



Appeal Decision

Hearing held on 11/12 July 2012 and 9/10 April 2013

Accompanied site visits made on 12 July 2012 and 11 April 2013

by I Jenkins BSc CEng MICE MCIWEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 July 2013

Appeal Ref: APP/T2350/A/12/2168289

Land adjacent to Dudland Croft, Gisburn Road, Sawley, Clitheroe, BB7 4LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Myerscough & Mrs M Myerscough against the decision of Ribbles Valley Borough Council.
 - The application Ref 3/2011/0300, dated 14 April 2011, was refused by notice dated 14 November 2011.
 - The development proposed is the erection of a country house hotel and spa.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application the subject of this appeal is in outline, with only appearance reserved for future consideration.
3. The Secretary of State (SoS) issued a Screening Direction, dated 18 April 2012, to the effect that the proposed development is not EIA development within the meaning of the *Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999*. Whilst a second Screening Direction was issued on the 29 June 2012 (SD2), in order to correct a typographical error in the first, it re-stated that the proposed development is not EIA development.
4. Bowland Ecology's (BE) Ecological Appraisals Reports, dated April 2011 and June 2011 (EARs) were submitted in support of the planning application the subject of this appeal. A critique of those reports by Corvus Consulting (CC) was included in the Hearing Statement of objector Dunbia (Sawley) (DS), which contended that the proposal is EIA development and supplementary evidence in relation to that matter was provided over the first two days of the Hearing, by CC amongst others. I determined that in light of the new evidence¹, and in particular that related to the European Protected Species Great Crested Newts (GCN), the proposal may be EIA development and that there was a realistic prospect of the SoS coming to a different conclusion than that set out in SD2. Under these circumstances, I decided that it would be necessary to refer the question as to whether the proposal is EIA development back to the SoS. I adjourned the Hearing pending the SoS's response.

¹ Including caselaw contained within Hearing document nos. 5, 11 and 12.

Having reviewed the new evidence, on 26 October 2012 the SoS issued a further Screening Direction to the effect that the proposal is not EIA development (SD3).

5. Shortly before the start of the Hearing, DS wrote to the Planning Inspectorate expressing the view that it may be necessary to change the appeal procedure from Hearing to Inquiry, not least as it may wish to cross-examine other parties. In response, the appellants indicated that they were content with the Hearing procedure, in relation to which cross-examination would not be appropriate. I decided, having reviewed the submissions, that the Hearing should proceed on 11 July 2011 and that I would review the need for cross-examination having explored the issues. This was confirmed to the main parties. At the end of the second day, the appellants and the Council confirmed they remained satisfied that the Hearing procedure was appropriate and DS indicated that it was content for the matter to be left to my judgement. Following publication of SD3, re-confirming that the scheme is not EIA development, I remained satisfied that the Hearing procedure would allow the issues to be thoroughly explored and would provide all parties with a fair opportunity to be heard. On my instructions, the Planning Inspectorate made arrangements for the Hearing to resume on 9 April 2013.

Application for costs

6. At the Hearing an application for costs was made by the appellants against Ribble Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

7. I consider that the main issues in this case are whether, having regard to local and national policy, the proposal would amount to sustainable development², with particular reference to: the effect on the character and appearance of the area; the impact on neighbouring land uses, with reference to odour, noise, outlook and privacy; the effect on the local economy; accessibility; and, the impact on ecology.

Reasons

The character and appearance of the area

8. The appeal site is situated in the open countryside, a number of miles outside Clitheroe. It comprises an area of grassland, which fronts onto the A59. A railway runs alongside the majority of its western boundary and on the other side of the railway are lagoons associated with the neighbouring Dunbia (Sawley) abattoir (DSA). An accessway, which is designated as a public footpath, adjoins the site's eastern boundary. To the south the site adjoins the curtilage of Dudland Croft, which is a detached house, and a number of fields. The appeal site is situated outside the boundary of the Forest of Bowland Area of Outstanding Natural Beauty (AONB), which lies a short distance to the northwest of the site, just beyond the point at which the A59 crosses the railway that runs alongside the western site boundary.

² The National Planning Policy Framework indicates that there are three dimensions to sustainable development: environmental, social and economic.

