
Appeal Decision

Inquiry opened on 1 November 2016

Site visit made on 4 November 2016

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Decision date: 06 December 2016

Appeal Ref: APP/P1615/W/16/3143912

Land at Bullo Pill, Newnham-on-Severn, Gloucestershire

- 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 Bullo Ltd against the decision of Forest of Dean District Council.
 - The application Ref P0151/15/OUT, dated 3 March 2014, was refused by notice dated 31 Jul 2015.
 - The development proposed is described on the application as housing development of a mixture of 8 normal homes, intermediate homes and affordable homes.
 - The inquiry sat for 4 days on 1 to 4 Nov 2016.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was submitted in outline, with only access to be determined at this stage. An illustrative layout plan was also submitted, which the appellant stressed did not represent the only way in which the proposed 8 dwellings could be laid out on the site. Nevertheless, I have had regard to this plan in reaching my decision, and have also had regard to a planning obligation¹ relating to the provision of affordable housing units, submitted shortly after the inquiry had closed, in accordance with an agreed timescale.
3. The Council refused planning permission for 5 reasons as set out in the Statement of Common Ground² (SOCG). However, as a result of further information submitted by the appellant the Council did not defend its third and fourth reasons for refusal, relating to nature conservation and flood risk concerns³.
4. The appellant's original Heritage witness, Kate Graham, was unable to attend the inquiry and her evidence was therefore adopted and presented by David Gundry.

Site description, surrounding area and details of the appeal proposal

5. The appeal site comprises some 0.59 hectares of open land and a narrow private road located within the small hamlet of Bullo Pill which, for the purposes of local planning policy, lies outside any settlement boundary and is therefore considered to be in open countryside. The main part of the site lies adjacent to and just to the north of the grade II listed Bullo Pill Dock, with Dock Cottage, another grade II

¹ Made under section 106 of the Town and Country Planning Act 1990, as amended

² Document (Doc) 6

³ See paragraphs 6(h) and 6(i) in Doc 6, and the Ecological SOCG (Doc 5)

listed property, located adjacent to the site's north-western corner. The River Severn estuary lies close to the east, separated from the appeal site by a further strip of land under the appellant's control.

6. The site is generally flat and is covered with scrubby vegetation. At the time of my site visit it accommodated a crane and some vehicles, along with a small amount of open storage. The private road (also included in the appeal site), passes under a railway and provides access to the hamlet of Bullo Pill from the A48 to the west. As the SOCG explains, this road serves a total of 16 dwellings, 5 houseboats and the commercial dock (which is agreed to fall within Use Class B2).
7. Under the appeal proposal 8 residential units would be constructed on the main part of the site, with 4 of these to be market houses and 4 to be affordable housing units. The illustrative layout plan shows that garages would be provided for the market houses. The planning application and the illustrative material submitted with it indicate that the dwellings would be a maximum of 2 storeys in height, and would be of brick and tile construction. In addition, the private road would be widened and resurfaced, and improvements would be made to the junction with the A48, all in accordance with a revised plan which was submitted at the inquiry⁴.

Planning policy context

8. The development plan includes the Forest of Dean Core Strategy (CS) which was adopted in February 2012. The Council is also preparing an Allocations Plan (AP) which will show how the CS's proposals will be implemented. This AP was submitted for examination in August 2015, with hearings taking place in January and February 2016 and the Inspector's Interim Findings being issued in June 2016. The Council prepared and submitted some Main Modifications to respond to these Interim Findings, with the Inspector providing a further response in October 2016, shortly before the start of this inquiry. The Council now intends to undertake a further review in order to respond to the Inspector's latest recommendations, and will formally advertise the Main Modifications for a period of public consultation.
9. Amongst other matters, the Council's intention is that the AP should be able to demonstrate a 5 year supply of deliverable housing land, in accordance with the requirement set out in the National Planning Policy Framework ("the Framework"), which was published in 2012, shortly after the CS was adopted. However, the Council acknowledges that it will not be in this position until the AP has been found sound and, accordingly, it accepts that at the present time it cannot demonstrate such a 5 year supply of deliverable housing sites⁵.
10. At the national level, in addition to the aforementioned Framework, the Planning Practice Guidance, initially published in 2014, is also a material consideration in the determination of this appeal.

