

# COMMITTEE REPORT

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## APPLICATION DETAILS

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Application No:	DM/23/01204/FPA
Full Application Description:	Erection of six aviaries (3 round and 3 longitudinal)
Name of Applicant:	Ms Anna Warnecke
Address:	Kynren, Flatts Farm, Toronto, Bishop Auckland, DL14 7SF
Electoral Division:	Bishop Auckland Town
Case Officer:	Gemma Heron Senior Planning Officer 03000 263 944 gemma.heron@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSAL

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### The Site

1. The application site is located approximately 0.5km to the north of Bishop Auckland. The wider 48.7 hectare site has been developed to provide a seated grandstand, and associated infrastructure to stage the 'Kynren' show. The site subject of this application relates to parcels of undeveloped and/or grazing land within the wider to the northern site boundary.
2. The wider site lies to the north of the escarpment on which Auckland Castle (Grade I Listed) and Parkland (Grade II Listed), and Bishop Auckland Town Centre (Conservation Area) are located. The site is within the Area of Higher Landscape Value and the flood plain of the River Wear being identified as being within Flood Zone 2 and 3. Binchester Roman Fort (a Scheduled Ancient Monument) is located approximately 140 metres to the north of the main event site. The Newton Cap Viaduct on the western boundary is Grade II Listed while Newton Cap Bridge (also known as Skirlaw Bridge) that lies beyond is a Schedule Ancient Monument and Grade I Listed.
3. A Public Right of Way (PROW) which forms part of the Weardale Valley (Footpath 85) runs along the western boundary of the main event site. The main

event site is accessed from the A689 just to the north of the viaduct that also serves the railway path and bridleway.

## The Proposal

4. Full planning permission is sought for the erection of six aviaries to include three round and three longitudinal buildings to house birds to support diversification of the Kynren show. Each longitudinal aviary would measure 42m by 6m, standing to 4.3m to the ridge and 2.7m to the eaves. The buildings would be constructed from metal profile roofing and timber cladding. The round aviaries would measure 27m in diameter and would stand to 7.3m to the ridge and 3.7m to the eaves. Each will be constructed from a steel structure with a green fabric roof.
5. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as the floor space to be created exceeds 1000m<sup>2</sup>.

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## **PLANNING HISTORY**

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6. DM/15/00110/FPA – 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. Approved subject to S106. 6<sup>th</sup> August 2015.
7. DM/15/02710/FPA – Change of use and refurbishment of 3no. buildings to serve as offices and visitor facilities. Approved 28<sup>th</sup> October 2015.
8. DM/15/03672/FPA – Demolition of dwelling and erection of temporary office building. Approved 3<sup>rd</sup> February 2016.
9. DM/15/03842/FPA – Erection of 8no. lighting towers (variation to previously approved). Approved 22<sup>nd</sup> January 2016.
10. DM/16/01129/VOC – Variation of Conditions no.2 (Approved Plans) of planning approval DM/15/00110/FPA. Approved subject to S106. 5<sup>th</sup> March 2018.
11. DM/19/01633/FPA – Formation of Viking Village to be used as a preshow immersive experience (amended application to include foodcourt building and maze area). Approved 3<sup>rd</sup> March 2021.

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## **PLANNING POLICY**

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### **National Policy**

12. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

13. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 6 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.
16. *NPPF Part 7 - Ensuring the vitality of town centres*. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
17. *NPPF Part 8 Promoting Healthy and Safe 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.
18. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
19. *NPPF Part 12 Achieving Well-Designed Places* - 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. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

21. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - 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, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
22. *NPPF Part 16 Conserving and Enhancing the Historic Environment* – Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of existing and future generations,

<https://www.gov.uk/guidance/national-planning-policy-framework>

### **National Planning Practice Guidance:**

23. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; light pollution; natural environment; noise; public rights of way and local green space; use of planning conditions; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

### **Local Plan Policy:**

The County Durham Plan (CDP)

24. *Policy 7 (Visitor Attractions)* supports the provision of new, or the expansion of existing attractions, provided they are: in sustainable and accessible locations or can be made so; are appropriate to site's location in terms of scale, design, layout and materials; can demonstrate viability of new attraction or helps support viability of existing attraction; enhances existing attractions and supports the visitor economy.

