

# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION NOS:**

- 1) DM/16/01129/VOC,
- 2) DM/16/01134/FPA ,
- 3) DM/17/01800/FPA,
- 4) DM/17/01802/FPA

**FULL APPLICATION DESCRIPTIONS:**

- 1) Variation of conditions no.2 (approved plans) of planning approval DM/15/00110/FPA (re-development to allow the staging of historical show) to allow changes to site layout, and design of buildings, and condition 13 (restriction of access) and removal of condition no. 9 (car park opening times).
- 2) Change of use of land to temporary event parking (1,400 spaces) including coach drop off area and associated infrastructure. Formation of pedestrian access to main event site.
- 3) Change of use of agricultural land to ecological mitigation provision.
- 4) Change of use of agricultural land to ecological mitigation provision.

**NAME OF APPLICANT:**

Anne-Isabelle Daulon, Eleven Arches Trust.

**ADDRESS OF APPLICATIONS:**

- 1) Flatts Farm, Toronto, Bishop Auckland,
- 2) Land to the east of Red Barns and North of A689, Addison Road, Toronto, Bishop Auckland,
- 3) Walsh Site at site of former brickworks, North of Barrington street and A689, Toronto Bishop Auckland,
- 4) Land at Newton Cap to the south of Waterside Cottages.

**ELECTORAL DIVISION:** Bishop Auckland Town

**CASE OFFICER:** Steven Pilkington, Senior Planning Officer,  
03000 263964, [steven.pilkington@durham.gov.uk](mailto:steven.pilkington@durham.gov.uk)

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## **DESCRIPTION OF THE SITE AND PROPOSALS**

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### *Background*

1. Planning permission was granted for an open air show including associated car parking, staging facilities, outdoor seating, management offices, associated infrastructure and landscaping in July 2015 under planning reference DM/15/00110/FPA. The night show known as 'Kynren' commenced last summer and has planning permission to operate 30 days of the year although in the first year there were 15 events, limited by an entertainment licence. The Kynren show which has just recommenced for the 2016 season is a theatrical performance utilising light and music to tell the history of Britain through the eyes of the north east and is intrinsically linked to the history and heritage of Auckland Castle which is used as a back drop. The cast and crew involved in the performance and backstage running of the show is made up of volunteers drawn from the local community. Under this approval, the site was granted planning permission for the provision of 1841 onsite car parking spaces, served through a new access road down into the event site from the A689.
2. Following implementation of the original planning permission and review of operational requirements a number of changes to the site layout and design of buildings and structures became necessary to deliver the scheme from a logistical, construction and artistic related perspective. This series of planning applications seeks to regularise and secure the changes that have been carried out and the associated works that are proposed.

### *The Application Sites*

3. The main event site (related to application DM/16/01129/VOC) is located approximately 0.5km to the north of Bishop Auckland. The 48.7ha site has been developed to provide an 8000 seat grandstand, and associated infrastructure to stage the Kynren show. The second application site (DM/16/01134/FPA) relates to a 3.8ha former agricultural field located 420m to the north west of the main event site known locally as Colliery Fields that is being used for event parking. This also includes an 0.25ha area of land adjacent to the main site entrance. The third site (DM/17/01800/FPA) known as the Walsh site is located 433m to the north of the main event site. This measures 4.01ha in area and is proposed to be used as ecological mitigation land. The fourth site (DM/17/01802/FPA) located 870m to the west of the main event site and known as Newton Cap is 15.6ha in area and also proposed for ecological mitigation land.
4. The sites lie 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. The main event site and Newton Cap site is also situated within a designated Area of Landscape Value and the floodplain of the River Wear. Binchester Roman Fort (a Scheduled Ancient Monument) is located

approximately 140m 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.

5. A Public Right of Way (PROW) which forms part of the Weardale Way (no. 85 Bishop and Shildon), runs along the western boundary of the main event site, extending up to the Colliery Field site (PROW no. 81 Bishop and Shildon), which itself is bisected by PROW no. 86. The publicly accessible Brandon-Bishop Auckland Railway Path is located between the two sites. 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 Colliery Fields and Walsh site are also served off the A689 through an established vehicular access and protected right turn. Access to the Newton Cap site is provided via an unmade access taken off the Newton Cap Bank highway.

### *The Proposals*

6. The first planning application (DM/16/01129/VOC) seeks permission through a S.73 application to vary and remove conditions of the original planning approval. This includes the variation of condition no. 2, which listed the approved plans for the development to allow modest changes to the site layout, design of the buildings and new structures. The most significant of these arose following the discovery of a requirement for substantial engineering works to construct the approved access into the site because of land stability issues. Due to time constraints it was not possible to carry out these works before the first shows and therefore the existing access road into the site has been retained. In order to deliver sufficient car parking for the development and allow patrons to safely access the site, other land outside of the event site has been utilised for public parking while a pedestrian walkway has been created from the A689. The need to provide additional space to keep and graze horses on site that are used in the show, has also resulted in layout changes, including the addition of small structures and changes to the approved landscape masterplan and ecological mitigation strategy.
7. The layout changes also include the removal of 176 approved car parking spaces on site, creation of a new tarmac area providing 84 disabled parking spaces and a coach drop off area. Minor amendments have also been undertaken to the layout and design of the previously approved buildings, fencing, lake, and substations. Most of these changes were undertaken either prior to the first show or in the close season that followed and this application therefore seeks consent for works that have been implemented.
8. Permission is also sought to remove condition 9 which imposed a limit on the opening times of the car park for highway network congestion purposes. The application also proposes to vary condition 13 which restricted vehicular access, except in an emergency, onto the C133 via Gormer Terrace. The applicant seeks permission to run a shuttle bus out of this entrance should the need arise.
9. The second planning application (DM/16/01134/FPA) located on Colliery Fields, seeks retrospective planning permission to use the land for temporary event parking (approx. 1,400 spaces) including coach drop off area and associated infrastructure. A small network of gravelled roads have been formed to provide access to grass parking areas along with localised regrading of the land and some vegetation

clearance. It is intended that the car park would be used for a maximum of 45 days in a calendar year to serve the main site when events are taking place and as potential overspill parking should an event happen within the town centre. Part of this application site adjoins the main event site and includes a parcel of land that contains part of the constructed pedestrian link from the A689 and access. This land is currently within Council ownership and previously formed part of a small public car park which has been re provided to the entrance of the site.

10. The third (DM/17/01800/FPA) and fourth (DM/17/01802/FPA) planning applications relate to a change in use of agricultural land to provide ecological mitigation. This is to partly offset the ecological mitigation that would have been provided on the main event site, prior to the layout and land use changes (principally the keeping and grazing of horses). The ecological mitigation measures within these areas principally consist of managing the land as grassland, planting of hedgerows, formation of wetland ponds and maintenance of the riparian corridor along the river corridor.
11. The development project as a whole is identified as being EIA development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and an Environmental Statement and Addendum has been submitted in support of the applications. The S.73 planning application is being reported to Planning Committee at the request of Cllr Zair, whilst the remainder applications fall under the scope of the Strategic Planning Committee due to their site area.

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## **PLANNING HISTORY**

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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. The consent for the provision of the 24no. Holiday homes, on the site was renewed in 2011 but expired in 2104 having not been implemented.
13. Planning permission was granted in 2015 for the re-development of the existing golf course to facilitate the staging of a seasonal historical show, including associated car parking area, staging facilities, outdoor seating, management offices and associated infrastructure and landscaping. This permission has been implemented on the main site.
14. A series of applications to discharge planning conditions on that consent have been approved.
15. Planning permissions have also been granted for the change of use of the buildings on site to provide office and visitor facilities for the development the demolition of a 1960's bungalow and erection of a temporary office building and increase in the number of lighting towers around the main stage but at a reduced height.
16. On the Colliery Fields site there is no relevant planning history, however a hedgerow removal notice to remove 54m of hedgerow was approved.
17. Planning applications that were linked to the current modifications involving the formation of an additional car parking area for up to 450 cars on a site within Toronto, and on land at Newton Cap were subsequently withdrawn by the applicant.

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## PLANNING POLICY

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### NATIONAL POLICY

18. 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’.
19. 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.
20. *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.
21. *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.
22. *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.
23. *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.
24. *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.

25. *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.
26. *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.

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

27. 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 these application is the practice guidance with regards to; conserving and enhancing the historic environment; design; determining a planning application; flood risk; health and well-being; land stability; light pollution; natural environment; noise, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

#### **LOCAL PLAN POLICY:**

Wear Valley District Local Plan 1997 (WVDLP)

28. *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.
29. *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.

30. *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.
31. *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.
32. *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.
33. *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.
34. *Policy BE5 – Conservation Areas* – sets out that the character of Conservation Areas will be protected from inappropriate development.
35. *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.
36. *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.
37. *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.
38. *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 preserved nature conservation interests.
39. *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.
40. *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.