9. The proposal involves the erection of a hotel complex within the site, which, as well as providing 38 accommodation suites, would include spa, wedding and conference facilities. It is the intention of the appellants to use Dudland Croft as accommodation for the manager of the new complex.
10. Policy G5 of the *Ribble Valley Districtwide Local Plan* (LP) indicates that outside of the main settlement boundaries and village boundaries planning consent will only be granted for small scale developments, which in the case of tourism developments are appropriate to a rural area subject to Policy RT1. Whilst I understand that Council's planning officers generally regard hotels with less than 40 bedrooms as small scale, as this rule of thumb does not form part of any formally adopted guidance, I give it little weight. Policy RT1 gives encouragement to development proposals which would extend the range of tourism and visitor facilities in the Borough, subject to a number of criteria being met. These include that the development should not undermine the character, quality or visual amenities of the plan area by virtue of its materials, design, scale or siting. In my judgement, insofar as these Policies give encouragement to sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside they are consistent with the aims of the *National Planning Policy Framework* (the Framework).
11. Given the close proximity of the site to the AONB, I consider that it can be said to lie within those areas immediately adjacent to the AONB, to which LP Policy ENV2 refers. Insofar as it seeks to protect the character of the local area, which is immediately adjacent to the AONB, this Policy is consistent with the environmental aims of the Framework. It follows that LP Policy ENV3, which deals with development in the open countryside outside the AONB and areas immediately adjacent to it, is of little relevance in this case.
12. The Landscape and Visual Impact Assessment submitted in support of the planning application (LVIA) indicates that due to the proximity of the AONB, the local landscape is potentially highly sensitive to change. According to national, county and local character assessments a predominant characteristic of the area within which the site is located is undulating farm land comprising grazed fields often enclosed by hedging with some trees. Built development outside settlements typically comprises scattered farmsteads, stone houses and cottages. Tranquillity is affected in parts by communication links such as the A59 and railways. These are all features of the area local to the appeal site. The presence of a stream through the site and a number of European Protected Species contribute to the rarity and conservation value of the site. The Dunbia abattoir complex, which is situated to the west of the appeal site, is an alien feature in the locality. Nonetheless, I regard the landscape to be of medium value overall.
13. The proposal would transform the majority of the grassed appeal site into a hotel complex, which in addition to accommodation suites and a spa, would include a hall with capacity for 160 covers and a 50 cover restaurant. The *Design and Access Statement* indicates that the proposed building complex would be around 118 metres in length, 77 metres in width and its ridge levels would be in the range 8.5 metres up to 14.8 metres approximately. The proposed building would be positioned towards the southern side of the site and its height would reduce, with rising ground levels, from the west to the east across the site. Whilst the section of the site between the building

complex and the A59 would contain some landscape planting, it would comprise for the most part of relatively open areas, including car parks to the east and west, with the central portion taken up by roadways encircling a small lake. There would be car parking for well over 100 vehicles.

14. Whilst appearance is a reserved matter, the appellant has indicated that the design of the proposed building complex would reflect local vernacular architecture, including the use of local stone. To my mind, these particular aspects of the scheme would be appropriate and these reserved matters could be controlled by condition.
15. However, the proposal would not be physically well related to an existing main settlement or village or to an existing group of buildings. The Lancashire landscape character type *lowland undulating farmland* includes country houses with designed landscapes. Furthermore, the LP Ribble Valley Landscape Character assessment indicates that a typical feature of *lowland fringe farmland* is the country house surrounded by formal park land and well managed estate land. I have been directed to a number of examples of country house hotels in the area, each of which was set well back from the highway, providing a parkland type setting. However, the appeal scheme would not fit well with this pattern of development. The southern section of the site would be dominated by the building complex with little space between it and the southern and eastern site boundaries. A substantial proportion of the northern section of the site, between the building complex and the A59, would comprise hardstanding. Furthermore, the significant increase in activity likely to result from the scheme would have a noticeable adverse effect on the tranquillity of the locality.
16. In my judgement, the proposal would be largely at odds with the relevant aspects of published landscape character assessments. The appellant has indicated that watercourses within the site would be retained and impacts on its conservation interest would be mitigated. Nonetheless, even if this were the case, I consider overall that it would be likely to have a moderate adverse impact on the landscape character of the area.
17. The LVIA identifies two vantage points from which to assess the likely impact of the scheme on visual receptors: the Pendle Way public footpath; and, the A59. The vantage point chosen on the Pendle Way is over 5 km away from the site and, due to the distance involved, the scheme would not have a material impact on the view from there. When in leaf, the existing and, once established, proposed planting across the frontage of the site would be likely to greatly limit the contribution of the proposed development to views from the A59. However, at other times of year, when the leaves have fallen, the mass of development proposed would be clearly visible from the highway. The undulating landscape would limit the length of the A59 from which the proposal would be visible and I regard the likely magnitude of visual impact relative to that vantage point as moderate adverse. Significant numbers of vehicles pass by along the A59 on a daily basis and whilst drivers passing by at speed are likely to be more focussed on the road and therefore, relatively insensitive to the wider surroundings, the same is unlikely to be true of any passengers. Those passers-by are already likely to view the prominent Dunbia facility as a discordant feature that interrupts a landscape otherwise predominantly characterised by undulating grassland. It is likely, due to its significant scale and siting, relatively close to the highway, that the same could

be said of the appeal scheme, which would reinforce the adverse visual impact of incongruous development hereabouts.

