expects that restrictions would be placed on the capacity of the site(8,000) and that the number of events would be limited to 30 per year.

120. The Highways Agency also raise no objection from its perspective advising that the proposal would not adversely impact on the strategic road network, providing the capacity of the venue is limited to 8000 visitors and the car park is not open to patrons before 7.30pm.
121. Overall therefore it is considered that the development would not adversely impact on the highway safety of the surrounding road network. However the finer details of the event management strategy, park and ride and parking enforcement and the engineering design modifications to the access would need to be controlled by condition or legal agreement as appropriate. The proposal is therefore considered to comply with policy T1 of the Local Plan in this respect.

Impact on residential amenity.

122. Local Plan Policy GD1 highlights that developments should protect the amenities of neighbouring uses. This is replicated in terms of tourism proposals within policy TM1. Policy 18 of the emerging CDP also refers to the protection of amenity and policy 19 refers to preventing unacceptable levels of noise pollution. However only limited weight can be attributed to policies 18 and 19. The impacts in relation to noise, light and amenity are addressed below.

Noise

123. Part 11 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to or being put at risk from unacceptable levels of noise pollution. Paragraph 123 indicates that planning decisions should aim to avoid noise giving rise to significant adverse impact on health and quality of life. It is also expected that measures will be taken where necessary to mitigate and reduce to any adverse noise related impacts to a minimum.
124. More detailed guidance contained within the NPPG states that consideration should be given to whether or not a significant adverse noise effect would occur in associated with new development. This is defined within the NPPG as above a level where the noise is categorised as noticeable and disruptive and causes a material change in behaviour and/or attitude. For example this could include avoiding certain activities during periods of intrusion, having to keep windows closed most of the time and the potential for sleep disturbance. The guidance states that if exposure is beyond a level where the quality of life would be diminished due to changes in the acoustic character of the area, the planning process should be used to avoid the development. However such decisions need to take into account the economic and social benefit of the activity causing the noise, while recognising that that it is undesirable for such exposure to be caused.

125. The proposed show would operate up to 30 nights a year within a compacted time period between 1st May and 15th September. For artistic and operational reasons the show would start at around 9.30pm and finish before 11pm. Given its nature timing and proximity to non-involved residential dwellings, the nearest of which are located a minimum distance 200m to the south of the stage area, the proposal would inevitably impact on local residents. This has been acknowledged by the applicant and the predicted effects on surrounding properties have been taken into account in a noise impact assessment which was amended for further detailed work following the identification of initial concerns.
126. The Council's Environmental Health Unit (EHU) as relevant consultee in relation to these matters considers that the noise assessment provides a robust appraisal of the likely noise impacts but concludes that the proposed development would adversely impact on the nearest noise sensitive dwellings.
127. As a starting point for the assessment of the scheme the EHU makes reference to the Code of Practice on Environmental Noise control at concerts 1995 (COP), The COP is a nationally adopted standard for assessing noise impact in relation to music/performance events and assumes that most people will put up with louder than average noise for a limited number of occasions as long as they know they are not going to be impacted regularly. Three event categories have been established under the code setting guideline noise limits The most applicable in this case is the 3-12 event days category, which allows a maximum noise of 15LAeq (15 mins average) above background noise levels.
128. The submitted assessment has sampled background noise levels across a number of locations in proximity of the site as part of a significant piece of work to achieve a realistic assumption of conditions experienced at these locations. The table below summarises the estimated readings at noise sensitive residential locations and is based on the minimum noise level and speaker arrangement that the show could realistically sustain to ensure that artistic content audience satisfaction would not be compromised as required by the COP guidelines. The applicant has suggested a slightly lower figure could be achieved although it is believed that this would significantly impact on the artistic delivery of the show and would still break the established limits. For comparison purposes this figure is shown in the brackets below.