Main issues

11. From what I have seen and read, and in light of the points detailed above, it seems to me that the main issues in this case are:
 - i. The effect of the proposed development on the character and appearance of the surrounding area;
 - ii. Its effect on the settings of designated and non-designated heritage assets;

⁴ Doc 11: Plan No 516/01A

⁵ Paragraph 6(g) in Doc 6

- iii. Its effect on the safety and convenience of users of the nearby highway network;
- iv. Whether the appeal proposal should be seen as representing sustainable development, in the terms of the Framework.

Reasons

12. Because of the nature and location of the appeal site, and its proximity to designated and non-designated heritage assets, there are potential areas of overlap between the first 2 main issues detailed below. However, for ease of understanding and clarity I have tried, as far as possible, to keep these matters separate in my consideration of these issues.

Main Issue 1 – The effect of the proposed development on the character and appearance of the surrounding area

13. The Council's first reason for refusal alleges that the proposed development, in an isolated and prominent location on the edge of the River Severn, would adversely detract from the openness of the character and appearance of this area in general. As such, the Council argues that the proposal would be in conflict with CS Policies CSP.1, CSP.4 and CSP.5, as well as with Policy AP1 from the emerging AP. It further argues that the proposal would be at odds with the guidance in Framework sections 6, 7 and 11 which, in summary, deal with the need to deliver a wide choice of high quality homes; good design; and the need to conserve and enhance the natural environment.
14. Policy CSP.4 explains that new development must contribute to reinforcing the existing settlement pattern, with the strategic objectives of promoting thriving sustainable communities and facilitating regeneration. Policy CSP.5 also has the strategic objective of promoting thriving sustainable communities, as well as providing affordable homes. It sets out locations where new housing development is to be provided, together with the number of dwellings to be provided at each location. It further states that priority will be given to development on previously developed land and on sites identified for housing in the development plan; and that no new greenfield sites will be released unless it can be proven that land is not available from other sources, and is needed to meet the plan's requirements.
15. However, there was agreement between the parties that as these policies are intended to control the supply of housing, and as the Council is currently unable to demonstrate a 5 year supply of deliverable housing land, then in line with the Framework's paragraph 49 neither policy can be considered up-to-date. This is certainly the case insofar as their locational aspects are concerned, but I consider that the strategic aims and objectives of these policies are still valid, relevant and consistent with the Framework and I therefore give them weight in this regard.
16. Policy AP1 from the emerging AP seeks to ensure that new development is sustainable, and although not yet formally adopted it clearly echoes the aims and objectives of the Framework. In this regard it can therefore be given weight. That said, I do not consider it appropriate to come to a view regarding the appeal proposal's consistency with this policy in the context of this first main issue, but I return to this matter later in this decision.
17. Policy CSP.1 does not deal directly with the supply of housing and is therefore not caught by Framework paragraph 49. It deals with matters of design and environmental protection and enhancement, and has the strategic objective of providing quality environments. Amongst other things, the policy requires new

development to have regard to any impacts on the landscape and on protected sites, including heritage assets. It allows for mitigation provisions to offset harm, but ends with a clear statement indicating that development will not be permitted if it is not able to be satisfactorily accommodated in respect of the various matters set out in the policy.

18. Because of this last point, the policy does not appear to allow for any countervailing economic or similar benefit to be weighed in the scales, a criticism made of a similar policy by Mr Justice Kenneth Parker in the Colman judgement, tabled by the appellant⁶. As such, it seems to me that there is a degree of inconsistency with the Framework and because of this I need to reduce the weight I can give to this policy, not necessarily in terms of its substance, but rather with regard to how conflict with the policy should be treated in any overall planning balance.
19. In reaching this view I acknowledge that the Secretary of State considered Policy CSP.1 to be broadly consistent with section 11 of the Framework in the "Driffild Road" appeal decision⁷ but note, as pointed out by the appellant, that there does not appear to have been any detailed argument put before the Inspector in that appeal, on the matter set out above. Nonetheless, the policy still carries weight as its strategic objective generally accords with the Framework's guidance.
20. Turning to consider the appeal proposal itself, the submitted evidence indicates that the appeal site lies within the Severn Vale Landscape Character Area (LCA), as detailed in the Council's Landscape Character Assessment of November 2002⁸. This LCA covers a fairly large part of the district and is described as being deeply rural, with the predominant form of settlement being in the form of isolated farmhouses, hamlets and small villages. As the submitted layout is only illustrative, I consider it possible that 8 dwellings could be provided on the appeal site in a fairly informal arrangement, not dissimilar to the layout of existing dwellings in the hamlet.
21. Whilst this could result in dwellings set closer to the River Severn than is the case with the majority of the existing dwellings in the hamlet, I saw at my visit that Salmon Lodge lies a little distance to the north-east of the appeal site, closer to the river than the likely position of any of the proposed dwellings. This could be seen as setting a precedent for the positioning of dwellings, relative to the river, and although this is just an isolated property I see no good reason why, with careful and sensitive design, the proposed dwellings could not be positioned on the appeal site in a manner which would not be unduly out of keeping with their surroundings. Overall, in view of these points, I am not persuaded that the proposed development would be at odds with the form of settlement described in the Severn Vale LCA.
22. The appeal site also lies very close to the Severn Sands LCA, which lines much of the western side of this part of the Severn Estuary. Key characteristics of this LCA include an open landscape; industrial sites bordering the river; and the remains of numerous rusting river craft, wharves and quays, and these are well represented in the vicinity of the appeal site. However, the appeal site itself does not fall directly within this LCA, and although the appeal proposal would clearly change the currently open nature of the site, I am not persuaded that it should be seen as having any material impact on the Severn Sands LCA.