#### *Emerging Plan:*

41. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Wear Valley District Local Plan)

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

42. *Historic England* – No comments are offered in relation to these current applications advising that they should be determined in accordance with national and local policy guidance, and on the basis of the Council’s specialist conservation advice. In the original application it was identified 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. It was advised that this 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. It was advised that 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. It was advised that this was the balanced judgement that needed to be made in determining the application and that the economic and social promise of the proposal should be adequately scrutinised in order to test the level of benefit.
43. *Highways Agency* – No objections are raised to the proposal to remove the condition in relation to the opening hours of the car park (condition 9), providing a review mechanism is introduced to assess how the developed impacts on the A1(M). The Agency had previously advised that in order to minimise disruption on the A1(M) Motorway conditions should be attached to any planning permission to control the opening times of car parks on site to 1930 and the limiting of the capacity of the venue to 8000 visitors.

44. *Highway Authority* – In relation to the revised applications, advise that an Event Traffic Management Plan has been produced by the applicant in order to satisfy the conditions on the original approval. Subject to the implementation of this traffic management plan it is considered that traffic would be able to access the event with minimising disruption to the local area. It is recommended that most of the highways conditions on the original approval are condensed into one condition requiring an event traffic management plan to be submitted and reviewed on an annual basis.
45. *Natural England* – No comment received in relation to the current applications. Previously it was advised that the proposal was unlikely to affect any statutorily protected sites or landscapes although it was noted that the development includes areas of priority habitat, as listed in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. It was highlighted that 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 was offered in respect to protected species.
46. *Northumbria Gardens Trust* – No comments received in relation to these revised applications. In commenting on the original application concerns were raised regarding the scale of the tribune (grandstand) design of other buildings and the extent of development and the serious damage this would cause to the views of the park and its wider borrowed landscape from along the northern edge of the castle. It was acknowledged that assessing the potential benefits of the development is a complicated judgement and outside of the remit of the Northumbria Gardens Trust.
47. *Coal Authority* – In relation to the Colliery Fields site advised that there is a low risk of land instability associated with historic coal mining activity. However in line with the applicant’s Coal mining risk assessment it is recommended that further intrusive investigations should be carried out, to be secured by condition. The condition relating to land stability on the original application has been discharged.
48. *Weardale Ramblers Association* – Offer no objections on these applications although previously concerns were raised regarding the diversion of the Public Right of Way and improved connectivity into the wider right of way network.
49. *Bishop Auckland Town Council* – No comments have been received in relation to these applications. Support was previously offered for the Eleven Arches Project which would create a major visitor destination of regional, national and international significance highlighting and for the economic, cultural and social benefits it will bring to the town and surrounding area.

#### **INTERNAL CONSULTEE RESPONSES:**

50. *Environmental Health and Consumer Protection (Noise Action Team)*- Advise that following the original granting of planning permission an entertainment licence was approved for the site. This sets out specific noise levels the show must adhere to including management processes and permits up to 17 shows in 2017 increasing to a maximum of 18 in 2018 onwards. Sound monitoring undertaken in the 2016 event season confirms that the noise levels at the show are within agreed noise limits

subject to further refining work associated with the fireworks at the end of the show which has now been agreed.

51. In relation to the revised planning applications, it is advised that the amendment to proposed car parking hours would not have an adverse impact as they are significantly removed from nearby noise sensitive receptors and a more gradual arrival timeframe for visitors reduces the impact on properties near the access roads. In relation to the proposal to allow access onto Newton Cap bank for a shuttle bus, it is advised that as this entrance passes in very close proximity to a residential terrace it could have a negative impact and given the likely low noise level in this area due to the general absence of traffic. It is advised that consideration should be given to the regular passing of vehicles along this entrance during late night/early morning is likely to lead to a negative impact on the residents. It is advised that restrictions should be put in place in relation to this impact.
52. In relation to the use of the Colliery Fields site and based on the worst case scenario it is considered that the noise level at the nearest noise sensitive dwellings would be unlikely to lead to disturbed sleep, particularly in comparison to the approved situation. The main pedestrian route back from site is a significant distance from the nearest noise sensitive receptors and most of the car park area is also at substantial distance. Although some voices would be audible outside the nearest noise sensitive receptor, these are considered not to have a significant impact on the traffic related noise climate. It is also considered that noise level from traffic movements on the carriageway will be the dominant noise source. Concerns are raised regarding the potential for diesel generators to be used for lighting purposes. It is recommended that this element should be controlled by a condition requiring a management plan to be submitted and approved on an annual basis.
53. *Ecology Section* – Advise that the principle of offsite mitigation for the ecology impacts of the development is sound. The two sites identified are considered suitable for offsite mitigation and the submitted mitigation strategies are considered a solid set of proposals for long term ecological enhancement for specific faunal groups and habitat types. It is advised that the application will result in a net loss of biodiversity, especially as there has been a loss of early successional brownfield land and the associated invertebrate fauna, a loss of a population of dingy skipper and a lighting scheme that does not meet the previously conditioned layout and lighting levels. It is advised that a more extensive area of land given over to the off-site compensation and a single cohesive area that concentrated on the riparian corridor of the River Wear would have been more preferable. Each of the off-site mitigation sites will require a detailed 25 yr. management plan, which should be submitted within one month of the granting of any planning permission to be controlled by condition. The condition for a 25yr management plan for each site should ensure inclusion of a program of monitoring (botanical, bats, breeding birds) on both sites in years 1 (2018 baseline), 2, 3, 4, 7, 10, 15, 20 and 25 and annual butterfly surveys at Walsh for the first five years to assess the value and delivery for dingy skipper and meadow butterflies.
54. Previously advised 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 was 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.

55. It was advised that 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 applicant's 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 as the nights are bunched into the summer feeding and breeding season resulting in a delay in the emergence time of bats from roosts on and near the site. Although there would be a residual impact on local bats this would not have a negative impact on the conservation status of the species.
56. *Design and Historic Environment Section* – No objection in relation to the new applications, advising that the impact on the setting of adjacent designated assets as a result of the built development, parking provision and its design is broadly equivalent to that previously approved.
57. *Landscape Section* – No objections are raised to the variation application, as the majority of changes to the site layout would not bring significant changes to the landscape and visual effects compared to the approved development. It is however highlighted that the new pedestrian access from the A689 involves substantial modification to the natural topography of the west of the site. It is advised that the submitted landscaping scheme would be visually assimilated through a mosaic of grassland scrub and woodland similar to its former character although this would take some time to fully establish. In relation to the Colliery Fields application it is advised that the permanent features of the development, principally the stoned tracks, would be small in scale and not intrusive in wider views. Car parking, vehicle movements and lighting would be more visible in some views but would be of a temporary and intermittent nature. The ecological mitigation proposed at the Newton Cap Site would result in the delivery of linear hedged fields on the river floodplain which is not entirely characteristic of enclosure patterns on the floodplain. However the field pattern would go with the grain of existing boundaries and would provide an attractive enrichment of the local landscape.
58. *Spatial Policy* – No comments received in relation to these applications. In the original application it was advised that there were no in principle policy objections to the location of the 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 dependent on the finer detail according with the policies detailed from an environmental perspective in terms of ecology, residential amenity and heritage assets.
59. *Environmental Health and Consumer Protection (Air Quality Officer)* – Advise that whilst the development would increase the traffic volume on the highway network in peak times, it is considered that this would not likely significantly impact on the annual mean objective of air quality. It is advised that it would be unlikely that the traffic from the car parks would exceed 1hr target limit for nitrogen dioxide and carbon dioxide levels due to the number of vehicles involved and the location of the site. Notwithstanding this there is provision within the relevant legislation that allows a number of exceedance exceptions.

60. *Environmental Health and Consumer Protection (Contaminated Land Section)* – After assessing historical maps with respect to land contamination along with the Phase 2 Site Investigation it is advised that there is no requirement further investigative works and the risk of contaminants being present on site is low.
61. *Archaeology Section* – Advise that the work undertaken to facilitate the new car park would have been unlikely to impact on any significant archaeology remains given the limited engineering work involved and shallow depths of excavation.
62. *Drainage and Coastal Protection Team* – Advise that an appropriate surface water drainage scheme has been approved in the discharge of condition on the original permission. This limits discharge rates to greenfield run off rate. No objection is raised in relation to the new car parking site as the run off rates will be similar to the existing due to the significant amount of permeable areas.
63. *Regeneration and Economic Development* – No comments in relation to these applications but support was offered in the original application, highlighting the likely economic and regeneration benefits to Bishop Auckland through increased visitor number and opportunities to support local businesses. The developer was encouraged to enter into a targeted recruitment and training programme to secure local employment opportunities
64. *Rights of Way Section* – 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:**

65. *Bishop Auckland Civic Society* – No comments received in relation to these applications. Support was offered to the original application which was considered to represent a unique opportunity for Bishop Auckland that should be embraced because of the potential for regenerating the local and regional economy.
66. *Durham Badger Group* – No comments received in relation to these applications. Those made on the original application highlighted the high importance of the site for badgers and the loss of a main foraging ground due to construction work, increased human pressure and the operation of the site. It was suggested that there would not be any mitigation that could be proposed that retain the badgers on the site. The proposal was not considered to accord with paragraph p.118 of the NPPF.
67. *Northumbrian Water Limited* – Offer no comments on the revised applications. No objections were made on the original application provided that the development was carried out in accordance with the Flood Risk Assessment.
68. *Visit County Durham* - No comments on the revised applications. In principle support was given to the original application in view of the scale of investment within the visitor economy. It was considered that the proposal had the potential to be an economic benefit for Bishop Auckland and the surrounding hinterland and visitor economy and with increased overnight stays and tourism revenue across the county.