Location	Estimated noise level at location (L_{aeq} 15 mins average)	Background (L₉₀)	Difference (15db target)
Binchester	66 (60)	37.2	28.8 (22.8)
Batts Terrace	67 (60)	38.8	28.2 (21.2)
Barrington Street, Toronto	58 (52)	31.5	26.5 (20.5)

129. As the table indicates the estimated noise readings would exceed the minimum 15db above background threshold by a significant level in these locations. Further detailed modelling by the applicant suggests that around 40 residential dwellings would be adversely affected by the development although it is acknowledged the show would be audible to significantly more properties in the wider area. In the light of the

predicted levels additional mitigation options have also been explored options to help reduce the impact including revised speaker placement, earth mounding and acoustic screens. Despite these steps however it has not been possible to bring the noise levels below the minimum guidance thresholds.

130. Whilst the COP provides a baseline to predicted noise impacts a range of local factors will also have a bearing on conditions that are experienced This includes the nature and timing of the show and the character of the surrounding area. The EHU notes that the event would run at a time that would have maximum effect on residents (outside of the 11pm-7am period) as it coincides with the evening period when a majority of households wish to relax and when young children have been put to bed. It is also during the summer months that residents are more likely to use outside areas and keep windows open for ventilation. Although the show would only be 80 minutes long it is high frequency event over 30 nights (COP equates to a maximum of 12 events) and the repetitive nature of the show is likely to accentuate the perceived impact of the development. Fluctuations in noise levels during the show and variations in the tone/type of noise including pyrotechnics would add further variables that are likely to compound noise difficulties. Concerns are therefore raised by the EHO that the development would have a significant and adverse impact on the quality of life and health of neighbouring residents. In reaching this view and if the predicted levels occur it is also considered that the noise impacts of the development is likely to constitute a statutory nuisance under the provisions of the Environmental Protection Act 1990. If so and should planning permission be granted, the development could be subject to separate enforcement action under these provisions irrespective of any planning controls that are in place.
131. The submitted noise assessments also take into account other potential noise sources of significance such as the likely impact of traffic noise and disturbance arising from the development. In this respect the EHU considers that although it is likely that there would be some loss of residential amenity associated with the movement of up to 8000 people exiting the site after 11pm, this would have a more limited impact that could be accommodated. As such there would be insufficient reason to justify a refusal of the planning application.
132. The location of the site relative to the northern edge of Bishop Auckland and nature of the night show are such that residents in the vicinity of the development are likely to experience noise disturbance from a variety of sources related to the scheme However it would be the key performance related components that would give rise to the most significant impacts. Although the applicant and the EHU have worked to reduce predicted noise levels they are in broad agreement from the assessments carried out that likely impacts would fall within the 'noticeable and disruptive' category defined within the NPPG. Where this is the case then the guidance indicates that development should be avoided and given that mitigation would not reduce its impact. The proposal is therefore not considered to comply with the guidance contained within the NPPF and NPPG or local plan policy TM1 in terms of this likely amenity impact.

Light

133. Part 11 of the NPPF requires that planning decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. The NPPG also contains advice for Local Planning Authorities dealing with planning applications where light pollution could occur. This recognises that artificial light can be essential for new development, including recreational based purposes. However it is accepted that it also has the potential to cause annoyance to people, create harm to wildlife, undermine the enjoyment of the countryside and detract from the night sky. The guidance

indicates that light pollution may arise if light levels would be materially altered outside the development and/or would have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces. Light pollution may also occur if there would be a significant impact on protected species.