⁶ See Doc 10: High Court Judgment – Anita Colman v Secretary of State for Communities and Local Government and North Devon District Council and RWE Npower Renewables Limited [2013] EWHC 1138 (Admin) Case No CO/12831/2012

⁷ Appendix 7 to Mr Tufnell's evidence

⁸ See Appendix 9 to Mr Colegate's evidence

23. Having regard to the above points I conclude that the appeal proposal would not have an unacceptable impact on the character and appearance of the surrounding area. I therefore do not find any unacceptable conflict with the relevant objectives of the development plan policies or Framework sections referred to above.

Main Issue 2 – The effect of the proposed development on the setting of designated and non-designated heritage assets

24. In considering this issue I have had regard to the approach to assessing the impact of new development on the settings of heritage assets set out in the Historic England⁹ publication "Good Practice Advice in Planning Note 3"¹⁰. I note that the Built Heritage Assessment prepared by CgMs Consulting ("CgMs"), and submitted in support of the planning application, identified a number of designated heritage assets in the vicinity of the appeal site, as well as a number of buildings considered to be non-designated heritage assets. Although the Council only alleged a harmful impact on the designated assets in its second reason for refusal, I consider it both appropriate and reasonable to also examine any likely impact on the 2 non-designated assets identified by CgMs, namely Temperance Row and Severn View.
25. Temperance Row is a building of vernacular design, with single and 2-storey elements, located on the western side of the access road, directly overlooking the southern part of the appeal site. It is described on the 1839 Tithe map¹¹, along with buildings to its rear (now demolished), as a Public Doss House and it appears that it may well have been used to accommodate dock workers. I share the appellant's view that its significance derives primarily from its historic and architectural interest, and consider that the appeal proposal would have an adverse impact on this significance by restricting views to and from the building, across the appeal site to the dock and the river beyond. This would reduce the level of association between this building and operations at the dock, but in my opinion the absence of any statutory designation means that the overall impact on the significance of Temperance Row could only be considered to be modest.
26. Turning to Severn View, this is a red brick dwelling described as having been constructed in the late 19th century. It is set at a slightly elevated position to the west, further away from the appeal site. Whilst some development on the appeal site would undoubtedly be seen from windows on its front elevation, it does not directly face the appeal site, and views of much of the site are blocked by Temperance Row. There is nothing to indicate a firm association between this property and the dock, although the submitted evidence does suggest that it could have housed a more senior worker. That said, I consider the building's orientation and separation from the appeal site means that the site can only play a very limited role in the setting of Severn View, with the result that any impact of the proposed development on the significance of this asset would, likewise, only be very limited.
27. In accordance with paragraph 135 of the Framework, a balanced judgement is required to be made in cases where harm is caused to non-designated heritage assets, having regard to the scale of any harm or loss, and the significance of the heritage assets. In this case, had all other matters weighed in favour of the appeal proposal, I would not have dismissed this appeal on the basis of the generally low level of harm which would be caused to the significance of these non-designated heritage assets.