Where a countryside location is required, development should: meet identified visitor needs; support local employment and community services; ensure adequate infrastructure; and respect the character of the countryside.

25. *Policy 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local Retail centres in the County.
26. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development.

27. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
28. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
29. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
30. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.

31. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
32. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
33. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts
34. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
35. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
36. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
37. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities

to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

38. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

<https://www.durham.gov.uk/cdp>

#### **Neighbourhood Plan:**

39. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **Statutory Consultee Responses:**

40. *Bishop Auckland Town Council* – Support the application as it is in line with Part 6 of the National Planning Policy Framework and will help to support Part 7 of the NPPF and Policy 9 of the County Durham Plan.
41. *Lead Local Flood Authority* – No objection subject to no additional discharge from the development into the river.
42. *Highways Authority* – No objection.
43. *The Coal Authority* – Substantial concerns with the application and require further site investigation works to be carried out.
44. *Environment Agency* - No objection subject to the inclusion of a condition to ensure compliance with the submitted Flood Risk Assessment and implementation of flood risk mitigation measures.
45. *Historic England* – Offer no comments on the application.

#### **Non-Statutory Responses:**

46. *Ecology* – No objection subject to a detailed list of species and planting densities being submitted for the landscaping of the site.
47. *Landscape Section* – Advise that a landscape and visual assessment has been produced and the conclusions are acceptable subject to the mitigation being implemented in full.
48. *Environmental Health Nuisance* – No objection.
49. *Environmental Health Contamination* – No objection.
50. *Archaeology* – No objection.
51. *Tree Officer* – No objection as no adverse impact on existing trees.
52. *Design and Conservation* – No objection.
53. *Public Right of Way* – Advise that there is no public right of way located on or within proximity to the site. Therefore, there is no impact on the rights of way network.

**Public Responses:**

54. The application has been advertised by way of a site notice, press notice and individual notification letters sent to four neighbouring properties. No letters of representation have been received by members of the public.

**Applicants Statement:**

55. None provided.

*The above is not intended to list every point made and 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*

<https://publicaccess.durham.gov.uk/online-applications/>

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**PLANNING CONSIDERATION AND ASSESSMENT**

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56. 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 main planning issues relate to the Principle of Development, Landscape/Heritage, Flood Risk/Drainage, Highway Safety/Access, Residential Amenity, Ecology and Ground Conditions.

Principle of Development

57. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of



the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.

58. CDP Policy 10 is considered the starting point for the consideration of development in the countryside. The policy sets out a restrictive approach, stating that development in such locations will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to stated exceptions contained within CDP Policy 10. In this respect, CDP Policy 7 is a relevant policy listed within CDP Policy 10 and sets out a positive approach to the delivery of visitor attractions highlighting that this sector is an important and resilient part of the County's economy. The policy seeks to permit developments where they are in sustainable and accessible locations, are appropriate to the site's location in environmental terms and that it can help support the viability and complement existing attractions. The supporting text of CDP Policy 7 makes specific reference to the 'Kynren' development and wider tourism-based opportunities being realised at Auckland Castle and wider Bishop Auckland Market Place.
59. The proposal seeks to supplement the existing offer on the site through the provision of providing space for the housing of birds which are to be used by Kynren in the future development of the site and their experience offer to its visitors. This development is considered to be incidental to the overall established use of the site and for the purposes of CDP Policy 7 will help to support the continued viability of the show and complement the existing attraction.
60. As the application site is located outside the town centre of Bishop Auckland, CDP Policy 9 is relevant. It seeks to support existing town centres by ensuring that appropriate development is located within them and preventing development outside of town centres which may undermine their vitality and viability. In this respect, CDP Policy 9 sets out that town centre uses as defined by the NPPF will be required to provide a sequential assessment. The definition of town centre uses in the NPPF does include tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities). However, as set out above, the proposed development is considered incidental to the main use of the event site which is an established use on the site. In addition to this, CDP Policy 9 sets out that a masterplan for Bishop Auckland Town Centre has been developed which seeks to build on the significant investment at Auckland Castle through the Auckland Project and Eleven Arches. A range of projects are being developed across the town centre investing in culture, heritage and economy of the town. The Policy sets out that the CDP will support proposals that will deliver the aim of the masterplan, increase footfall within the town centre and improve its vitality and viability. The continued development of the Kynren/Eleven Arches development will support the Masterplan for Bishop Auckland Town Centre.
61. The National Planning Practice Guidance (NPPG) also sets out that the use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.