18. Furthermore, in my view, the proposal would also be clearly visible from elevated vantage points along a number of local footpaths to the east and southwest of the site. Due to the limited space for landscaping between the proposed building complex and the eastern and southern boundaries of the site, it is unlikely that the visual impact of the proposed built development experienced by users of local footpaths would be mitigated to any great extent by planting, whatever the time of year. Whilst the proposal would be a dominant feature of the landscape from those sections of footpath, they would not be extensive in length and so I regard the likely magnitude of impact as moderate adverse. Although the LVIA indicates that the numbers of users of those footpaths are low, the basis of that assertion is not made clear and the appellants were unable to provide any evidence in support of it at the Hearing. This limits the weight that I give to it. Nevertheless, even if the LVIA is accurate in this respect, walkers are likely to focus on the landscape and, to my mind, sensitivity in relation to these visual receptors should be regarded as moderate overall.
19. Contrary to the view expressed in the LVIA, in my judgement, the proposed building complex would be visible from a section of the Ribble Way, within the AONB, that crosses higher ground to the northwest of the site. However, due to the distances involved, its visual impact would be unlikely to be significant when viewed from there. Furthermore, the vantage points outside the AONB from which its character can be appreciated together with that of the appeal site are limited by the undulating topography of the area. Consequently, I consider that impact on the setting of the AONB would be of negligible-slight significance, in keeping with the view of Lancashire County Council's Senior Landscape Architect (CCSLA).
20. Nevertheless, I consider overall that the visual impact of the scheme on the area would be moderate adverse.
21. I am conscious that neither the CCSLA, Natural England, the Council's countryside officer nor planning officer objected to the scheme on the basis of its likely impact on the character and appearance of the area. Nonetheless, for the reasons given above I share some of the Council's concerns in relation to that matter. I conclude on balance that, due to its siting and substantial scale, the proposal would cause material harm to the character and appearance of the area, contrary to the aims of LP Policies RT1, G5 and ENV2. It would also conflict with the aims of LP Policy G1, which requires a high standard of landscape quality in keeping with the aims of the Framework.

Neighbouring land uses

22. LP Policy G1 requires, amongst other things, that development should be sympathetic in terms of its nature with existing land uses. The Framework indicates that decisions should ensure that new development is appropriate for its location and that the potential sensitivity of development to the adverse effects of pollution, such as odours and noise, should be taken into account.
23. The operation of the DSA is regulated by the Environment Agency (EA) under the terms of an Environmental Permit. The permit requires emissions from the site to be free from odour and noise at levels likely to cause annoyance outside

the site, unless the operator has used appropriate measures to prevent or where that is not practicable to minimise those effects.

24. Activities at DSA with the potential to give rise to odours include the handling of blood, faeces and the partly digested contents of animal stomachs as well as the treatment of waste water arising from the process in a series of open lagoons. A group of these lagoons is situated close to the appeal site on the western side of the railway that adjoins part of the western boundary of the site.
25. Whilst at the Hearing the appellants confirmed that they have not detected odours arising from the abattoir when at their Dudland Croft property, the period during which they have lived or worked at the site is relatively limited. In their written evidence they acknowledge that smells are likely to emanate from the DSA on occasions. At the Hearing the Council confirmed that since 2000, 14 complaints have been made to its Environmental Health Department concerning odours arising from the DSA, all from properties to the east or northeast of the plant. DS has indicated that considerable costs have been expended in order to address the problems that have arisen. Nonetheless, it acknowledges that odours still arise from the site from time to time, particularly in the warmer summer months.
26. There are currently only a small number of dwellings in the locality and against this background the proposed country house hotel and spa would be likely to greatly increase the population of sensitive receptors in the vicinity of the DSA. In my judgement, the propensity of local residents to complain is likely to be reduced by recognition of the value of the DSA to the local economy and experience that the duration of such problems, judging by the complaint record, is generally short. In contrast, I consider that customers paying to use the facilities at the proposed country house hotel and spa are likely to be far less tolerant of odours arising from the DSA, notwithstanding agricultural odours may be expected in the countryside from time to time. Those customers would be much more likely to complain and given the ease with which complaints can be publicly registered against hotel facilities via internet forums this would have the potential to affect the proposed business.
27. The appellants indicated at the Hearing that they would not make complaints. However, I give this little weight, as it is not unusual for the ownership of property to change hands from time to time and future owners, particularly given the significant investment that the country house hotel and spa would represent, may well not take the same view. I consider that the proposal would significantly increase the risk of complaints arising in relation to odours emanating from the DSA.
28. Whilst not objecting to the scheme, the Council's Environmental Health Officer has indicated that there could be odour issues associated with activities at the DSA which are not actionable by the Council under current nuisance legislation. Whether or not it would be possible for action to be taken privately against DS on the grounds of nuisance³, I consider it likely that in circumstances where activity at the DSA gives rise to odour complaints from the proposed facility, this would trigger the requirement of the Environmental Permit for the operator to take all reasonable steps to minimise the impact. The EA has stated that this may necessitate expensive mitigation measures. To illustrate that point