134. In order to minimise these impacts it is expected that lighting should only be used when required and that planning conditions should be used to ensure that it switched off when not needed. In considering the acceptability of the level of lighting, details of the proposed scheme needs to be carefully assessed and consideration given to whether it exceeds the level needed to fulfil its purpose. The guidance notes that the character of the area and the surrounding environment may affect what will be considered an appropriate level of lighting.
135. The above considerations have been taken into account in the submitted Lighting Assessment which appraises the likely impact of the lighting strategy for the development on the amenity of local residents. Although the detailed lighting requirements have yet to be fully designed and produced, assumptions have been made on the existing operations at Puy du Fou which are similar in nature. However the main lighting would be focussed on the stage area using a number of localised lighting sources and tower based floodlights.
136. In considering this matter the EHU highlights that due to the proximity of the stage to housing and the very dark nature of the site there would be instances where light spillage would occur that would directly affect residents and temporarily affect the night time character of the area . Moreover it is felt that these impacts are likely to be increased by the changing complexion and intensity of light throughout the show which would make it more intrusive and noticeable. The relatively isolated position of the site and extremely low levels of current illumination across the site at night would also mean that the lighting in the darkening night sky would be visible at considerable distances for the period of the show. Nevertheless based on the submitted information and adherence to the principles outlined in the lighting strategy it is not considered that lighting levels are likely to lead to a statutory nuisance, as a source of pollution defined by the Environmental Protection Act 1990. Although a some loss of residential amenity would be likely to arise during these periods it is not considered that it these impacts would be significant enough to warrant refusal of the application on these grounds.

Privacy and overbearing impact

137. Concerns have been raised regarding the potential for a loss of privacy and amenity from the proposed development. However there would be a separation distance of approximately 290m between the proposed grandstand and the nearest group residential properties on Batts Terrace. This raked structure provides the main elevated viewpoints across the south east of the site and although there would be views back to residential properties it's relative position and orientation are such that no significant loss of privacy or overbearing effects would arise. Other features and pathways towards the southern edge of the site are largely low lying and would relate acceptably to existing development on the other side of the river.

Ecology

138. Part 11 of the NPPF recognises that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains where possible. Planning decisions should aim to maintain, enhance, restore or add to biodiversity and conservation interests. The impact of a development on protected species is also a material planning consideration when reaching planning decisions. Policy GD1 seeks to ensure that development

proposals do not endanger or damage important wildlife habitats or have a detrimental on ecology.

139. The proposed development relates to a large tract of open land with sporadic existing buildings. A range of ecology surveys have therefore been carried out in support of the application to record the presence of plant/animal species and habits assess the likely ecological impacts and necessary mitigation. Each of the identified species is addressed in turn.

Badgers

140. The submitted surveys indicate that there are a number of badger setts on the site and it is estimated that there may be up to 11 badgers in residence and using the site for foraging. Whilst the site is considered to provide good quality foraging habitat it is nevertheless at carrying capacity and the badger population is territorially contained there due to the natural enclosure of the encircling River Wear and a smaller stream to the north and the barrier of the Newton Cap viaduct and A689. The Council's Ecology section advise that the proposed development is likely to involve the loss of approximately 40% of the habitat currently used by the badgers. Given the physical constraints of the territory and reduction in available habitat it is considered that there would be significant negative impact on the badger population.
141. It is further pointed out that as the access road improvements would be constructed in close proximity to the badger setts these may need to be closed to prevent re occupation during the development stage. This work would need to be carried out under a Natural England development license if planning permission was granted.
142. Although badgers are not a rare or endangered species, they are a protected species under the Protection of Badgers Act 1992 which makes it illegal to kill, injure or take badgers or to interfere with a badger sett. The legislation allows for a licence to be granted for interference with a badger sett for the purposes of development, where there is suitable justification. Natural England provide standing advice to local planning authorities which seeks to avoid adverse impacts on badgers. If there are unavoidable impacts then mitigation should be designed to reduce those impacts. If there are still unacceptable impacts on the species following these steps then compensation measures need to be provided to offset the impacts. In determining planning applications it is necessary to consider whether there are any satisfactory alternatives to the proposed scheme which would have less of an impact on protected species.
143. Because the proposal would have a significant and unavoidable adverse effect on the badger population on the site and in view of the associated constraints the ecology section consider that any mitigation proposed is unlikely to alleviate the identified problem or significantly reduce the likely impacts on the species. Objections are therefore raised in this respect. Whilst some of the existing badgers may find their way off the site to a neighbouring area, the territorial nature of the species is such that the prospects of successfully displacement and integration elsewhere are not good. There is every likelihood therefore that most of the existing population could be lost. This would be locally significant in terms of the site although it is acknowledged that within the wider context of County Durham there is a healthy and well spread population that is not under threat as a species.