⁹ Formerly English Heritage

¹⁰ Appendix 5 to Mr Haigh's evidence

¹¹ Figures 10 & 11 in Appendix 7 to Mr Haigh's evidence

28. Turning now to the designated heritage assets, these are the grade II listed Bullo Pill Dock and Lock Walls, and the grade II listed Dock Cottage. This latter building is located close to the north-western corner of the appeal site, on the western side of the road serving the hamlet. It lies more or less on an east-west alignment and was formerly of simple rectangular form, with residential accommodation in its western half and a store or workshop in its eastern half, as is made plain by the 1839 Tithe map. In recent years it has been extended at its western end to produce an "L"-shaped building, with the new extension linked to the original building by a glazed connection.
29. The listing description for this property describes it as the best survivor of the buildings associated with Bullo Pill barge dock and tramway, although I also note that the Built Heritage Assessment suggests that the cottage may well have existed before the construction of the dock, possibly allied to fishing operations on the river. It also comments that whilst the store/workshop could have been used in association with the operation of the dock, it could also have been associated with the Wagon Works which existed immediately to the south of the property, later in the 19th century, as evidenced from the historic maps from 1879 onwards¹².
30. Nevertheless, there is agreement between the parties that there is an historical functional relationship between Dock Cottage and the dock itself, and some of the photographs submitted in evidence show that there is, or at least has been in the past, some inter-visibility between these 2 assets. Moreover, I saw at my site visit that the first floor window in the eastern gable of Dock Cottage still has relatively uninterrupted views across the northern part of the appeal site, and to the River Severn. In view of these points, and the close proximity of Dock Cottage to the appeal site, I consider that the site has to be seen as forming part of the setting of this listed building, and playing a part in defining the asset's significance.
31. I acknowledge, however, that changes have taken place to the fabric of Dock Cottage, and that its principal elevation faces towards the north, away from the appeal site. I also accept that the vegetation which now lines the western side of the appeal site has reduced the inter-visibility between the cottage and the dock. But notwithstanding these latter points, the appeal proposal would impact on the setting and significance of Dock Cottage by further visually severing any links between the cottage and the remaining dock operations, as recognised in the Built Heritage Assessment. Overall, the points set out above lead me to the view that the appeal proposal would have a modest impact on the significance of Dock Cottage, an impact which I place at the lower end of the "less than substantial harm" range, detailed in the Framework.
32. Turning to Bullo Pill Dock, this is described in the listing description as an important remnant of the former trade routes in and across the River Severn. The 1839 Tithe map shows that the appeal site comprises a large part of a former wharf area associated with the dock, with a similar, smaller wharf area to the south of the dock. The use of the appeal site land as part of the dock operations can be clearly seen and appreciated from the historic maps from 1879 onwards, with mooring posts shown along the riverside lengths of the wharf areas both north and south of the dock and further mooring posts noted along the north side of the dock itself, along with several rail lines crossing the appeal site and adjacent area, to and from the area of the dock.

¹² Figures 12 & 13 in Appendix 7 to Mr Haigh's evidence

33. Some of these tracks lead directly to the northern side of the dock, and appear to be associated with a chute for tipping coal into barges within the dock, as shown in a photograph dating from 1926¹³. This clearly shows that wagons using the chute had to be pulled up a ramp to reach the dockside, but gives little clue as to any previous ground level on the appeal site, and provides no meaningful support to the Council's claims that land levels on the appeal site have been raised in recent years. This is something which I understand the Council is currently investigating, but it has no direct impact on the matters before me¹⁴. I am not persuaded that the submitted photographs provide any clear assistance in this regard, as the broadly comparable photographs from 1993 and 2016¹⁵ were taken by different people, and from somewhat different locations.
34. However, although the dock itself is not in the best of physical conditions, as is evidenced by the listing description and observations at my site visit, its basic form and function can still be seen and appreciated. This is despite the presence of some residential houseboats within the dock; the large modern storage building to the south; and the substantial amount of scrap metal, marine salvage and other similar material on the dock's southern side. In my assessment the open expanse of the appeal site, which is seen clearly in views northwards from the south side of the dock, allows a visual connection to be made between the dock and the other buildings in the hamlet. This enables a good understanding and appreciation of the former workings of the dock to be formed, in the context of the surrounding land. As such, the appeal site constitutes an important element of the listed dock's setting and significance.
35. This relationship and understanding would be significantly harmed by the appeal proposal which would be likely to result in new buildings, up to 2-storeys high, being sited very close to the north side of the dock. Indeed, the elevated position of the appeal site, compared to the dock, means that in my opinion the proposed development would be of a prominent appearance within the setting of the dock, thereby competing with and distracting from this heritage asset in visual terms. Although the currently submitted layout is purely illustrative, on the basis of the evidence before me I consider it unlikely that 8 dwellings could be accommodated on this site without physically encroaching on the environs of the dockside.
36. Moreover, the erection of 8 dwellings and 4 garages on the appeal site would inevitably restrict views across this historically open site, resulting in a suburbanising effect which would be at odds with the industrial/maritime nature of the heritage asset. This impact would be exacerbated by the boundary treatments, domestic paraphernalia and vehicles which would accompany 8 new dwellings.
37. I have noted the appellant's suggestion that a length of rail track or similar feature could be incorporated into the development layout, to retain a visual and historic connection between the past use of the site and the dock. But it seems to me that the relatively restricted size of the appeal site would make it very difficult to retain or re-introduce any meaningful element of the site's former use, in an appropriate way, whilst at the same time accommodating 8 dwellings and 4 garages.
38. Because I have strong doubts as to whether any such acceptable layout could be achieved, I do not consider that this is a matter which could reasonably be left to a