³ Hearing document nos. 20 and 21.

DS indicated at the Hearing that the only practical alternative to the existing system of open lagoons used for the treatment of effluent would be a bespoke waste water treatment works with odour control, which would be likely to cost over £1M.

29. Turning to noise; shift workers begin to arrive at the DSA at 04:30 hrs on most days and early morning activity can give rise to noise, such as that associated with the delivery of livestock to the lairage on the eastern side of the abattoir and vehicle reversing alarms. In an area which, according to the Council's Environmental Health Officer, has a very low background noise level, such events have the potential to cause disturbance. This is born out by the noise complaints, albeit limited in number, received by the Council in the past.
30. As I have indicated the proposal would be likely to significantly increase the number of sensitive receptors in the vicinity of the DSA. Whilst it may be possible to design the proposed building complex in a manner which reduces the likelihood of sleeping hotel guests being disturbed by activity on the neighbouring site, no formal noise assessment has been provided to show that adequate mitigation could be provided. Noise complaints from guests could also result in restrictions being placed on the abattoir use under the terms of its Environmental Permit. With regard to noise, the Framework indicates that business wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. The uncertainty in relation to this matter adds to my concerns with respect to odour.
31. Whilst the appellants have drawn my attention to a number of existing hotels which are sited close to other commercial enterprises, they do not include any neighbouring an abattoir and so I give them little weight.
32. In my judgement, there is a significant risk that the juxtaposition of the two uses would result in pressure for costly new restrictions being placed on the abattoir use. I conclude that the proposal would be likely to have an unacceptable effect on the operation of the DSA, contrary to the economic aims of the Framework, which include supporting existing business sectors.
33. The introduction and operation of the proposed country house hotel and spa onto a green field site would itself be likely to have an adverse effect on the noise environment thereabouts. Additional noise would be likely to be associated with the comings and goings of guests, operation of equipment, such as extraction and cooling plant, as well as the wedding and conference events for which the facility would cater. Sensitive residential receptors would include the residents of Great Dudland and Beechwood Barn; the two dwellings situated to the southeast of the site, beyond Dudland Croft. No details have been provided of the likely noise levels or any mitigation measures that may be required to ensure that the impact of the proposal on neighbouring dwellings would be acceptable. I give little weight to the suggestion of the Council that a noise assessment could be secured by condition. In the absence of a noise assessment at this stage, I cannot be confident that the mitigation measures which may be required would not negate the value of the planning permission sought, by greatly restricting the operation of the facility. If this were the case, they could not reasonably be secured by condition. I consider it likely that the proposal would result in a noticeable deterioration in the noise environment enjoyed by residents of neighbouring dwellings.

34. The proposal would be sufficiently distant from Great Dudland and Beechwood Barn so as not to affect the privacy of the residents of those dwellings or appear overbearing when seen from their properties.
35. Nonetheless, I conclude overall that the proposed development would be likely to have an unacceptable effect on the living conditions of neighbouring residents, with particular reference to noise and disturbance.
36. I understand that unexpected or sustained noise can stress cattle and, if this occurs while they are awaiting slaughter, the adrenalin produced can adversely affect the quality and value of the meat. I have had regard to concerns of DS that late night noise that may be generated by the hotel use, for example noise associated with live music at wedding functions or fireworks, would be likely to have this affect. I consider that it would be possible to restrict the use of fireworks by condition. Furthermore, having experienced the relatively noisy environment around the lairage, I am not convinced that other noise associated with the proposal would result in animal stress.
37. Nevertheless, I conclude overall it is likely that the appeal scheme would have an unacceptable effect on neighbouring land uses, contrary to the aims of LP Policy G1 as well as the economic and social aims of the Framework.