Otters

144. An otter holt has been identified on the site and a 30m buffer zone is proposed along with a riparian management plan to retain and enhance the habitat. The Ecology Section consider that this would be sufficient to protect this species from the

development although the final details of the management plan and its implementation would need to be agreed by condition.

Brownfield BAP habitat/Dingy Skipper (butterfly)

145. An existing brownfield habitat identified as a Durham and UK Biodiversity Action Plan (BAP) habitat lies in the vicinity of existing buildings on the site. Although part of this would be lost to facilitate the creation of the proposed car park, a further would be area created in order to mitigate this loss. Subject to securing this compensatory area and agreeing the finer details by condition the impact on this habitat is considered acceptable by the Ecology Section.

Bats

146. Bats are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and consideration therefore need to be given to the issue of disturbance and habitat loss. The submitted ecology reports confirm the presence of roosting bats within the derelict barn that is to be demolished in the centre of the site. Although these are likely to be occasional roosts rather than maternity roosts a Natural England license would be required for works to this building. Assessment of the remaining buildings also points to the likely use of a majority these by a range of bat species thought the year. Key areas of bat activity linked to commuting or foraging were also identified during transect surveys along sections of open grassland to the west of the site the south and south west river corridor central scrub areas and woodland linkages and around a large pond to the east. Up to 5 species were recorded during the transects and fixed monitoring identified a possible 8 species between July and August 2014.
147. The ecology report concludes that the range of species provide an indication of the quality of the habitats within both the site and the surrounding area. Whilst there was no evidence of a maternity roost and the records indicate that a moderate number of bats use the site the report identifies the proposed development would have a potential impact on the species arising from:
- Medium to long term loss of and disruption to foraging and commuting areas used by a good range of bat species.
 - Temporary disruption to an area of permanent open water identified as a valuable foraging resource.
 - Impacts upon foraging, commuting and roosting bats from increased on-site lighting.
 - Disturbance to bats and their foraging habitats during events from traffic, people, lighting and noise.
 - Loss of a known pipistrelle roost site within the derelict barn.
 - Disturbance or harm to roosting bats within the remaining buildings following renovation for change of use, including possible hibernating bats if works are undertaken during the winter.
 - Loss of trees with the potential to support roosting bats
148. The Council's ecology team has appraised the submitted report and consider that the methods and methodologies used are sound. However it is advised that the thirty nights of the show would be within the summer feeding and breeding season and there will be a delay in the emergence of bats from roosts on and near the site and a displacement from key foraging areas because of disturbance from sound and light. It is accepted that habitat enhancement elsewhere on the site would provide mitigation for the displacement but because this would not mature for a significant period of time there is likely to be a short to medium adverse impact.
149. Whilst most of the buildings on site have been surveyed, there are some that have yet to be fully assessed as part of the current planning application including the

existing bungalow, farm house and fishing lodge that are to be refurbished as part of the proposed development. As one of the submitted reports identifies that bats may utilise these buildings, the Ecology section advise that it is not possible at this stage to make an informed decision on the full extent of the impact that the development might have on this bat population. Objections are therefore raised to the development.