¹³ Figure 15 in Appendix 7 to Mr Haigh's evidence

¹⁴ See also the email correspondence between the appellant and Gloucestershire County Council's Planning Enforcement Section – Doc 14

¹⁵ Figures 18 & 19 in Appendix 7 to Mr Haigh's evidence

subsequent reserved matters stage. My conclusion, therefore, is that the appeal proposal would have a significant adverse impact on the setting and significance of the listed dock. I place this harm towards the upper end of the “less than substantial harm” range as set out in the Framework.

39. I have a statutory duty¹⁶, to have special regard to the desirability of preserving listed buildings or their settings, or any features of special architectural or historic interest which they possess. In addition, paragraph 132 of the Framework explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation; whilst under paragraph 134 of the Framework I am required to weigh the harm which I have identified against any public benefits.
40. I deal with other benefits later, when considering the further main issues, but it is appropriate at this stage to consider the heritage benefits claimed by the appellant. The first of these would be an interpretative board, providing an historical commentary to Bullo Pill and its surroundings. I acknowledge that this would be a benefit, and it seems to me that such an interpretative board could be provided regardless of the detail of any layout of proposed dwellings on the appeal site. I therefore consider it reasonable to regard this as a legitimate heritage benefit of the appeal proposal, albeit very modest in scale.
41. However, all of the other benefits claimed, many of which the appellant contends could be secured through a phased condition requiring first a preliminary survey and then leading on to some possible works, are predominantly couched in vague and imprecise terms¹⁷. Even matters which on their face may appear to be relatively simple, such as de-silting of the dock could, according to the appellant’s own structural engineer’s assessment, be problematic if some of the accumulated silt is found to play a functional role in supporting some sections of dock wall.
42. I consider it incumbent on the appellant to clearly specify the type and extent of any benefits which are likely to arise, to enable overall benefits to be properly assessed before a grant of planning permission could be considered. The absence of any firm information on this matter, at this stage, means that I can have no certainty that any heritage benefits, other than the aforementioned information or interpretative board, could or would be provided. Matters of viability are further complicated by the fact that it was made clear at the inquiry that a likely minimum of £60-70,000 would need to be spent on upgrading the road providing access to the main part of the appeal site (see later). In view of these matters, I can only give very little weight at this stage to the claims the appellant makes regarding benefits to the heritage asset.
43. It is with these points in mind that I have to undertake the balance set out in Framework paragraph 134, as detailed above. I have already made it plain that although there would just be a low level of less than substantial harm caused to the significance of Dock Cottage, a high degree of less than substantial harm would be caused to the setting and significance of the listed dock. Overall, I consider that this weighs significantly against the appeal proposal.
44. Weighing in the appeal proposal’s favour, in purely heritage terms and on the basis of the firm, submitted evidence, I can really only credit the proposed interpretative

¹⁶ Under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

¹⁷ Conservation works listed in the suggested condition as repairs to lock walls and dock wall within the confines of the dock; any necessary repairs to dock gates and supporting masonry; conservation of the reservoirs and sluices; and repairs to existing iron balustrades – see Doc 17

board, to which I give only very modest weight. Other public benefits also have to be taken into account in this balance, but I will not be in a position to undertake this exercise until later in this decision, when all the main issues have been considered. I therefore return to this matter shortly. It will be the case, however, that if I subsequently conclude that the proposed development would have an unacceptable impact on heritage assets, then the appeal proposal would be in conflict with this aspect of CS Policy CSP.1.