The local economy

38. I have had regard to the concerns raised by the manager of the local Stirk House Hotel that the proposal would compete for its custom. The appellants have indicated that while there would be some similarities between the facilities at the existing and proposed hotels, they would not be directly comparable, as the proposal would be a higher quality 'boutique' style facility. Although this could not be guaranteed, even if it were not the case, it is not the role of the planning system to restrict competition and so I give concerns in relation to that issue little weight.
39. The scheme would add to the range of tourism and leisure facilities in the vicinity of the Forest of Bowland, for which the *Lancashire and Blackpool Visitor Economic Strategy 2006-2016* identified a need. Furthermore, the appellants have indicated that the proposed scheme would contribute positively to the local economy by increasing custom for local businesses; associated with the procurement of supplies for the proposed complex and direct spending by guests, and by directly employing around 87 staff in an area of high unemployment.
40. However, DS has indicated that the potential for the proposed development to result in new restrictions being placed on its operations would be likely to discourage further investment at its abattoir site, which: employs around 375 staff; is one of the largest job providers in the area; and, is a major contributor to the local economy. Furthermore, it is possible that both the security of existing jobs and the contribution that the business makes to the local economy could be adversely affected. In addition, the EA has indicated that having taken all reasonable steps to address any issues that arise in relation to noise and odour, and thereby satisfied the terms of the abattoir's environmental permit, it is possible that some residual impacts may remain. To my mind, this could give rise to a less than satisfactory environment for the occupiers of the proposed facilities. The proposal does not have the full support of the Council's Tourism Officer, not least due to its location some

distance from Clitheroe and relatively close to the DSA. Although there is a considerable degree of uncertainty with regard to the actual impact that the operation of the DSA would have on the proposed use, and vice versa, given, in particular, the significant importance of the DSA as an existing local employer, I consider that a precautionary approach would be justified. These matters greatly reduce the weight I give to the potential economic benefits of the appeal scheme cited by the appellants.

41. Based on the evidence presented, I am not convinced that the net effect of the proposed development on the local economy would be positive or, consequently, that it would be in keeping with the economic aims of LP Policy RT1 and the Framework. I have also had regard to the *Ribble Valley Economic Strategy 2009-2014* (RVES) and the *Ribble Valley Sustainable Community Strategy 2007-2013* (RVSCS), drawn to my attention by the appellants. In light of my conclusion, I consider that the proposal would not fit well with the economic vision of the RVES, which is to sustain a strong and prosperous Ribble Valley, or the aim of the RVSCS to ensure that there are opportunities for businesses to survive and flourish.

Accessibility

42. Although the appeal site fronts onto the A59 and part of its western boundary adjoins a railway, there are no nearby bus stops or railway stations. Furthermore, whilst there is a network of public footpaths across local farm land, there are no footways or cycleways along the A59 in the vicinity of the site. Accessibility of the site by public transport, cycling or walking is therefore limited. The appellants acknowledge that the proposed facilities would generally be accessed by private transport. They have indicated that it would be their intention to provide a shuttle bus service for customers and staff, using a small fleet of low emission vehicles, with the aim of reducing reliance upon the private car. However, I am not convinced that this would limit, to any significant extent, trip rates on the local highway network associated with the scheme, not least as guests are likely to want to arrive and leave to suit their own needs and not those of other guests or staff. I consider it likely that the majority of those travelling to and from the site would be heavily reliant on private cars.
43. The *Good Practice Guide on Planning for Tourism*⁴ indicates that '*there will be some occasions where development for tourism is sought at a location where it will be difficult to meet the objective of access by sustainable modes of transport. The choice of location may be determined by a functional need..*'. Whilst by its nature a country house hotel will be located within the countryside, in my view, it does not automatically follow that it must be remote from settlements and difficult to access other than by private vehicle.
44. I conclude it is likely that the proposal would rate poorly in terms of accessibility by sustainable transport, contrary to the aims of LP Policies T1, RT1 and G1 as well as the environmental aims of the Framework. I acknowledge that although it does not follow from this finding alone that the scheme would amount to unsustainable development⁵, it weighs in favour of such a conclusion in this case.

⁴ Department for Communities and Local Government Good Practice Guide on Planning for Tourism.