150. Under the requirements of the Conservation of Habitats & Species Regulations 2010 (as amended) it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England which is normally obtained after planning permission has been granted. When deciding whether to grant a licence to a person carrying out activity which would harm a European Protected Species (EPS) the regulation contain three "derogation tests" which must be applied by Natural England. The three tests are that: the activity to which the licence is required must be for imperative reasons of overriding public interest or for public health and safety; there must be no satisfactory alternative and favourable conservation status of the species must be obtained.
151. Notwithstanding the licensing regime, the Local Planning Authority (LPA) must discharge its duty under Regulation 9(3) and also be satisfied that these three tests are met and that Natural England is likely to grant a protected species licence when deciding whether to grant planning permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
152. For the Council to do this, in line with Natural England advice further surveys should be carried out to establish the nature of any possible roosts within the remaining buildings. This work is currently ongoing and has up to now been affected by unfavourable weather conditions. However is likely to be completed during July, when it will then be possible to establish the nature and location of any roost within the remaining buildings and assess whether the favourable conservation status of the species is maintained. At present the bat species on site are considered to be of local parish significance and no significant effects at district level are anticipated. If this is carried through in the survey findings then this would enable one of the tests to be met.
153. It is considered that the other tests those of overriding public interest and there being no satisfactory alternative would be met by the proposed development. This would occur because of the significant economic and social benefits that would arise from the implementation of the development. Given the unique nature of the proposal and its intrinsic relationship with Auckland Castle and Bishop Auckland it is also considered that there would be no other viable location for the development.
154. Subject to the outcome of further survey work it is considered that the likely impacts on bats would be local in nature and would not give rise to significant harm to the conservation of the species and when taking into account the nature and potential benefits of the development. Having noted the need to complete a bat survey and the issues arising from this, it is therefore suggested that in the event of a favourable decision on the application officers consider the final derogation test under delegated powers to confirm whether the favourable conservation status of the species would be maintained.
155. This would enable the Council to satisfy its obligations under the Conservation of Habitats and Species Regulations 2010 (as amended) and planning requirements under paragraphs 118, 119 of the NPPF. However as it is acknowledged that the

development would have a negative impact on bat populations, especially in the short term before environmental mitigation has full effect, the proposal would not comply with the relevant section of policy GD1 of the Local Plan.

Flooding

156. The overall aim of Part 10 of the NPPF in considering flooding issues is to steer new development to areas within flood zone 1 which have the least risk of flooding. Where there are no reasonable sites within flood zone 1 for a proposed development Local Planning Authorities should take account of the flood risk vulnerability of land uses. Inappropriate development in areas at risk of flooding should be avoided but where it is necessary it should be made safe, does not give rise to increased flooding elsewhere and is informed by appropriate assessments.
157. The application site is generally low lying and close to the river and areas within it the covered by the higher flood zone categories. This includes the intended locations for the proposed car park and stables and containing the existing buildings. These are located within flood zone 2. In addition the tribune and stage would be located within flood zone 3b which is part of the functional floodplain. Because water has to flow or be stored in times of flood in these areas only water compatible uses including outdoor recreation facilities are considered acceptable. The proposed tribune and stage area falls under this classification as confirmed by the Environment Agency. And the proposed development would meet the test of the NPPF in this respect.
158. The required site specific Flood Risk Assessment (FRA) that has been submitted, has modelled flood risk on the site and the potential resultant impact downstream. The FRA concludes that the flood water storage volumes on site would be increased due to the remodelling of parts of the site to create landscape bunding. Moreover the proposed layout of the site would ensure that flows would not be impeded. A number of mitigation measures are proposed including the siting of sensitive equipment above 1 in 100 flood levels and the incorporation of permeable surfaces.
159. The Environment Agency and the Councils Drainage Team, the statutory consultees for flooding and drainage matters agree with findings of the Flood Risk Assessment and offer no objections to the scheme subject to the incorporation of the detailed mitigation measures and provided flood storage volumes are not reduced.
160. Northumbrian Water also offer no objections to the scheme but highlight that surface water should not connect into the public drainage system. This is in line with the proposed surface water strategy, to utilise soakaways and infiltration and restrict runoff to greenfield run off rates. The Council's Drainage officer recommends that this matter is controlled by planning condition. In terms of the disposal of foul water, Northumbrian Water advise that its infrastructure could accommodate the additional flows generated by the development.