Main Issue 3 – The effect of the proposed development on the safety and convenience of users of the nearby highway network

45. The Council's fifth reason for refusal alleges that the appeal proposal would conflict with guidance in Section 4 of the Framework as it would not ensure a safe means of access to the site for all people. Access is not a reserved matter, but even at the opening of the inquiry there was a lack of clarity from the appellant regarding proposed access arrangements and/or improvements. This was clarified to some extent during the inquiry, by the submission of a revised drawing, but I still share the Council's concerns about this aspect of the proposal.
46. The hamlet of Bullo Pill is served by an unclassified private road of about 3m in width, without inter-visible passing places and with no footways and no street lighting along its main length. Vegetation lines both sides of the road, some of which appeared to have been roughly cleared at the time of my site visit. The road is not maintained at public expense and its surface appeared to be poorly maintained. At its current width 2 vehicles are unable to pass on the surfaced part of this road, and all that was proposed on the initially submitted drawings was the addition of 3 passing bays, for which no dimensions were given. No improvements were proposed to the junction with the A48, which is a busy class 1 highway linking Gloucester and Chepstow and carrying upwards of 7,400 vehicles per day.
47. The revised plan indicates that the private road would be widened to 5.5m along its length, with the addition of a 2m service strip or footway (if required) throughout, except for beneath the railway bridge where an overall width of some 5.7m is available. The Council's highway witness agreed that it would be acceptable to reduce the carriageway width under this bridge, in order to provide a footway, and I share that view. This carriageway widening and re-surfacing would represent a significant benefit in highway terms. However, as the extent and cost of such improvements were only presented for the first time at the inquiry, and were not based on any detailed assessment of the likely works involved, there is no firm evidence before me to confirm that the works would be feasible and that the proposed development could support this cost.
48. Of more concern, however, is the junction with the A48, which has a bifurcated layout for which the northern leg only appears to be able to safely cater for traffic turning left into the private road. Vehicles turning both left and right from the private road appear to use the southern leg, for which a modest radius improvement is proposed on the latest drawing. This is intended to provide sufficient width for 2 vehicles to pass at the junction, although no swept-path analysis was provided to confirm whether this could be achieved.
49. A speed survey on the A48 has recorded 85th percentile speeds of 56.8 mph for northbound vehicles and 57.7 mph for southbound vehicles. These speeds point to the need for visibility splays of 187m, but whilst this is achievable in the southbound direction, visibility to the north is only 122m, as was confirmed by measurements taken at my site visit. Moreover, it is apparent that this visibility

splay is only achievable as the roadside hedge has recently been trimmed. If not kept in this condition, the available visibility would reduce further.

50. At some 65m less than the recommended distance (or about 65% of the recommended distance), this available visibility to the north is significantly below that considered necessary for safe operation of the junction. I acknowledge that no accidents have been recorded at or in the vicinity of the junction over the last 5 years, but in view of its substandard visibility this does not necessarily mean that the junction should be considered safe and acceptable.
51. The appellant has drawn attention to research undertaken for "Manual for Streets 2" (MfS2), which has concluded that the "Y" visibility distance is not seen as a single determinative factor in accidents at high risk collision sites, for roads with "Y" distances of 120m or over. However, my reading of this guidance is that the junctions selected for this research were only on roads with 20, 30 and 40 mph speed limits, with the conclusions of this MfS2 section referring to "high risk" urban sites¹⁸ (my underlining). As the A48 at this location is subject to the national speed limit of 60 mph, has only very limited street lighting and is clearly not in an urban location, it is my opinion that this MfS2 conclusion needs to be viewed with some caution in this case.
52. No traffic counts have been undertaken on the private road, but the parties agree that the existing dwellings and the small dock are likely to generate about 120 vehicle trips over a 12 hour day, with 12 movements in both morning and evening peak periods. The appellant's Transport Statement states that the proposed dwellings would generate about 45 daily trips, with 4 trips in the morning peak and 5 in the evening peak, whereas the Council considers that the trip generation would be slightly less, because of the generally lower car ownership of occupiers of affordable housing units. It considers that the daily generation would be about 33 trips, with 3 and 4 trips in the morning and evening peak hours respectively.
53. I acknowledge that these additional trips would only represent a very low proportion (less than 1%) of vehicles passing through this junction. But like the Council, I consider that in the particular circumstances of this case it is more appropriate and important to have regard to the increased numbers of vehicles which would use the private road, and hence would have to contend with the substandard visibility. Using the Council's figures it seems to me that there would be about a 28% increase in daily traffic on this road, with a 25% increase in the morning peak and a 33% increase in the evening peak.
54. Although the actual numbers of vehicles concerned would be low, the fact remains that on a daily basis there would be around an additional 17 vehicle movements onto the A48 from the private road, which would have to deal with this significantly substandard visibility. It is my view that this would amount to an unacceptable increased highway safety risk in the context of this small hamlet.
55. In this regard the current proposal differs from the situation arising from the grant of planning permission for 2 dwellings on the site of the former Rubber Mill within the hamlet¹⁹, as the Inspector who determined that appeal was unable to say whether or not those dwellings would result in increased traffic generation from the site, overall. In the current case there is no firm evidence before me to suggest that the appeal site is a generator of traffic in its own right, despite suggestions to