⁵ Ref. APP/T2350/A/11/2161186 in which the Inspector indicated that '....accessibility is but one element of a sustainable development; it is not synonymous with it. Thus, a proposal can be a sustainable one even if it suffers from limitations in terms of its accessibility by walking, cycling and public transport.'

Ecology

45. The BE survey team and the authors of the EARs included ecologists with relevant experience of conducting surveys for GCNs in this geographical area. Whilst CC raised a number of concerns in relation to survey practice and reporting within the EARs, in my view, no compelling evidence has been provided to show that the findings of the reports are unreliable. Having reviewed the EARs and the written critique provided by CC as part of DS's Hearing Statement, neither Natural England nor the Environment Agency indicated that they shared CC's concerns and neither party objects to the scheme.
46. The EARs rate the pond in the southwestern corner of the appeal site as providing good suitability of habitat for GCNs. The pond surveys undertaken identified a small population of that species and the EARs indicated that overall the appeal site is in general of low value for this species, due to the largely sub-optimal terrestrial habitat within the development site.
47. The consequences of the scheme would include some habitat loss in the approximate range of 60 to 260 metres from the pond. Furthermore, although the pond is situated outside the footprint of the proposed development, during the construction phase of the proposal there is the potential for GCN to be killed or injured, if they are present within the areas to be developed. In order to avoid this, the EARs recommend that GCNs be excluded from the area under development prior to the start of the works. Using the Natural England rapid risk assessment for GCNs the EARs indicate that an offence is highly likely under the terms of *The Conservation of Habitats and Species Regulations 2010* (CHSR) unless a licence has been granted for the works. Under these circumstances, it is necessary to have regard to the tests set out in CHSR regulations 53(2)(e), 53(9)(a) and 53(9)(b).
48. BE has indicated that overall, the impact of the scheme on the habitat of GCNs would be positive, as habitat losses resulting from the proposal would be mitigated through the provision of features such as a new pond in front of the hotel complex, wildflower meadows and plantation woodland. I give this limited weight, in light of the view expressed by the appellants at the hearing that guests may have access to those areas. Nonetheless, although the scheme would result in disturbance of GCN during the construction phase, I am content that, subject to the mitigation measures identified by the EARs, it is unlikely that the proposal would be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range (53(9)(b)).
49. However, I have already concluded above that: the scheme would harm the character and appearance of the area; it is likely that it would have an unacceptable effect on neighbouring land uses; there is considerable uncertainty as to whether the proposal would have a positive effect on the local economy; and, it would rate poorly in terms of accessibility by sustainable modes of transport. Taking all these factors into account, I consider that the proposal would not serve a purpose in the public interest which would override the protection of, and any potential impact on, GCNs (53(2)(e)). Furthermore, whilst it is likely that the impact on GCNs would be limited, this does not negate all together the need to give some consideration to whether there are satisfactory alternatives to delivering and meeting the need for facilities of the type proposed in a manner that would lessen the impact on the species

(53(9)(a)). I give little weight to the observation of the appellants that no one else has suggested alternatives. The *Natural England Guidance Note: European Protected Species and the Planning Process* indicates that it is reasonable to expect the applicant to demonstrate that alternatives have been considered. This has not been done in the case before me. Given that the scheme would result in the disturbance of a EPS, I consider that the failure to meet these tests weighs heavily against the proposal.

50. There is no dispute between CC and BE that bats do use the appeal site. A survey is not necessary to establish this. The arboricultural report submitted in support of the planning application the subject of this appeal identifies only one tree, which is located on the eastern boundary of the site, for removal in the interests of safety, whether or not the scheme is implemented. Otherwise mature trees along the perimeter of the site, including those along the western site boundary identified by CC as eminently suitable for bats, could be safeguarded through the imposition of a suitable condition. I have had regard to CC's concerns that artificial lighting associated with the scheme may adversely affect bats and that the break in the hedgerow, along the frontage of the site at the proposed access point, would interrupt foraging and commuting activity. However, BE has indicated that in its experience it would be possible to ensure that this would not be the case through careful design, including only low level lighting close to the perimeter of the site, which could be secured by condition. Furthermore, gaps in hedgerows of a size similar to that which would result from the formation of the appeal site access are commonplace in the area and would be unlikely to have a significant impact on the ability of bats to navigate or forage. I give greater weight to the view of BE on these matters, as it has significant experience of bat activity in the area. I consider it is unlikely that the proposal would adversely affect bats.
51. There is a small population of Otter on the River Ribble, where they are known to forage and which provides good quality habitat. BE has indicated that the features of the appeal site, which include only small, shallow watercourses a considerable distance from the river, would be unlikely to attract the Otter and no compelling evidence to the contrary has been provided by CC. The EA has confirmed that it has no evidence of Otter being present on the site. In my view, a survey is not necessary to support the conclusion that there is no reasonable likelihood of that EPS being present on or near the site.
52. No badger setts or evidence of badger activity was found as part of the survey which informed the April 2011 EAR. Whilst CC has indicated that it found some evidence of badger activity around the perimeter of the site in June 2012, BE undertook a further badger survey at the site in March 2013 and no evidence of setts or badger activity was identified. I am content that no offences in respect of the *Badger Act 1992* would be likely to result from the proposed works.
53. CC has raised concerns regarding the potential for sediment mobilisation during the construction of the proposal to adversely affect sections of Cow Gill Beck and Swanside Beck down stream of the appeal site, which are known spawning sites for Atlantic salmon and Brown Trout. Atlantic Salmon are listed in annexe II of the European Union Habitats Directive and are a UK Priority Species, as are Brown Trout. Nevertheless, in my judgement, it is likely that an engineering solution could be put in place to control sediment run-off and the provision of such a safeguard could be ensured by condition. BE has indicated that this is standard practice when working near watercourses. Under these