Other Issues

161. Part of the application site lies within a High Risk Coal Mining Referral Area due to the presence of coal seams and a Coal Mining Risk Assessment has therefore been submitted. This indicates that it is likely that the site has been subject to previous coal mining activity and recommends a programme of investigation and mitigation to confirm the absence or otherwise of historic workings and appropriate mitigation measures. These requirements could be secured by condition as recommended by the Coal Authority in the event that planning permission was granted.

162. In terms of Archaeology, the NPPF sets out requirements for an appropriate programme of archaeological investigation, recording and publication of results. The submitted desk top study highlights the previous uses and developments on the site. In reviewing this documentation the Council's Archaeology Officer advises that it is unlikely that there are any archaeology remains of significance that would require further mitigation. This is due to the disruption caused through the remodelling of the site for the previous golf course use. However it is recommended that a scheme of architectural recording is carried out in relation to any proposed works including the demolition of the existing buildings on site and this could be secured by condition.

CONCLUSION

163. The proposed development involves the provision of a major visitor attraction in Bishop Auckland and is very much linked to the ambitious plans of the Auckland Castle Trust to enhance the tourism related offer in the town and make it a destination of choice for visitors. The Trust has recently received planning consent for high quality heritage related developments around the Castle and Market Place. These are in the process of being implemented and further developments are proposed to ensure that deliver heritage experience. The 11 Arches scheme would complement this ongoing work by utilising the visual backdrop of the Castle and its story in a pageant that retells the history of the country within a local context. The night show which is derived from a successful French model and backed by the Puy du Fou organisation would be a unique event in this area and in the region. The physical technical and artistic works needed to deliver a show of the required standard would involve significant investment both financially and in the performance personnel and signals the commitment of the Trust and its partners to the project, the town and its people.
164. The use of the 11 Arches site to deliver the show is considered essential from the Trust perspective which would like the first performances to take place in the summer of next year. The need for the required infrastructure make this an ambitious target and there is only a limited window to utilise Puy du Fou resources due to other development commitments that this company has in 2017 onwards. The Trust believes it can meet all necessary requirements and deliver a show to the standard expected including in terms of environmental impacts and subject to receiving necessary consents
165. From the planning perspective the site is sensitive and the development raises a range of issues that need to be carefully balanced in coming to a judgement on whether the scheme represents an acceptable form of sustainable development. Much of the sensitivity of the site is derived from its location on the northern edge of Bishop Auckland. This gives it significance in terms of both the built and natural environments. It is bordered by heritage assets and provides landscape context and setting to these. As a large tract of open land in the flood plain the site also provides habitats for wildlife including protected species. Although the main residential areas of the town are further to the south there is a sizeable group of houses at various points within relative close proximity.
166. The NPPF provides the overarching context for considering development proposals and this outlines the 3 elements of sustainable development that need to be taken into account in decision making. These relate to its economic, social and environmental roles which should be regarded as indivisible.
167. In considering the economic and social contribution of the proposed development it is considered it would perform well against these criteria and has the potential to

provide real and lasting benefit. The identified levels of funding and investment would contribute significantly to the local and regional economy both in the short term via direct and indirect construction related spending and in the provision of a tourist attraction of regional significance. It is acknowledged that some of these outlays would be variable depending on the success of the show and may therefore only indirectly benefit traders in the town and the local area. However the proposal would still provide an economic boost within an area that would benefit from further economic growth and regeneration. Whilst the social benefits of the scheme are more difficult to quantify, a range of opportunities would be provided for local people and children and teenagers in particular, to participate in the shows and receive necessary training. The evidence from France in respect to the larger sister operation is that the volunteer focussed performance arrangements do build up the local skill base and positively affect aspiration and wellbeing. The proposal therefore also has the potential to improve social inclusion and cohesion through community involvement in the scheme at various levels.