**PUBLIC RESPONSES:**

69. The application has been publicised by way of press and site notices, and individual notification letters to neighbouring residents on each individual application. The responses received on each are as follows:

DM/16/01129/VOC – Variation to main permission 37 Objections 3 letters of support

DM/16/01134/FPA – Colliery Site parking – 40 Objections

DM/17/01800/FPA - Ecological Mitigation Walsh Site – 2 Objection

DM/17/01802/FPA - Ecological Mitigation Newton Cap Site- 2 Objection

70. Many of the representations received cover issues across all sites and therefore for clarity have been grouped together as below. A significant proportion of objectors also requested that their previous comments in relation to the original application be carried over to these applications.

71. Objections:-

#### Traffic/Highway Safety

- The proposed secondary access is inadequate to accommodate additional traffic or pedestrians. No access should be taken onto the C188.
- 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.
- Traffic impact on Toronto and Skirlaw Bridge.
- Residual traffic impacts through the town centre, a cumulative impact should be carried out.

#### 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.
- There is an underestimation of the noise levels on site
- 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.
- The car parking sites would not empty until approximately 1.45am due to the distance to the main site causing disruption and disturbance.

- The closure of the A689 and diversion through Toronto will add to congestion and increase noise.
- The Council should undertake noise monitoring at the site and surrounding areas.
- Noise and lighting impact from the proposed car parking areas. Viable alternatives are available, including park and ride options.

### 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.
- Insufficient assessment of ecology matters has been made on the revised applications.
- Ecological mitigation should be provided on site

### 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.
- A cumulative impact should be carried out.

### 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
- Concerns are raised regarding the extent of the consultation exercise.
- The economic benefit of the proposals are questioned.
- Concerns are raised regarding the lack of enforcement action by the council.
- Concerns are raised regarding the conclusions of the Environmental Impact Assessment and that the submission does not cover all material considerations.

- The lack of further coal mining risk assessment on the Colliery Fields site is highlighted.

72. Support:-

- Whilst the impacts of the development are appreciated the benefits to future generations of Bishop Auckland should not be dismissed.
- The development will bring vital jobs.
- There are already high levels of traffic within the town centre and beyond.

73. *CPRE* – Highlight that local residents have been adversely impacted by the revised car parking proposals during the previous event season; it is considered that the applications make no proposals to address previous issues. It is noted that additional car parking is proposed, however there remains a significant number of spaces on site which should be used first.

## **APPLICANTS STATEMENT**

74. Eleven Arches is a registered charity with the objective to produce a world class historical show, the foundation of which is an innovative and engaging arts, education and community development programme. Eleven Arches is a catalyst and driver of change which will dramatically shift the paradigm of the North East, by adding a national tourist destination to the region that delivers tangible, measurable, significant social and economic impact. On 2 July 2016, Eleven Arches produced and presented the first season of 'Kynren an epic tale of England', an open-air summer spectacular on monumental scale, inspired by the Opening Ceremony of London 2012 and templated from the award-winning Cinéscénie produced by Puy du Fou in France. Orchestrated by a 1,500 volunteers, Kynren offers an enthralling family entertainment for all ages.

75. 'Kynren' (family, generation in old anglo-saxon) is a fitting name for our story that is about a heritage that spans centuries. Generations of volunteers will be involved over decades to come in bringing this show to audiences of all ages. We added the K because it is the strong letter of King, and kin.

76. The site was purchased by the Auckland Castle Trust in 2012 to provide a seamless addition to the castle experience to a wider audience, away from the historically and ecologically sensitive setting of the Park itself. Eleven Arches was set up as a sister charity to Auckland Castle Trust to further the development of the site, and support the creation of an international tourist destination in Bishop Auckland, a new engine for economic growth.

## **PUBLIC BENEFIT**

### Tourism, a new engine for growth

77. Eleven Arches' mission is to produce Kynren as a world-class show, to be a 'trip attractor', encouraging overnight visits to County Durham and bringing tourism-related expenditure, capital investment and jobs. It is the overnight visitors who make a significant difference to the regional economy: while day trippers typically spend £19 per day, overnight visitors are likely to spend £157, a driver for the creation of jobs. Offsite tourism expenditure around Kynren is expected to be in the

region of £4.75million per annum, and that will be compounded by what is spent at other attractions when visitors build a short or long-stay around the show.

78. In our inaugural season, we sold more than 100,000 tickets; a whopping 23% of our visitors came from outside the North East. We welcomed visitors from all over the UK and all over the world; from the USA to China, from South Africa to the Middle East. In 2017, we will stage 17 shows, with an expected footfall of 136,000, with 18 planned for 2018 and beyond, attracting up to 144,000 visitors to Bishop Auckland each season.

#### Community development and Education

79. Like Puy du Fou, Kynren is not-for-profit; as a registered charity, Eleven Arches is committed to education and community development. We endeavor to professionally train all our volunteers each year in the key skills needed to produce a world-class show to ensure its longevity for decades to come. The full impact of being an Archer is of course individual to each one. However, based on the extensive research we commissioned after the first season, over 85% of our volunteers feel they have developed new skills thanks to their Kynren experience, from production related skills to softer skills, improving their quality of life and their own pathways to success in their professional and personal lives: teamwork, communication with people from all walks of life, self-confidence, commitment, persistence.
80. Of great significance has been the forging of new friendships – from developing a wider social group and having more fun, to deep, personal friendships which have dispelled loneliness, isolation or grief. Kynren has given our volunteers a sense of belonging, an appreciation of the importance of being part of a community; they feel great pride in what has been achieved through Kynren, both on and off stage, and their contribution to creating a better future for Bishop Auckland.
81. What makes Kynren so special is the multi-generational nature of our volunteers. Entire families have joined in, with grandparents, parents and children all getting involved and finding their Kynren experience bonds them in a way few other leisure interests can. Kynren is a timeless reminder of the tremendous contribution the North East made to the history of the nation. It contributes to raising awareness of matters of historical importance at local, regional and national level with our audience and with our volunteers.

#### *SUSTAINABILITY*

82. Kynren was created thanks to an initial £35m investment, funded entirely by charitable donations, used for the infrastructure of the site and the show area, and creating, producing, operating and marketing the show in its first year. From 2017 onwards, we operate on the previous year's proceeds. However, the production of world class arts is an ongoing journey. Profits from tickets and merchandise sales flow back to the charity to reinvest in the show and keep it at its best. Yet we must continually increase the skill level for our volunteers to make this show the success it must be. There is a critical need for additional funds to train more people in more skills each year, to create extraordinary with ordinary people, to sustain the long-lasting social and economic regeneration loop we sparked from inception.
83. In 2016, the community around Bishop Auckland made history, and it now thrives on its renewed sense of belonging, pride and purpose. Kynren is truly an inspiration for

participants and visitors alike. The backstage of Kynren showcases a vibrant community with a soul, humility, positivity, warmth, dedication and professionalism. Eleven Arches has delivered the first stepping stone of a bold and unconventional regeneration mission in the North East, an example of a work of arts underpinned by an innovative and engaging education and community development programme.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application files which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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84. Permission is sought through section 73 of the Town and County Planning Act to vary and remove conditions of planning application DM/15/00110/DM for operational reasons. In this type of application the Local Planning Authority must have due regard to the development plan and other material considerations. However the original permission will continue to subsist whatever the outcome of the S.73 application and the authority can only consider the matter of the variation of conditions. The approving of this application would in effect grant a new permission which would run in tandem with the original subject to any change to the conditions in question.
85. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, landscape and visual impact, impact on the historic environment, highway safety, impact on residential amenity, ecology, flooding and other issues.

### The Principle of Development

86. The principle of developing the site for tourism proposals was established under the original planning application for the site, DM/15/00110/FPA. This approval has been implemented, the site is operational and the first events took place from July 2016. In considering the original application it was recognised that saved policy TM1 (criteria for tourist proposals) of the Wear Valley District Local Plan (WVDLP) provided support in principle for tourism related schemes and facilities, including those outside of defined settlement limits provided the development was compatible with its surroundings in terms of its scale and intensity, can be absorbed into the landscape, was adequately accessed with an appropriate level of car parking and protected the amenities of local residents.
87. 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 was considered that the general approach of policy TM1 in setting a framework to assess tourism proposals was largely consistent with the NPPF whilst recognising that the NPPF policy in relation to tourism proposals is less prescriptive. Significant weight was therefore

afforded to this policy, this remains the case in the consideration of the amended applications.