circumstances, the scheme would be unlikely to have a material adverse effect on either of these species.

54. I conclude overall that the proposal would have an unacceptable effect on ecology, with particular reference to GCN, contrary to the aims of LP Policy ENV7. Insofar as this Policy seeks to safeguard the natural environment it accords with the environmental aims of the Framework.

Other matters

55. Whilst a number of submissions made reference to Policies contained within the *North West of England Plan Regional Spatial Strategy to 2021*, they acknowledged that the Government's stated intention to abolish the RSS reduced the weight that could be afforded to its provisions. Since the close of the Hearing the RSS has been revoked and I give no weight to its Policies.
56. Based on the consultation responses from interested parties, it is clear that whilst there is support for the proposal, there is also a significant level of opposition, some of which is founded on valid planning reasons supported by substantial evidence.
57. My attention has been drawn to a number of previous appeal decisions⁶. However, none involve the development of a country house hotel and spa neighbouring an abattoir, and so the circumstances are not directly comparable to the proposal before me. I have found them to be of little assistance in this case.
58. In addition to facilities such as a pool and gym, which are also provided at the Stirk House Hotel, the proposal would include a spa, which would be open to the public and would encourage the pursuit of a healthy lifestyle, in keeping with the aims of the Framework. This weighs in favour of the scheme.
59. The application site is within Flood Zone 1 and so has a low probability of flooding. The appellants have indicated⁷ that measures to ensure that surface water run-off from the site would be maintained at or below existing rates would include the use of permeable surfacing. Furthermore, the discharge of surface water captured by drainage, if not harvested for use on site, would be throttled using the proposed pond. Consequently, the scheme would not give rise to an increased risk of flooding elsewhere. I consider that this could be ensured through the imposition of a suitable condition and that insofar as a flood risk assessment is necessary at this stage⁸, the requirement has been met.
60. The Council's second reason for refusal asserts that over reliance on cars as a means of transport would have a detrimental impact on transport infrastructure at this location. However, at the Hearing the Council was unable to explain what was meant by this. The Highway Authority did not object to the scheme and the planning officer's report to committee indicated that it would be acceptable in highway safety terms. Whilst the scheme would introduce additional turning movements at the new entrance to the site, a new ghost island would be provided on the A59 to minimise the risk of consequential conflicts. The ghost island would also be likely to negate the need for

⁶ Hearing document nos. 8, 13 and 27 as well as APP/J0215/A/06/2024005.

⁷ Planning Statement, April 2011.

⁸ Technical Guidance to the National Planning Policy Framework, Table 1 (page 3).

implementation of a previously identified Highway Authority local safety scheme, which would involve the introduction of central warning lines along the carriageway in response to the poor accident record thereabouts. This also weighs in favour of the scheme. I consider that the impact of the scheme on highway safety would be acceptable and in this respect it would accord with the aims of LP Policies T1, RT1 and G1 as well as the Framework.

61. I understand that it would be the intention of the appellants to use the latest building technologies to ensure low carbon development both in the construction and operational phases of the scheme.
62. Nonetheless, in my judgement, neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusions on the main issues.