¹⁸ See Appendix H to Ms Mattock's evidence

¹⁹ Appeal ref: APP/P1615/A/10/2126301, contained within Doc 7

the contrary from the appellant, such that the appeal proposal would be highly likely to result in a material increase in traffic using the private road.

56. In terms of the general accessibility of the appeal site, I note that the A48 carries some 21 buses a day, and that there are bus stops for both northbound and southbound services close to the junction with the private road. Residents of the proposed dwellings would therefore be able to access facilities within Newnham-on-Severn by public transport. However, these facilities would be well outside any normally accepted walking distance, even using the somewhat shorter rural footpath which leads north from the hamlet²⁰.
57. Moreover, whilst Newnham-on-Severn is within an acceptable cycling distance, like the Inspector who determined the Rubber Mill housing appeal I have my doubts as to how attractive the busy A48 would be to cyclists. Taken together, and in view of the lack of facilities at Bullo Pill itself, I do not consider that the appeal site can be regarded as being in a sustainable location. Accordingly, there is a high likelihood that the proposed development would be heavily car dependent.
58. Taking account of all the above points, it is my view that by materially increasing the amount of traffic on the private road, which would have to use a junction with very substandard visibility, the appeal proposal would fail to provide safe and suitable access for all people. I therefore conclude that it would have an adverse effect on the safety and convenience of users of the private road, and the A48. As a result, it would be at odds with the overall aims of Section 4 of the Framework which seek to promote sustainable transport, provide safe access to new development, and give priority to pedestrian and cycle movements and generally promote non-car modes of transport.

Main Issue 4 – Whether the appeal proposal would represent sustainable development in the terms of the Framework

59. The Framework makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 explains that there are 3 dimensions to this – economic, social and environmental – and that these give rise to the need for the planning system to perform a number of mutually dependent roles. I explore how the appeal proposal would perform against each of these roles in the following paragraphs, and what weight this should carry in my overall assessment. Then, as the development plan policies for the supply of housing are out-of-date, I assess the proposal in accordance with the fourth bullet point of paragraph 14 of the Framework.

The economic role

60. Some economic benefits would arise from the construction of 8 dwellings as proposed, comprising direct benefits to the construction industry and subsequent increased spending provision in the local economy by future residents. Although not unique to this development, as similar benefits would flow from any new housing development within the district, the benefits would nevertheless be real and tangible, and for this reason the appeal proposal should be regarded as satisfying the economic role of sustainable development. Such benefits would however be relatively modest in scale, in view of the fairly low number of dwellings proposed and, accordingly, I only feel able to give them moderate weight.

²⁰ Distance from Bullo Pill to the centre of Newnham-on-Severn is agreed to be about 2.6km via the footpath along the A48, and about 1.8km via the rural footpath