88. In addition to policy TM1 of the WVDLP was also previously recognised that the NPPF sets out 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 against the economic and social elements of sustainable development, it was concluded that the development represented a rare opportunity to secure a major privately funded visitor attraction without comparison in the region. It was also concluded that the potential attraction of a significant number of visitors would provide an opportunity to help invigorate the town which has suffered a decline over the recent years. The attraction of a significant amount of visitors has the potential to increase 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 being brought forward and would contribute to these as a related attraction and financially as part of the provision of a sustainable visitor programme for Bishop Auckland. Detail consideration was given to the specific impacts of the social and environmental impacts of the development in the sustainable development planning balance.
89. The additional car park and proposed ecological mitigation, involve matters that are related to the main use of the site and necessary to facilitate the delivery of the wider development proposals. It is therefore considered that in principle the formation of the car park and change of use of agricultural land is acceptable in principle as set out in policy TM1 of the WVDLP, subject to a detailed analysis of the impact of this elements.

#### *Landscape and visual impact*

90. The main event site and the Newton Cap site lie within an Area of Landscape Value as designated by saved policy ENV3 of the WVDLP. 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. These policies are considered consistent with part 11 of the NPPF which aims to protect and enhance valued landscapes. Significant weight was therefore afforded to these in the determination of the original application. This remains the case in these new applications.
91. WVDLP Policy ENV1 seeks to protect and enhance the countryside by restricting development proposals for agricultural or compatible uses as permitted by Local Plan policies. This Policy is considered only partially consistent with the NPPF which takes a more permissible attitude towards a wider range of development types in the countryside and therefore can only be afforded moderate weight.
92. Detailed consideration was given to the impacts of the development in the original planning application. Based on the advice of the Council's Landscape Section and

Design and Conservation Section, it was concluded 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 was accepted that the potential effects of the proposal had been addressed as far as possible through the detailed design and mitigation proposals contained in the Landscape Strategy. Although these would become progressively more effective as planting becomes established given the moderate longer term landscape impacts the scheme would still be considered to conflict with policies ENV1, ENV3, GD1 and ENV4 to a level that would need to be outweighed by other material considerations.

93. In relation to the S.73 planning application a revised landscape masterplan and detailed planting schedule have been submitted taking into account the site layout changes. In reviewing the proposed landscape strategy and mitigation and following amendments to the submitted information the Council's Landscape Officer advises that the majority of the proposed alterations are minor in nature and would not bring significant changes to the landscape and visual effects of the approved development over and above the existing approval.
94. The most notable element of the revised development is the new pedestrian access from the A698 which has involved substantial modification to the natural topography of the steep bluffs in the west of the site. This is considered to be an important feature of the local landscape and visible in views across the floodplain from the east. In assessing the visual impact of this element of the scheme, it is advised that the route has been chosen relatively well to exploit the shape of the local terrain, although areas of cut and fill would remain conspicuous as engineered modifications. Much of the pre-existing scrub has also been removed to facilitate this along with a block of young woodland on the section of the former tip west of the site entrance. However, it is considered that the detailed planting schedule would in time help assimilate the modified landform into the landscape. It is also advised that areas of disabled parking on the site surfaced with tarmac rather than stabilised grass or gravel are visible in relatively shallow views, although on balance not overly conspicuous.
95. In relation to the visual impact of the proposed car park at colliery fields, the Landscape officer advises that the permanent features of the development, including the stoned tracks, are not intrusive in wider views. Whilst the car parking itself and associated lighting are more visible in some views these are of a temporary and intermittent nature. Consequently there is not considered to be a significant effect on the character of the local landscape, and mitigation through the replanting and reinforcing of hedgerow would help reduce any residual impact.
96. The proposed ecological mitigation on the Newton Cap Site would entail the development of a series of linear hedged fields on the river floodplain. Whilst it is felt that this is not entirely characteristic of enclosure patterns on the floodplain, the landscape officer considers that the field pattern would go with the grain of existing boundaries and provide an attractive enrichment of the local landscape. Taken in the round the proposals would have a positive effect on the character and quality of the AHLV. The mitigation planting at the Walsh site would be confined to the proximity of the field boundaries and overall would have a positive effect on the immediate landscape.

97. As limited information has been submitted at this stage regarding the maintenance and phasing of the landscape planting, a conditional approach to detail this is recommended.
98. Overall in line with the advice of the Council's Landscape Officer and to subject to implementation of the detailed landscape mitigation, it is considered that both the amended and proposed development would not have significant impacts over and above that approved in the original planning permission. It is considered that there would not be negative cumulative impact as a result of the development. However as the development as a whole does result in moderate longer term landscape impacts and conflicts with policies ENV1, ENV3, GD1 and ENV4 these would need to be outweighed by other material considerations, in line with the original application.

#### Impact on the Historic Environment

99. 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 which has considerable weight and importance. These policies are also considered generally compliant with the NPPF which seeks to conserve or enhance heritage assets in a manner appropriate to their significance. However sections 132 to 134 of the NPPF states that where there is harm 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. Given the slightly more flexible assessment in the NPPF moderate weight was therefore afforded to these policies in the determination of the original application. This remains the case in these new applications.
100. In the original consideration of these matters it was identified that the main heritage assets were the Grade I listed Auckland Castle, Auckland Park a Grade II\* registered parkland with formal and functional gardens immediately around the Castle. the Bishop Auckland Conservation Area to the south of the site, Binchester Roman Fort situated to the north east of the site a Scheduled Ancient Monument, the Newton Cap Viaduct, a Grade II listed structure located to the south west of the site and the Newton Cap Bridge a Grade I listed structure and a scheduled ancient monument.
101. In assessing the impact on the heritage assets both English Heritage(now Historic England) and the Council's Design and Conservation Team advised that the impact on the setting of the designated assets would primarily result from the change in the character of the land and relationship between the built structures. Furthermore it was highlighted that the views from the Northern edge of the Conservation Area would be dominated by the proposed car parking layouts and to a lesser extent the performance related structures. Whilst acknowledging the proposed landscape mitigation measures once mature would have some effect in reducing the impact of certain parts of the physical development it was concluded that it would be impossible to effectively screen these elements entirely and the proposal would cause harm to the significance of the castle, park and conservation area. Nevertheless the level of harm was considered less than substantial for purposes of the NPPF and would be outweighed by the public benefit in the planning balance.

102. In line with advice from the Council's Design and Conservation Section, the changes introduced to the site layout are considered to have minimal impact on the heritage assets. Although the landform and escarpment on the western boundary of the site has been modified the proposed mitigation outlined above would reduce the impact of this element of the development. The variation of condition no. 13 to allow shuttle bus access onto Newton Cap Bank was also highlighted because of the potential impact on the scheduled ancient monument of Newton Cap Bridge. Following confirmation from the Highways Authority (which has maintenance responsibility for the bridge) that it is structurally capable of accommodating additional flows associated with the shuttle bus and any diverted traffic around event closure, the Design and Conservation Section offer no objection on the basis that there are mechanisms to restrict flows to single lane width. Historic England offer no comments on the revised scheme. Other than glimpses in wider landscape views the car parking at the Colliery Fields site does not have a significant impact on any heritage asset.
103. The original planning permission and subsequent amendment to increase the number of lighting towers included a planning condition (no.5) requiring the dismantling of the lighting towers outside of event period. This was to allow the Authority to review their visual impact implications. Having done so both the Council's Design and Conservation and Landscape Section consider that the permanent retention of the lighting towers would not have a significant impact on the historic environment and landscape given their scale and profile. It is therefore recommended that planning condition 5 be removed.
104. Overall, as advised by the Council's Design and Conservation and Landscape Sections the modifications to the event site and car parking arrangements have had minimal affect on the historic environment. Whilst the proposals still conflict with local plan policies in that there would be some harm to heritage assets these policies 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. Subject to being satisfied on issues surrounding the substantial public benefits arising from the development it is still considered that the heritage impacts can be accommodated and there would not be negative cumulative impact as a result of the development.

### *Highway Safety*

105. 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. These policies are considered consistent with the NPPF, which also seeks to promote sustainable transport options and safe and suitable access. Full weight was therefore afforded to the policies in the determination of the original application. This remains the case in these new applications.
106. The approved scheme proposed to improve the existing access to the site in terms of its realignment with the A689 and increased width to allow simultaneous entry and exit to the event site and proposed parking area of 1,841 parking spaces. Additional parking spaces were proposed, in both private and public ownership within the town centre. It was also intended 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. An existing access to the site under the Newton Cap viaduct was proposed to be restricted for emergency vehicles only. This meant that vehicular and pedestrian access would be confined to the access off the A689. This arrangement and proposed mechanisms to secure its operation were covered by a number of conditions on the planning approval including the requirement for the production of a traffic management plan and provision of appropriate infrastructure.