62. Overall, taking the above into account, given the facilities are incidental to the main use of the site and linked to the operation of the main event show, it is considered that the development would not have an adverse impact on the vitality and viability of the town centre and a sequential test is not required in this instance. In principle, it is considered that the development of the site is acceptable subject to assessing the detailed impacts of the proposals to comply with Policies 7 and 9 of the County Durham Plan.

#### Landscape/Heritage Impact

63. CDP Policy 10 seeks to protect the heritage and the beauty and tranquillity of the countryside. CDP Policy 29 outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
64. CDP Policy 39 states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. CDP Policy 39 also sets out that development affecting Areas of Higher Landscape Value will only be permitted where it conserves the special qualities of the landscape unless the benefits of development in that location clearly outweigh the harm. CDP Policy sets out that new visitor attractions should respect the character of the countryside.
65. CDP Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
66. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances. These policies reflect the requirements of Sections 16 and 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 which has considerable weight and importance.
67. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
68. The application site is within the Area of Higher Landscape Value and the proposal is accompanied by a Landscape and Visual Analysis. The report outlines that existing vegetation within the site should be retained and enhanced; there should be additional native woodland planting along the river corridor to the north; individual native trees should be planted at locations around the structures and a sensitive use of materials for the development should be used. To accompany this analysis, a landscaping plan has been

submitted which shows the locations of the proposed planting. The Council's Landscape Team have been consulted on the proposal and advise that the conclusions of the Landscape and Visual Analysis are acceptable and that any landscape impacts can be reduced to an acceptable level providing the mitigation measures presented in the analysis are implemented in full. A condition should be imposed requiring full hard and soft landscaping details to be submitted. It is also noted that the landscaping plan does not include specific details on the species or densities to be planted. However, this can be controlled by planning condition.

69. Therefore, the proposal is considered to be acceptable and will not have a harmful impact upon the Area of Higher Landscape Value in compliance with Policy 39 of the County Durham Plan.
70. The wider site lies to the north of the escarpment on which Auckland Castle (Grade I Listed) and Parkland (Grade II Listed), and Bishop Auckland Town Centre (Conservation Area) are located. Accordingly, the Council's Design and Conservation Team have been consulted on the application and have no objection. Historic England have been consulted and have no comments to make. Therefore, whilst the development is within the setting of Listed Buildings, the proposal will be seen within the context of the wider site and there are no objections to the scheme from a conservation perspective protecting the existing historic environment.
71. Therefore, the proposal complies with Policies 10, 29, 39, 40 and 44 of the County Durham Plan in terms of design and landscape impacts, alongside Parts 12 and 15 of the National Planning Policy Framework. The development is also considered to comply with Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

#### Flood Risk/Drainage

72. CDP Policies 35 and 36 relate to flood water management and infrastructure. CDP Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. CDP Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
73. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 169 goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
74. The site is identified as being within Flood Zone 3 and accordingly a Flood Risk Assessment (FRA) has been submitted in support of the application. The submitted assessment concludes that the development would not impact on the

flood storage capacity of the site in times of flood and would not impact on flooding downstream. Subject to the implantation of mitigation measures, including the siting of sensitive equipment above flood levels, the Environment Agency offer no objections to the development.

75. The Environment Agency have been consulted on the application and have no objection to the development subject to the imposition of a planning condition to secure the mitigation measures outlined in the flood risk assessment. In terms of the requirement to undertake a sequential test for flood risk, it is considered that there are no reasonable available sites that could accommodate the development. The aviaries contain birds that are intended to be used in future shows and need to be trained on the site and they need accommodation when not performing.
76. Overall, the application is considered to demonstrate that the proposed development would be safe without increasing or exacerbating flood risk elsewhere as required by Policies 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

#### Highway Safety/Access

77. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. CDP Policy 6 criteria (e) requires development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
78. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
79. The proposal will be accessed via the existing arrangements to the site and no alterations to the existing access is proposed. The Highways Authority have been consulted on the proposal and they have no objection to the proposal.
80. Overall, the proposals are not considered to adversely affect highway or pedestrian safety and would accord with Policies 6 and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

#### Residential Amenity

81. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
82. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not

be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.