168. In relation to the environmental element of sustainable development, there would be some benefits from the incorporation of areas of degraded land within the development. The site has had previous planning permissions for tourism and recreational related developments. These have not been proved to be viable over time and the existing landform retains the evidence of the abandoned and unfinished former golf course. These features would be removed or incorporated within the proposed scheme as buildings brought into productive use or as part of the re-profiled landscape treatment and enhancement.
169. Whilst it can be argued that the site is in need of redevelopment to overcome some of these legacy issues these would take place within a development that would have its own negative environmental impacts. Some of these affects would be significant and the main structures needed for the show would adversely impact on the setting of heritage assets including the Castle and Bishop Auckland conservation area. These impacts would be less than substantial in the wider setting of these assets and taking account of all the locational factors and perspectives that contribute to their importance. However the introduction of the distinctive elements of the show could only be justified in heritage terms if there are other reasons to support the scheme in terms of overriding public benefits. It is considered that the benefits on offer in this respect together with the proposed mitigation measures would outweigh the harm caused.
170. Whilst the development would be within the area of landscape and have some adverse effects on its character these would be generally be localised and contained and would moderate over time. For the most part this would also be the case in regard to ecological interests. There would be a severe and unavoidable impact on a badger colony given the land take requirements, layout configuration and physical containment of the site. This would be a local ecological negative of the scheme although it would not significantly impact on the wider representation of the species. Measures would be put in place to safeguard and where possible enhance other nature conservation interests in the medium to longer term. Bats are present on the site and it has been possible to build an overall profile from survey information of the likely numbers and species type. This evidence points to a level of disturbance and harm that is likely to be within acceptable levels and could be accommodated subject to mitigation. However, final confirmation of the position is dependent on the completion of the additional survey work that is underway so that the Council can satisfy its derogation test obligations under the Conservation of Habitats and Species Regulations 2010 (as amended).

171. In relation to flood risk, other site related matter of note, it has been demonstrated that the proposed development would not give rise to increased flooding in the immediate vicinity or downstream subject to the implementation of the proposed mitigation measures. Providing for the arrival and departure of up to 8,000 people on the site on event days and served from a single access has proved challenging from a highways viewpoint. Nevertheless and despite some inevitable exit delays the proposed road infrastructure improvements and traffic management regime in and around the site would ensure that the associated levels of traffic can be safely accommodated on the highway network.
172. The main residential amenity consideration relates to noise although there would also be some lighting impacts. As the use of sound and lighting is also key to the delivery of the night show and the visitor experience there are fine margins for adjustment in these areas especially in a technical sense. It is considered that the lighting issues can be acceptably managed. Despite corroborative working between the parties and the exploration of alternative measures to reduce predicted noise levels, it has not been possible to do so. This issue therefore remains a concern.
173. It is accepted that there is still some scope to refine and test the sound arrangements in the period leading up to the show and that an event licence is being applied for that will also assess these matters. It is also noted that there is always likely to be a subjective dimension to actual noise impact and complaints. Nevertheless, at the current time and in view of the EHU comments it is not considered that the noise related impacts could be reduced to levels that would not adversely impact on the amenities of local residents to a significant degree. On this basis and because of potential enforcement ramifications around the achievement of necessary sound levels it is not considered that the scheme would acceptably meet all the essential elements of sustainable development.

RECOMMENDATION

That the application is **REFUSED** for the following reasons:-

1. The proposed development would generate an unacceptable level of noise disturbance which would detrimentally impact on the residential amenity of neighbouring properties and would therefore not constitute sustainable development contrary to paragraphs 7 and part 11 of the NPPF and contrary to policies GD1 and TM1 of the Wear Valley Local Plan.
2. Insufficient information has been submitted to determine the full extent of the likely impacts on the local bat population which is designated as a European Protected Species and accordingly the local planning authority is unable to meet its obligations under the Conservation of Habitats and Species Regulations 2010(as amended)

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the decision to refuse the application has sought to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. However, in this instance the fundamental matters of the noise impact were unable to be addressed satisfactorily despite significant effort.