107. Following the development of the traffic management strategy and in light of associated construction issues around the implementation of works the applicant reconsidered the access and parking arrangements. As a result the maximum amount of onsite car parking has been reduced from 1841 spaces to 1665 spaces and the existing access road has been incorporated into the scheme along with its realignment onto the A689. Although the site would have a maximum parking capacity of 1665 the Event Traffic Management Plan for this year's event sets out that onsite parking would be restricted for the use of volunteers, visitors with restricted mobility and VIP's (approx 540) with the remainder of the spaces unused. This is due to the constraints of the access road that if used fully for visitor parking it is likely to result in significant delays in exiting the site. The applicant wishes to retain the parking areas on site in order to retain a degree of future flexibility and or utilise in extreme circumstances. However in order to ensure that sufficient car parking is provided to serve the event, approx.1400 spaces would be available on the Colliery Field site to the north west of the main event site in a similar way to the previous year. Visitors utilising this car parking would access the event site by an existing surfaced footpath from this car park via the Brandon-Bishop Auckland Railway Path and then down into the site via the constructed pedestrian access path. Car parks within the town centre are also proposed to be utilised alongside park and ride facilities further afield.
108. A Transport Assessment (TA) was submitted with the original planning application and the Highway Authority advised that the proposed site access improvements and likely traffic generation were acceptable. This was subject to the implementation of a signal control junction in event time along with the submission of a proposed park and ride scheme, off site car parking, appropriate onsite parking management and the implementation of a signing and road user information strategy. The Highways Agency also raised 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. Overall it was concluded that the development would not adversely impact on the highway safety of the surrounding road network.
109. In relation to the changes to the car parking and access arrangements detailed in these planning applications the Highway Authority advise that an Event Traffic Management Plan has been produced in order to satisfy the conditions on the original approval and under Highways legislation obligations. The Event Traffic Management Plan sets out the approach to directing visitors along separate routes depending on the point of origin to avoid major residential and urban areas. To facilitate arriving event traffic the town centre carparks are used in the first instance with a shuttle bus services provided for people to reach the event site. In order to prevent queuing adjacent to the event site, vehicles which have been directed to use the Colliery Fields carpark would be prevented from turning right into the site from the A689 and directed to travel to the Toronto roundabout and approach the carpark

from the north. This banned turn would not affect the proposed shuttle bus services which would still be able to directly access the site. Similarly vehicles accessing the Colliery Field site would have to approach from the north via the Toronto Roundabout. In order to ensure the safety of people of the A689 the road would be subject to a 40 mph speed limit, an overtaking restriction and a no-stopping restriction.

110. A similar signage strategy would be employed for vehicles leaving the event to the various destinations. In order to ensure that vehicles both arriving and leaving the event do not cause problems in the town centre the two sets of traffic lights at Kingsway and Newgate Street would be manually controlled. From the Colliery Field site exiting traffic would be able to travel in either direction although the southbound traffic will be subject to further control to allow the coordination with traffic leaving the event site.
111. In appraising the Event Traffic Management Plan the Highways Authority advise that in pure visitor numbers the Kynren is considered to be small-to-medium sized event and the car parking provided in the identified locations currently exceeds the evidenced parking requirement. It is also advised that the event would occur when background traffic is at a minimum. Providing the event traffic is managed properly it would not have a significant effect on the local road network. It is accepted that some disruption is inevitable as a result of necessary planned road closures and a permanent traffic regulation order has been introduced in surrounding residential streets to restrict parking to local permit holders only. The financing of the permit distribution is via an annual contribution paid by the developer as part of a S 106 agreement. This obligation would need to be carried forward in any subsequent variation to the existing consent through a deed of variation. Based on the advice of the Highways Authority and following the successful operation of the event last year from the traffic perspective it is considered that the event would be served by an appropriate means of access and would have an acceptable impact on the wider highway network in accordance with policies GDP1 and T1 of the WVDLP and Part 4 of the NPPF and there would not be negative cumulative impact as a result of the development
112. The existing planning permission has a number of conditions relating to parking and traffic management. Some of these conditions are no longer relevant such as Condition no.10 (detail of highway works) as the highway engineering works have now been undertaken to the satisfaction of the Highway Authority. In addition the Highway Authority advise that other conditions such as the requirement to submit an event traffic management plan (condition no. 11), temporary signage and car park operational details (condition no.12) would be better served under one condition reviewed on an yearly basis. As an event of this nature is likely to evolve this would allow both the applicant and the Council flexibility to review and address issues as they arise, it is proposed that these conditions be updated accordingly.
113. Condition 9 prevented the car park on the main site opening before 7.30pm and was initially requested by Highways England with a view to reducing the risk of additional traffic using the strategic highway network during periods of existing congestion. From its perspective the Highways Authority advise that the condition would be counterproductive in terms of concentrating traffic into a reduced time period as travel and arrival times to the carpark are not necessarily linked. It is advised that the likely outcome of this condition would be to cause a nuisance to local residents as people arriving for the event are displaced into residential areas until the carparks

open. Following reconsideration of this matter Highway England states that providing the impact of the event on its strategic network is reviewed and considered in future versions of the event traffic management plan condition no.9 can be removed. No queuing issues associated with last year's events on the strategic highway network have been reported.

114. Condition 13 restricts vehicular the access to the site from the C188 (Newton Cap Bank) for emergency access only. The applicant seeks permission to vary this condition to allow access/exit for a shuttle bus from the C188 when for operational reasons this primary site access could be utilised. This has not been required in any event to date and is not expected to be a regular occurrence. The Highway Authority offers no objections to this proposal, and would retain a degree of control over the use of this access through the proposed event traffic management plan condition.
115. Condition 14 of the original planning permission required the appointment of a Travel Plan coordinator and the submission of a travel plan. However on reflection as advised by the Highways Authority this would be of no benefit either in terms of highway safety or sustainable travel and can be covered under the Event Traffic Management Plan. It is recommended that this condition be removed.

Impact on residential amenity.

116. Local Plan Policy GD1 of the WVDLP highlights that developments should protect the amenities of neighbouring uses. This is replicated in terms of tourism proposals within policy TM1 of the WVDLP. 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 pollution. These policies are considered to be consistent with the NPPF and were afforded significant weight in the determination of the original planning application. This remains the case in these applications.

#### Noise

117. 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.
118. 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. In considering the original planning application Members recognised that while the event would likely give rise to significant changes in the noise profile of the area which could have a significant impact on surrounding residents, this included the impact of traffic dispersal within the town centre associated with the event. These would be outweighed in the planning balance by the benefits of the scheme. This approach was consistent with that of the NPPG and NPPF which state that noise impacts should not be considered in isolation of all the dimensions of sustainable development in the planning balance.

119. Following this approval the applicant was granted an entertainment licence for up to 15 shows in 2016 rising to 18 in 2018. As part of the licensing regime sound limits have been placed on the show. Monitoring has been carried out at shows that have taken place by Environmental Health officers and this has confirmed that the noise levels generated are below those anticipated in the consideration of original planning application, and as specified in the event licence.
120. The current planning applications do not propose to change the number of approved shows or the finishing time of 11pm. The Council's Environmental Health Unit advise that the amendment to the proposed car parking hours would not have a significant impact as it is removed (a minimum of 280m) from nearby noise sensitive receptors and a more gradual arrival is likely to reduce the impact on properties near the access roads. In relation to the proposed use of the access onto Newton Cap bank for a shuttle bus, it is advised that this could have a negative impact as the entrance passes adjacent to a residential terrace. As this area currently experiences low noise levels due to the general absence of traffic it is considered that the regular passing of vehicles along this entrance late at night is likely to lead to a negative impact on the residents. It is considered that the only method of mitigating this impact is by limiting the number of occasions that when use the access is allowed. A condition to control this is therefore recommended should the need to operate a shuttle bus arise. The applicant advises that this is not expected to be a regular occurrence and likely limited to extreme events.
121. Objections have been raised by local residents in relation to a potential loss of residential amenity given the proximity of car parking to dwellings at Colliery Fields. In response to this matter the Council's Environmental Health Section advise that based on the worst case scenario, noise levels from impulse noise such as slamming of car doors at the nearest dwelling, is likely to be less than the peak noise threshold within relevant guidance (BS 8233). This guidance is utilised by the Council for assessment of the impact of night time "high noise events" It is therefore advised that "impulse" noise from the car park is unlikely to lead to disturbed sleep. Complaints were received and investigated by environmental health officers during the first shows last year. However it was concluded that a statutory nuisance impact had not arisen.
122. In relation to other noise, such as the chatter of people returning to the cars, it is noted that the main route back from site is a significant distance from the nearest noise sensitive receptor. The majority of the car park is also at further distance with the nearest point being 50m across the A689 which also features a landscape buffer. The Environmental Health Section advise although some voices would be audible, this would be unlikely to cause a significant impact, as observed on site during monitoring of the first shows.
123. In the events that have taken place in the previous season and factoring in the distance from the tribune, the Colliery Field car park has been emptied by 12.30am. Given the timing of these exit activities and associated traffic movements it is acknowledged that there will be some inherent disturbance for local residents. However the Environmental Health Section advise that although noise from traffic associated with the event alters the existing noise climate, this is not significantly greater than the expected impact of traffic using the A689 associated with the original scheme. The main site has planning permission for 30 events (currently limited to 18 through licensing). Planning permission is sought to use this land for parking for up to 45 days to allow rehearsals and to accommodate additional parking

for potential events in the Town Centre. Whilst the use of the car park on an increased number of occasions would increase the impact of development on local residents this is intended to allow some flexibility in the nature and level of use around the events and is not considered unacceptable in the overall planning balance. Issues raised by Environmental Health regarding the potential for diesel generators to be used for lighting purposes and associated potential noise impact can be controlled by planning condition as part of a management plan in relation to use of mobile plant and it is recommended that this be included. A condition limiting the use of the site for car parking for 45 days is also proposed.