83. The nearest neighbouring property is located approximately 500 metres away from the application site. It is considered that this proposal will not have a significant impact on residential amenity over and above the existing operations of the site.
84. The Council's Nuisance Action Team have been consulted on the application and have no objection.
85. Therefore, the proposal is compliant with Policy 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework in regard to residential amenity.

#### Ecology

86. NPPF Paragraph 180 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to ensure new development minimises impacts on biodiversity by retaining and enhancing existing diversity assets and features. Proposals for new development should not be supported where it would result in significant harm to biodiversity or geodiversity.
87. The application has been accompanied by an Ecological Impact Assessment (EIA) which has been reviewed by the Council's Ecology Team who agree with the assessment. It is noted that the EIA proposes additional planting around the scheme, a detailed list of the species and densities of tree planting has not been provided. However, this can be secured via planning condition.
88. Subject to the above, the proposal will be acceptable in accordance with Policy 41 of the County Durham Plan and Paragraph 180 of the National Planning Policy Framework.

#### Ground Conditions

89. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
90. The site is located within an area of high risk in relation to historic coal mining activity. A Coal Mining Risk Assessment has therefore been undertaken; the assessment acknowledges the risks of previous shallow depth coal mining activity. The Coal Authority have been consulted and have raised a substantive concern with the application and have requested additional information be submitted. It is considered that the concerns of the Coal Authority can be adequately mitigated by means of pre-commencement conditions requiring a scheme of remedial works to be submitted and carried out on the site.

91. The Contaminated Land Team have been consulted and have reviewed the submitted information and confirm there is no need for a contaminated land condition.
92. Policy 56 of the CDP seeks to safeguard mineral resources. Significant areas of the County fall into such mineral safeguarding areas, including the application site and wider area. Although a non-mineral development is proposed, it is not considered that the current proposals would sterilise mineral resource taking into account the scale of the site and residential setting. No objections are raised in this regard and the proposal does not conflict with Policy 56.
93. Overall, it is considered that the proposal would comply with Policies 32 and 56 of the County Durham Plan and Paragraph 183 of the National Planning Policy Framework and the site is safe and stable to accommodate the development proposed.

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## **CONCLUSION**

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94. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan which is the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision making, this means approving development proposals that accord with an up-to-date development plan without delay.
95. The proposal would supplement the additional offer on the existing Kynren site and would help expand the offer and the attractiveness of the established tourism destination. Given the nature of the scheme and its link to the established operation of the site, it is concluded that the development would not impact on the vitality and viability of Bishop Auckland Town Centre. It would also support Bishop Auckland Town centre by increased footfall in the vicinity. The proposal will not cause harm to the Area of Higher Landscape Value and is acceptable in terms of conservation. The proposal would be acceptable in terms of flood. The development would not impact upon the residential amenity or highway safety, would be acceptable from an ecological point of view and the site is safe and stable for its intended use.
96. Overall, the proposal is considered to be acceptable and in accordance with Policies 7, 9, 10, 21, 29, 31, 32, 35, 36, 39, 40, 41 and 44 of the County Durham Plan and Parts 2, 6, 9, 12, 14, 15 and 16 of the National Planning Policy Framework. There are no material planning considerations which indicate that a decision would be otherwise and therefore the application is recommended for approval.

### Public Sector Equality Duty

97. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good

relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

98. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to following conditions:

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

*Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

2. The development hereby approved shall be carried out in strict accordance with the following plans and documents:

- Site Location Plan. Drawing Number: 898\_050 received by the Local Planning Authority on 28<sup>th</sup> April 2023.
- Proposed – Aviary Round. Drawing Number: D2-XX-00-DR-A-A1002 received by the Local Planning Authority on 15<sup>th</sup> May 2023.
- Proposed Plan – Aviary. Drawing Number: D2-XX-00-DR-A-A1001 Rev B received by the Local Planning Authority on 28<sup>th</sup> April 2023.
- Proposed Roof Plan – Aviaries. Drawing Number: D2-05-00-DR-A-A0012 received by the Local Planning Authority on 28<sup>th</sup> April 2023.
- Proposed Floor Plan – Aviaries. Drawing Number: D2-05-00-DR-A-A0011 received by the Local Planning Authority on 28<sup>th</sup> April 2023.