Conclusions

63. The Framework indicates that there are three dimensions to sustainable development: economic; social; and, environmental. In my judgement, the proposed scheme would not perform well overall in relation to any of these dimensions. Furthermore, the harm I have identified significantly and demonstrably outweighs the benefits of the scheme and it would not be possible to satisfactorily mitigate that harm through the imposition of reasonable conditions. I conclude on balance that, having had regard to local and national policy, the scheme would not amount to a sustainable form of development. Whilst, in common with the Framework, the emerging Core Strategy may give encouragement to sustainable tourism, that is not a pattern of development with which the proposal would fit.
64. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr G Myerscough & Mrs M Myerscough LL.B(Hons)	Appellants.
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Mr J James BSc MSc CEnv MIEEM	Bowland Ecology Ltd.
Miss E Kilduff BSc AIEEM	Bowland Ecology Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Thorpe BA(Hons) DipTP MRTPI	Ribble Valley Borough Council.
Mr J Russell DipEH CMCIEH DMS	Ribble Valley Borough Council.
Mr J Macholc BSc(Hons) DipTP MRTPI DMS	Ribble Valley Borough Council.
Councillor T Hill	Ribble Valley Borough Council.

FOR DUNBIA (SAWLEY):

Mr G Davidson	Dunbia (Sawley).
Mr D Willis	Dunbia (Sawley).
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INTERESTED PERSONS:

Mr P Tunstall	JWPC Chartered Town Planners.
Mr P Caddy	Stirk House Hotel.

DOCUMENTS

- 1 Letters notifying interested persons of the appeal and the Hearing arrangements.
- 2 Consultation responses from interested parties.
- 3 Letter from the Environment Agency to the Council, dated 6 July 2012.
- 4 Email from Natural England to the Council, dated 10 July 2012.
- 5 Extracts from the Habitats Directive, The Habitats Regulations 2010, The Conservation of Habitats and Species Regulations 2010, Circular 06/2005 and case law practice and precedents.
- 6 Extract from the Planning Inspectorate's Case Law and Practice Guide 4-Biodiversity.
- 7 Extract from Natural England's Standing Advice for Protected Species.
- 8 Appeal decisions Refs. APP/P0240/A/09/2110667 & APP/W1525/A/00/1053348.
- 9 Extracts from the Environment Agency's Additional guidance for H4 Odour Management, Defra's Odour Guidance for Local Authorities and Code of Practice on Odour Nuisance from Sewage Treatment Works.
- 10 Email from Bowland Ecology to the appellants, dated 3 July 2012.
- 11 R v Cornwall County Council [2001] Env. L.R. 25.
- 12 R v South Cambridgeshire District Council & Camgrain Storage Ltd [2011] EWCA Civ 157.
- 13 Appeal decision Refs. App/T2350/A/11/2161186 & APP/M3645/A/11/2150235 and appeal costs decision Refs. APP/Z6815/A/11/2166256, APP/U1620/A/12/2168877 & APP/P1805/A/11/2152467.
- 14 Natural England Standing Advice Species Sheet: Otters.
- 15 SPA Landscape and Visual Impact Assessment.
- 16 Ribble Valley Districtwide Local Plan Proposals Map.
- 17 Map showing the local boundary of the Forest of Bowland Area of Outstanding Natural Beauty.
- 18 Extract from Guidance on EIA Screening, June 2001 by the Office for Official Publications of the European Communities.
- 19 Map of the location of Cow Gill Beck.
- 20 Coventry (t/a RDC Promotions) & Anor v Lawrence & Ors (Rev1) [2012] EWCA Civ 26.
- 21 Barr v Biffa Waste Services Ltd [2012] EWCA Civ 312.
- 22 BOW17/291 Badger Survey and Bat Habitat Assessment Report.
- 23 Extract from the Town and Country Planning (Development Management Procedure)(England) Order 2010.
- 24 Extract from the Ribble Valley Districtwide Local Plan.
- 25 Ribble Valley Sustainable Community Strategy 2007-2013, March 2008.
- 26 Extract from the North West of England Plan Regional Spatial Strategy to 2021.
- 27 Appeal costs decision Ref. APP/T2350/A/11/2156765.
- 28 Leeds/Bradford 2000 wind rose.
- 29 English Nature Great Crested Newt mitigation guidelines.
- 30 Ribble Valley Economic Strategy 2009-2014.
- 31 Email from Government Office North West to the Council, dated

- 18 September 2007.
- 32 Suggested conditions.
- 33 Morge (FC) (Appellant) v Hampshire County Council (Respondent)
[2011] UKSC 2.
- 34 Major and Burgesses of the London Borough of Islington v
Secretary of State for Communities and Local Government [2012]
EWHC 1716 (Admin).
- 35 R v Cornwall County Council, ex parte Hardy.
- 36 Site visit – vantage points.