124. Objections have been received advising that it is necessary to undertake a new noise impact assessment to fully assess the impact from the car park on the residents of Toronto. The Environmental Health Section consider that this is unnecessary and would not significantly add to the consideration of the specific impact. Data from previous assessments, provides information on the noise level which can be expected from activities on site and has been considered which has been supplemented by on site observations and monitoring when the event was operational. It is concluded from this that in overall terms the development would not result in a significant negative cumulative noise impact .

#### *Light*

125. 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. In determining the original application it was identified that light pollution has the potential to cause annoyance to people, create harm to wildlife, undermine the enjoyment of the countryside and detract from the night sky. However the submitted Lighting Assessment indicated the main lighting would be focussed on the stage area using a number of localised lighting sources and tower based floodlights. It was concluded that although some loss of residential amenity would be likely to arise during these periods it was not considered that it these impacts would be significant enough to warrant refusal of the application on these grounds.
126. A subsequent planning approval increased the number of lighting towers but reduced their height. This has had the benefit of helping to prevent unwanted light spill as there is a smaller area for each light. to cover. This change has generally achieved the same lighting levels with a more acute angle and lower intensity luminaire.
127. Concerns have been raised regarding a loss of amenity and nuisance caused by headlights from vehicles shining into adjacent residential properties as they leave the site Whilst this cannot be ruled out entirely, there is a landscape buffer up to a 5m wide between the site and adjacent residents which would screen out most of any of direct light. In addition given the departure times it is not unreasonable to expect that most residents are likely to have the curtains closed on bedroom windows.
128. In terms of overall assessment the show is now operational and the noise levels have been shown to lower than anticipated at the time of the determination of the original planning application. These are controlled through the entertainment site licence, under the licensing regime. It is considered that the change in opening time

of the car parks would not adversely increase the noise and disturbance associated with the site. Although the proposed operation of a shuttle bus out onto the C188 has the potential to impact on the level of residential amenity of the residents of Gormer Terrace subject to controlling the frequency of use of this access through condition, it is considered that this loss of amenity would not be sufficient to warrant refusal of the planning application. In relation to the proposed car park, the dominant noise source is likely to be related to traffic movements. However this is not considered to be significantly greater than the approved scheme which established the principle of increased car movements later in the night, including that through the town centre any beyond. Whilst the development would likely lead to some increased loss of residential amenity for some local residents, conflicting with policy GD1 and TM1 of the Local Plan this would be limited in the context of the original permission and it is considered there would not be negative cumulative impact as a result of the development. The impacts of the scheme need to be considered in the wider planning balance assessment of the development.

## Ecology

129. 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. This policy is considered consistent with the NPPF and was afforded significant weight in the determination of the planning application. This remains the case in these applications.
130. In support of the original planning application a range of ecology surveys were submitted to record the presence of plant/animal species and habits assess the likely ecological impacts and necessary mitigation.
131. It was concluded that the proposal 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. This was contrary to guidance and planning policy which suggests there should be no loss of foraging habitat and no increase in the risk of road kill and therefore most of the existing population could be lost. This would be locally significant in terms of the site although it was 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.
132. It was advised that the site was also used by a range of local bats, with 8 out of the 10 bats species recorded in the County being found on site. The bat surveys showed that an important foraging area would be lost to the development and despite proposed mitigation through habitat creation it would not be effective for a decade or so. It was also indicated that there would be some disturbance and displacement due to the effects of the light and sound show on bats resulting in a delay in the emergence time of bats from roosts on and near the site. Although there would be a residual impact on local bats it was concluded that this would not have a negative impact on the conservation status of the species.

133. 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 license from Natural England. In considering the merits of the scheme, following the carrying out of additional survey work the 'derogation tests' were applied and it was concluded that these tests would be met and that Natural England is likely to grant a protected species licence enabling 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. Subsequently Natural England granted a protected species licence and relevant works have been completed.
134. An ecology mitigation strategy was developed to help offset the ecological impact of the development, whilst acknowledging there would be a residual impact. This included the maintenance of brownfield habitats, and the set aside of significant a portion of land within the development site for ecological enhancement and creation purposes. Following the amendment to the site layout and changes since the planning approval, this strategy has had to be amended, to accommodate these modifications and by the need to graze the show horses on site during the event season, which is incompatible with the mitigation strategy. Therefore in order to ensure that the development can mitigate its impact it is proposed to utilise additional land for habitat creation and biodiversity enhancement.
135. In reviewing the revised strategy, including the mitigation proposed on additional parcels of land, the Councils Ecology Section advise that the principle of offsite mitigation for the ecology impacts of the development is sound. It is also advised that the two sites identified are considered suitable for offsite mitigation and the submitted mitigation strategies are considered a solid set of proposals for long term ecological enhancement for specific faunal groups and habitat types. It is identified that that the application would result in a net loss of biodiversity, especially as there has been a loss of early successional brownfield land and the associated invertebrate fauna, a loss of a population of dingy skipper and a lighting scheme that does not meet the previously conditioned layout and lighting levels. A more extensive area of land given over to the off-site compensation and a single cohesive area that concentrated on the riparian corridor of the River Wear would have been more preferable. This loss in biodiversity would need to be considered in the planning balance.
136. In order to secure delivery of the ecology mitigation each of the off-site mitigation sites will require a detailed 25 years management plan, which should be submitted within one month of the granting of any planning permission to be controlled by condition. The management plan for each site would also need to ensure the inclusion of a program of monitoring (botanical, bats, breeding birds) on both sites in years 1 (2018 baseline), 2, 3, 4, 7, 10, 15, 20 and 25 and annual butterfly surveys at Walsh for the first five years to assess the value and delivery for dingy skipper and meadow butterflies. The delivery of this mitigation (an implementation of relevant planning applications) would also need to be secured by a S106 agreement.
137. Whilst the level of ecological mitigation proposed would in overall terms fall below that previously secured in the original application this is considered to be at a level sufficient to mitigate the impacts of the development. However as. This would be contrary to the objectives of paragraph 109 of the NPPF as it would not result in a net biodiversity gain, although this in itself is not a reason to refuse the application, but a matter that needs to be considered in the planning balance.

## Flooding

138. 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.
139. 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 locations of one of the car parks and stables the existing buildings on the main event site. These are located within flood zone 2. In addition the tribune and stage are 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 in the previous application, it was concluded that the proposed development would meet the test of the NPPF in this respect.
140. The required site specific Flood Risk Assessment (FRA) that was submitted, modelled flood risk on the site and the potential resultant impact downstream. The FRA concluded that the flood water storage volumes on site would be increased due to the remodelling of parts of the site to create landscape bunding. The proposed layout of the site also ensured that flows would not be impeded and the minor changes to the site layout do not affect this matter. A number of mitigation measures were proposed including the siting of sensitive equipment above 1 in 100 flood levels and the incorporation of permeable surfaces. This has been adopted in the built scheme and the drainage strategy approved under a discharge of condition in relation to the original application. The proposed amendments do not affect the previous assessment of flooding risk and appropriate mitigation detailed. No objection is raised in relation to the new car parking site as the run off rates will be similar to the existing land use due to the significant amount of permeable areas.

## Other Issues

141. 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 was submitted as part of the original application. This indicated that it is likely that the site has been subject to previous coal mining activity and recommended a programme of investigation and mitigation to confirm the absence or otherwise of historic workings and appropriate mitigation measures, secured by condition. This further survey work has now been undertaken and agreed on the main event site. In relation to the Colliery Fields site, due to the nature of the development it is advised by the Coal Authority that there is a low risk of land stability issues associated with historic coal mining activity. However in line with the applicants Coal Mining Risk Assessment further intrusive investigations should be carried out, to be secured by condition.
142. The Council's Archaeology Section previously advised that that the development would 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 would have sterilised the site further from an archaeological perspective. In relation to the current applications it is advised that photographic recording of the extant farm buildings has been undertaken in order to discharge the relevant condition of the original planning approval. It is advised that the work undertaken to facilitate the new car park would have been unlikely to impact on any significant archaeology remains given the limited engineering work involved and the limited depths of excavation.