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

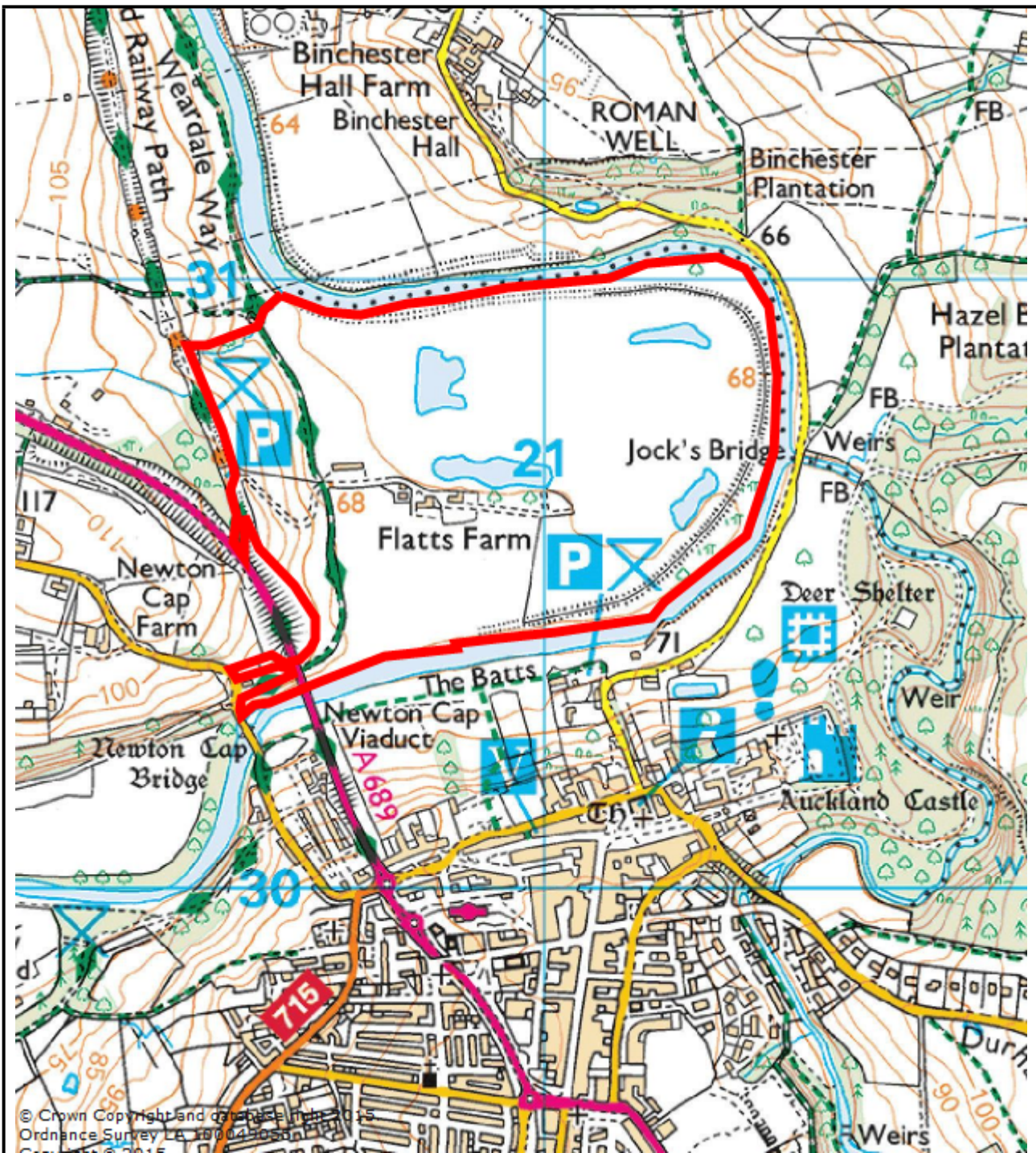
National Planning Practice Guidance Notes

National Noise Policy Statement for England

Wear Valley District Local Plan

The County Durham Plan (Submission Draft)

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Application ref. DM/15/00110/FPA Flatts Farm, Toronto, Bishop Auckland, Co Durham</p>	
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