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 7, 9, 10, 21, 29, 31, 32, 35, 36, 39, 40, 41 and 43; of the County Durham Plan and Parts 2, 5, 8, 9, 12, 14, 15 of the National Planning Policy Framework.*

3. Prior to the first use of any of the aviaries hereby approved, a detailed landscaping scheme to comply with 'Landscape Strategy- Aviary Area' Drawing Number: 898\_120 has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

*Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.*

4. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.  
No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

*Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.*

5. No development shall commence until remedial stabilisation works to address land instability arising from shallow coal mining legacy have been carried out in full accordance with details to be submitted to and approved in writing by the Local Planning Authority. The remedial works shall be carried out in accordance with the approved details and the authoritative UK Guidance.

*Reason: The formulation and implementation of an appropriate scheme of remedial measures before building works commence on site is necessary to ensure the safety and stability of the development in accordance with*



*Paragraphs 183 and 184 of the National Planning Policy Framework and Policy 32 of the County Durham Plan.*

6. Prior to the first use of the development hereby approved, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. This document shall confirm the completion of remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

*Reason: To ensure the safety and stability of the development under Policy 32 of the County Durham Plan and Paragraphs 183 and 184 of the National Planning Policy Framework.*

7. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment (Ref: 11Arches Lost Feather Flood Risk Assessment Report dated 23<sup>rd</sup> June 2023 prepared by JBA Consulting) and the following mitigation measures it details:

- Section 2.1 states the aviaries are floodable;
- Section 3.4.1 and 4.1 states all floor levels shall be set at the same or lower than existing ground levels;

The mitigation measures shall be fully implemented prior to the first use of any of the aviaries and shall be retained and maintained thereafter throughout the lifetime of the development.

*Reason: To prevent flooding elsewhere by ensuring that there is no loss in storage of flood water onsite to comply with Policy 35 of the County Durham Plan and Part 14 of the National Planning Policy Framework.*

8. Notwithstanding any details of materials submitted with the application, prior to their installation, details of the make, colour and texture of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

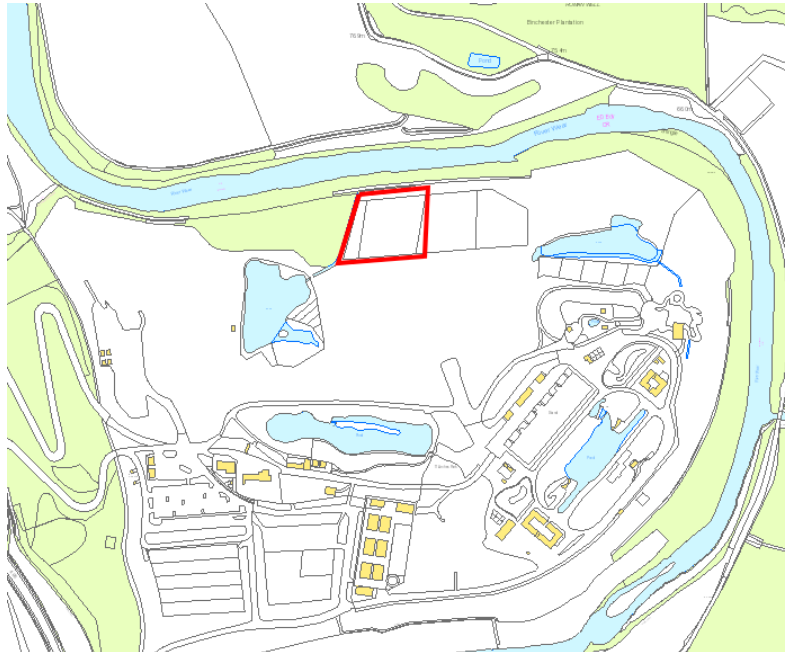
*Reason: In the interests of the appearance of the area and to comply with Policies 29, 39 and 44 of the County Durham Plan and Part 12 of the National Planning Policy Framework.*

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



**Planning Services**

Erection of six aviaries (3 round and 3 longitudinal)

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Comments

Date:

20<sup>th</sup> July 2023