143. NPPF paragraph 112 states that LPAs should take into account the benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Given the implemented planning permission on the main event site (and its previous non-agricultural use) consideration of this matter is only required on the remaining application sites, which cumulatively would result in the loss 19.4ha of agricultural land. A site specific investigation into the land classification does not accompany the application. Given the lack of assessment it cannot be determined whether the agricultural land is best or most versatile agricultural land. However, even in a circumstance that the land is best and most versatile land this does not preclude the land from development but is a factor to consider in the determination of the application in the planning balance.
144. In this instance it is considered that the amount of agricultural land 19.4 to be lost is less than significant. Furthermore, it is considered that the loss of land would not undermine the ability of remaining agricultural land surrounding the site to be effectively farmed while all but the event site could be put back into a productive agricultural use should the development cease. However this is still considered an adverse impact in the event that the land is best and most versatile which needs to be considered the planning balance.
145. The development would increase the traffic volume on the highway network in peak times, particularly around event closure times. The Councils Environmental Health and Consumer Protection (Air Quality Officer) advised that this increase in traffic would not likely significantly impact on the annual mean objective of air quality due to the volume of traffic and frequency of events. Furthermore it is advised that it would be unlikely that the traffic from the car parks would exceed 1hr target limit for nitrogen dioxide and carbon dioxide levels due to the number of vehicles involved and the relatively exposed nature of the sites. Notwithstanding this it is advised that this legislation allows a number of exceedance exceptions. In relation to objections relating to the potential health impacts of event workers in relation to air quality, it is considered that this matter is covered by other primary legislation and is enforced by the Health and Safety Executive.
146. Consideration does need to be given to the retrospective nature of elements of the development. Case law sets out the purpose of the EU Environmental Impact Assessment Directive is to give the public the chance to participate at the earliest appropriate stage in environmental decision-making. The risk of that being circumvented arises, especially where any environmental impacts are irreversible. For this reason the courts have said that the grant of retrospective planning permission in respect of an EIA development is permissible under the Directive only where there are "exceptional circumstances". In this instance the applicant suggests that the exceptional circumstances are based around the need to undertake the

work retrospectively to facilitate the delivery of the show and to secure the wider economic and social benefits highlighted. On balance this is considered a reasonable justification in line with the main planning decisions on site already taken on the site.

#### Planning Balance.

147. Saved policy TM1 of the WVDLP encourages the tourism proposals within the area subject to a number of criteria in relation to the impacts of the development and providing the development would not conflict with other development plan policies. It is identified that while the development fulfils the aims of policy TM1 it would conflict with policies ENV1, ENV3, GD1 and ENV4 and BE1, BE4 and BE5 due to the landscape and heritage impact. However Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The NPPF a key material consideration. The planning balance test should therefore be carried out in this context.

#### *Benefits*

148. The scheme is considered to contribute significantly to the local and regional economy both in the provision of a tourist attraction of regional significance and provision of an economic boost within an area that would benefit from further economic growth and regeneration. The scheme further compliments existing and emerging visitor attraction offers in Bishop Auckland.
149. The scheme has provided opportunities for local people and children and teenagers in particular, to participate in the shows and receive necessary training. The proposal has helped to improve social inclusion and cohesion through community involvement in the scheme at various levels.

#### *Impacts*

150. The development as a whole results in moderate longer term landscape impacts and conflicts with policies ENV1, ENV3, GD1 and ENV4. However this impact is not considered greater than that established under the previous planning permission subject to the implementation of the detailed mitigation.
151. The cumulative development results in harm to surrounding heritage assets contrary to WVDLP policies BE1, BE4 and BE5. However this harm is considered to be less than substantial, and at a similar level to that established in the original application.
152. The development results in a residual ecological impact greater than the approved scheme as a net biodiversity gain would not be achieved. However the cumulative impact of the development would not result in significant harm, particularly to protected species. The offsite mitigation proposed would be provided in a cohesive form ensuring its long-term delivery.
153. The development results in a residual impact on the level of residential amenity experienced by local residents, however as observed this impact is considered comparable to the established impact of the implemented planning permission and not resulting in a significant negative cumulative impact. However there remains a

degree of conflict with local plan policies in that there would be a reduction in the level of residential amenity experienced by local residents, through the operation of the show as a whole.

154. Loss of agricultural land would arise (19.4ha) however this should not be considered an adverse impact even in the event that the land is best and most versatile. Whilst all but the main event site could be put back into agricultural use should the use cease.

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## **CONCLUSION**

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155. Planning permission has previously been granted for the Kynren Development, this permission has been implemented and the show has taken place for 15 events to date whilst 17 events are scheduled for the 2017 season. These applications seek to regularise changes to the original planning permission which have arisen for operational logistical, construction and artistic related reasons.
156. Although policy TM1 of the Local Plan offers support in principle for the development it is identified the changes would still result in a degree of landscape and heritage harm with a degree of conflict with WVDLP policies ENV1, ENV3, GD1 and ENV4 and BE1, BE4 and BE5. However this impact is considered minimal over and above the established impact of the implemented planning permission as advised by relevant consultees.
157. Since approval of the original application the show has been developed further and the noise levels generated are below those anticipated in the consideration of original planning application. On the advice of the Council's Environmental Health Section the proposed car parking would not have a significant impact over and above that established by the original approval or resulting in a significant negative cumulative impact. However there remains a degree of conflict with local plan policies in that there would be a reduction in the level of residential amenity experienced by local residents, through the operation of the event site as a whole. This impact has been established.
158. When considered in the sustainable development planning balance test (recognising the economic, environmental and social dimensions of sustainable development) it is considered that identified benefits of the development as a whole would outweigh the impacts and the conflict with WVDLP. Whilst in line with the original permission the identified heritage harm is considered to be outweighed against the identified public benefits satisfying the tests of paragraph 134 of the NPPF.
159. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. The matters specified are that the obligation requirements are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. In this respect the contribution towards car parking enforcement is considered necessary for the development to be considered acceptable and therefore meet the relevant tests.
160. The proposals have generated a good degree public interest and comment with letters of objection and a smaller number in support having been received. Concerns

expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits

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## **RECOMMENDATION**

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That the application DM/16/01129/VOC is **Approved** subject to entering into a section 106 legal agreement to secure the provision of :-

- An annual parking contribution of £4340 towards the administration of traffic and parking measures associated with the events.
- A Parking contribution of £307 per event.
- The implementation of applications DM/17/01800/FPA and DM/17/01802/FPA to deliver ecological mitigation.

And the following conditions:-

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:-

Masterplan 14-2000-S73-11 Rev G

Landscape Strategy 878/01 Rev G

Detailed Landscaping Scheme drawings:

- *878(PL)\_Z\_01 – Planting Schedule Rev C*
- *878(PL)\_Z1\_01 Detailed Planting (Zone 1-Sheet 1) Rev B*
- *878(PL)\_Z1\_02 Detailed Planting (Zone 1-Sheet 2) Rev C*
- *878(PL)\_Z1\_03 Detailed Planting (Zone 1-Sheet 3) Rev B*
- *878(PL)\_Z1\_04 Detailed Planting (Zone 1-Sheet 4) Rev C*
- *878(PL)\_Z1\_05 Detailed Planting (Zone 1-Sheet 5) Rev C*
- *878(PL)\_Z2\_01 Detailed Planting (Zone 2-Sheet 1) Rev A*
- *878(PL)\_Z3\_01 Detailed Planting (Zone 3-Sheet 1) Rev B*
- *878(PL)\_Z3\_02 Detailed Planting (Zone 3-Sheet 2) Rev A*
- *878(PL)\_Z4\_01 Detailed Planting (Zone 4-Sheet 1) Rev A*
- *878(PL)\_Z4\_02 Detailed Planting (Zone 4-Sheet 2) Rev A*
- *878(PL)\_Z4\_03 Detailed Planting (Zone 4-Sheet 3) Rev B*
- *878(PL)\_Z4\_04 Detailed Planting (Zone 4-Sheet 4) Rev A*
- *878(PL)\_Z4\_05 Detailed Planting (Zone 4-Sheet 5) Rev A*
- *878(PL)\_Z5\_01 Detailed Planting (Zone 5-Sheet 1) Rev C*
- *878(PL)\_Z5\_02 Detailed Planting (Zone 5-Sheet 2) Rev C*
- *878(PL)\_Z5\_03 Detailed Planting (Zone 5-Sheet 3) Rev A*
- *878(PL)\_Z5\_04 Detailed Planting (Zone 5-Sheet 4) Rev B*
- *878(PL)\_Z7\_01 Detailed Planting (Zone 7-Sheet 1) Rev C*
- *878(PL)\_Z7\_02 Detailed Planting (Zone 7-Sheet 2) Rev C*
- *878(PL)\_Z7\_03 Detailed Planting (Zone 7-Sheet 3) Rev C*
- *878(PL)\_Z7\_04 Detailed Planting (Zone 7-Sheet 4) Rev C*

- 878(PL)\_Z-01 Planning Schedule REV A

Floor plans and elevations:

- *14-2000-41E-Tribune Plans*
- *14-2000-43E-Stage Right GA*
- *14-2000-44D-Stage Left GA*
- *14-2000-45D-Stage Left GA*
- *14-2000-51E-Stables*
- *14-2000-52E-Club House-Costume*
- *14-2000-56B-Manege*
- *14-2000-91D-Access control-Sub-station*
- *14-2000-92J-Technical Room 1*
- *14-2000-94G-Show Area Sub-Station*
- *14-2000-95J-Technical Room 2*
- *90121-0001-000 Tribune Ladies Rev E*
- *90121-0001-001 Tribune Gents rev E*
- *90121-0001-002 Tribune Double Rev E*
- *90121-0001-005 Car Park Ladies Rev E*
- *90121-0001-006 Car Park Gents Rev E*
- *14-2000-57A-Training Building*
- *14-2000-58A-Horse Walker*

Main access road plan 152045-SK-067-P1

Reason: In order to define the consent and to ensure an appropriate development in accordance with policies GDP1 and TM1 of the Wear Valley District Local Plan

2. The number of shows hereby approved shall not exceed 30 in any calendar year.

Reason: In order to define the consent and in the interests of residential amenity in accordance with policy GDP1 of the Wear Valley District Local Plan.

3. The event capacity of the site shall not exceed 8000 visitors.

Reason: In order to define the consent and in the interests of highway safety in accordance with policies GDP1 and T1 of the Wear Valley Local Plan.

4. Within a period of 2 months from the date of this permission a detailed landscaping implementation and management strategy to deliver the hereby approved landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details and timings.

Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1, ENV1 and ENV3 of the Wear Valley District Local Plan.

5. In the event of the show hereby approved ceases for a period of more than 20 months from the date of the last show, a remediation strategy shall be submitted for approval in writing by the Local Planning Authority within two months from that date. The strategy shall detail the method and timing of the removal of built structures on site. The strategy shall thereafter be implemented following its approval.

Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1, ENV1 and ENV3 of the Wear Valley District Local Plan.

6. Prior the first show in any calendar year an Event Traffic Management Plan should be submitted for the series of shows in that calendar year. The Event Traffic Management shall include:-

- Details of additional car parks within the Town Centre to provide off-site parking.
- Details of any applicable combined ticketing arrangements agreed with off-site parking operators.
- Details of any park and ride scheme.
- Details of the operation of any shuttle buses from the site, including frequency and exit routes.

The Event Traffic Management Plan shall be implemented in accordance with the approved details thereafter.

Reason: - In the interests of highway safety in accordance with policies GD1 and T1 of the Wear Valley District Local Plan

7. No vehicular access shall be taken from or on to the C188 (Newton Cap Bank) other than in an emergency or for the operation of a shuttle bus in accordance with the Event Traffic Management Plan approved under condition no. 6.

Reason: - In the interests of highway safety in accordance with policies GD1 and T1 of the Wear Valley District Local Plan

8. No development shall take place unless in strict accordance with the mitigation detailed in the Ecological Mitigation detailed in section 6 of the Environmental Statement Addendum 2017.

Reason: To conserve protected species and their habitat in accordance with Paragraph 109 of the NPPF.

9. The development hereby approved shall be carried out in accordance with the Flood Risk Assessment (FRA) by JBA of February 2015 (final report) and the following mitigation measures detailed within the FRA:

- Provision for the protection and maintenance of existing flood defences will be provided.
- Identification and provision of safe route(s) into and out of the site to an appropriate safe haven and the soffit level of the access boardwalk is agreed with the Local Planning Authority.
- A buffer zone is included within 10m of the landward toe of the embankments.
- Storage volumes on site must not be reduced by the importation of soil.

The mitigation measures shall be fully implemented prior to the first show commencing.

Reason: To mitigate and manage flooding on site in accordance with part 10 of the National Planning Policy Framework.

10. The show hereby approved shall not operate beyond 11pm on any given night.

Reason:- To mitigate the potential impacts of the development on the amenities of neighbouring residents in order to comply with policies GD1 and TM1 of the Wear Valley Local Plan

Recommended that the application DM/16/01134/FPA , is **Approved** subject to the following conditions:-

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:-

Proposed Site Layout 14-2000(P)002 Rev B (Shield)  
Landscape Strategy 878\_SH\_01 (Shield)  
878(PL)\_Z5\_01 Detailed Planting (Zone 5-Sheet 1) Rev C  
878(PL)\_Z5\_02 Detailed Planting (Zone 5-Sheet 2) Rev C  
878(PL)\_Z5\_03 Detailed Planting (Zone 5-Sheet 3) Rev A  
878(PL)\_Z5\_04 Detailed Planting (Zone 5-Sheet 4) Rev B

Reason: In order to define the consent and to ensure an appropriate development in accordance with policies GDP1 and TM1 of the Wear Valley District Local Plan

2. The site shall only be used for car parking purposes a maximum of 45 days in any calendar year.

*Reason: In order to define the consent and in the interests of residential amenity in accordance with policy GDP1 of the Wear Valley District Local Plan.*

3. Within a period of three months from the date of this permission “a scheme to stabilise the site in relation to former coal mining activity shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail:-

- The submission of a scheme of further intrusive site investigations to investigate the condition of the recorded mine entry condition for approval;
- The undertaking of that scheme of further intrusive site investigations;
- The submission of a report of findings arising from the intrusive site investigations;
- The submission of a scheme of remedial works for both the shallow coal mine workings and the mine entry for approval

The scheme thereafter shall be implemented in accordance with the approved details and timeframes.

*Reason: In order to stabilise the site in relation to former coal mining activity in accordance with Part 11 of the NPPF.*

4. Within a period of 2 months from the date of this permission a detailed landscaping implementation and management strategy to deliver the hereby

approved landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details and timings.

Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1, ENV1 and ENV3 of the Wear Valley District Local Plan.

*Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1 and ENV1 of the Wear Valley District Local Plan.*

5. *No development shall take place unless in strict accordance with the mitigation detailed in the Ecological Mitigation detailed in section 6 of the Environmental Statement Addendum 2017.*

*Reason: To conserve protected species and their habitat in accordance with Paragraph 109 of the NPPF.*

6. Prior the first show in any calendar year details of any plant to be sited (including generators and lighting) shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include noise levels of any plant, details of light spread and their location within the site. The agreed scheme shall be implemented in accordance with the approved details thereafter.

Reason: In order to define the consent and in the interests of residential amenity in accordance with policy GDP1 of the Wear Valley District Local Plan

Recommended that the application DM/17/01800/FPA is **Approved** subject to the 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 approved plans and documents:

Ecological Mitigation Area – Walsh – 878\_42

*Reason: To define the consent and ensure that a satisfactory form of development is obtained.*

3. Within a period of 2 months from the date of this permission a detailed landscaping implementation and management strategy to deliver the hereby approved landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details and timings.

Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1 and ENV1 of the Wear Valley District Local Plan.

4. Within one month of the permission hereby approved a detailed management and monitoring strategy for a period of 25 years shall be submitted to and approved in writing by the Local Planning Authority. The submitted strategy shall be based on the principles set out in the section 6 of the Environmental Statement Addendum 2017 and drawing no. 878\_42 Ecological Mitigation Area – Walsh and shall include monitoring for years 1, 2, 3, 4, 7, 10, 15 and 25.

*Reason: To conserve protected species and their habitat in accordance with Paragraph 109 of the NPPF.*

Recommended that the application DM/17/01802/FPA, is **Approved** subject to the 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 approved plans and documents:

Ecological Mitigation Area – Newton Cap – 878\_41

*Reason: To define the consent and ensure that a satisfactory form of development is obtained.*

3. Within a period of 2 months from the date of this permission a detailed landscaping implementation and management strategy to deliver the hereby approved landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details and timings.

Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1 and ENV1 of the Wear Valley District Local Plan.

*Reason: In the interests of the visual amenity of the surrounding area and landscape in accordance with policies GDP1 and ENV1 of the Wear Valley District Local Plan.*

4. Within one month of the permission hereby approved a detailed management and monitoring strategy for a period of 25 years shall be submitted to and approved in writing by the Local Planning Authority. The submitted strategy shall be based on the principles set out in the section 6 of the Environmental Statement Addendum 2017 and drawing no. 878\_41 Ecological Mitigation Area – Newton Cap and shall include monitoring for years 1, 2, 3, 4, 7, 10, 15 and 25.

*Reason: To conserve protected species and their habitat in accordance with Paragraph 109 of the NPPF.*

The Local Planning Authority in arriving at its recommendation to approve this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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## **BACKGROUND PAPERS**

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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

Statutory, internal and public consultation responses



**Planning Services**

- 1) DM/16/01129/VOC
- 2) DM/16/01134/FPA
- 3) DM/17/01800/FPA
- 4) DM/17/01802/FPA

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**Comments**

**Date** June 2017

**Scale** NTS