The social role

61. The Council has a significant shortage of affordable housing provision, with a supply referred to as being just about 0.2 years in a recent appeal decision cited by the appellant²¹. Social benefits would therefore arise from the appeal proposal through the provision of 4 much needed affordable housing units, to be delivered in accordance with the details of the submitted Section 106 agreement. However, as with the proposed market housing, any benefits arising from the provision of affordable housing would not be exclusive to this site, but would arise from the provision of such housing anywhere within the Council's area. The benefits would only be modest in scale because of the relatively low number of dwellings proposed.
62. Moreover, it seems to me that these benefits need to be tempered somewhat, in view of the fact that I have already concluded that Bullo Pill is not a sustainable location for new housing development. Despite the relatively good public transport service to Newnham-on-Severn, the location is more likely to cause travel difficulties for occupiers of affordable housing units who, as noted earlier, generally tend to have lower rates of car ownership than do occupiers of market housing.
63. Furthermore, the Framework makes it clear that the social role of sustainable development embraces more than simply housing numbers – whether market or affordable homes. It requires the supply of housing to reflect the community's needs and support its health, social and cultural well-being, matters which are also covered by the strategic objectives of CS Policies CSP.4 and CSP.5. It is difficult to see how such objectives would be achieved by development at this location, which is devoid of facilities.
64. The appellant claims support from paragraph 55 of the Framework, arguing that Bullo Pill should be seen either as part of Newnham-on-Severn, or as part of a group of settlements along with Newnham. However, as Newnham itself cannot really be termed rural, I am not persuaded that this is an appropriate application of the guidance in paragraph 55, the over-riding aim of which is to promote sustainable development in rural areas.
65. Taking all the above points into account, my assessment is that the proposal could just about be considered to satisfy the social role of sustainable development, but that the net benefits arising in this regard would carry low weight.

The environmental role

66. Paragraph 7 of the Framework indicates that as part of the environmental role of sustainable development, the planning system needs to contribute to protecting and enhancing the natural, built and historic environment. I have considered these matters in detail under the first 2 main issues, above, and on the first of these I have concluded that the appeal proposal would not have an unacceptable adverse impact on the character or appearance of the surrounding area.
67. With regards to the appeal proposal's effect on the historic environment, I have noted earlier that I would not have found against this proposal if the only harm likely to arise had been that to the significance of the non-designated heritage assets Temperance Row and Severn View. This is not the case, however, as I have also concluded that there would be harm to the significance of the grade II listed Dock Cottage, lying at the lower end of the less than substantial range, and more significant harm to the significance of the grade II listed Bullo Dock and Lock Walls.

²¹ See paragraph 2.3 of Mr Tufnell's evidence

For reasons given above I place this harm towards the upper end of the less than substantial range. I now need to consider whether the sum of this harm to heritage assets would be outweighed by the public benefits of the proposal, in accordance with paragraph 134 of the Framework.

68. To be set against this harm there would be the economic benefits I have just identified above. But because of their generally small scale, these benefits can only weigh moderately in the appeal proposal's favour. Furthermore, only low weight could be given to the public benefits which would arise from the appeal proposal's social role. Some public benefits would arise as a result of the proposed widening and re-surfacing of the private access road and the modest improvement proposed to the A48 junction, but these would be offset by the increased traffic use of this junction with substandard visibility, and the increased risk to highway safety which would ensue. I therefore only give these benefits low weight.
69. As already noted, I attach very modest weight to the specific heritage benefit which would arise from the erection of an informative and interpretative board to provide an historical commentary to Bullo Pill and its surroundings. However, for reasons given earlier I do not feel able to attach any meaningful weight to what the appellant argues would be further heritage benefits.
70. In view of all the above points it is my assessment that the limited, guaranteed benefits of the proposal would not outweigh the high level of less than substantial harm which I have identified. The appeal proposal therefore fails the "paragraph 134" test and is also in conflict with CS Policy CSP.1. This is an important consideration, even though I have made it clear that Policy CSP.1 has to carry reduced weight.
71. As a result, I conclude that the proposed development would not satisfy the environmental role of sustainable development such that, overall, the proposal cannot be considered to be sustainable development. It therefore does not benefit from the presumption in favour of such development set out in the Framework. Nor does it accord with Policy AP1 in the emerging AP, to which I consider weight can be given because of its general conformity with guidance in the Framework.

Summary and overall conclusion

72. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 I am required to assess this proposal in accordance with the development plan, unless material considerations (which include the Framework), indicate otherwise. As the Council accepts that it is unable, at the present time, to demonstrate a 5 year supply of deliverable housing land, policies for the supply of housing, which include CS Policies CSP.4 and CSP.5 have to be considered out-of-date, although because of their strategic objectives they still carry some weight. The other CS policy cited in the Council's reasons for refusal, CSP.1 is not out-of-date but it, too, has to carry reduced weight as it is not fully in accord with the guidance and approach of the Framework.
73. These points lead me to paragraph 14 of the Framework, which explains that development proposals that accord with the development plan should be approved without delay; and that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.

74. Heritage policies fall into this latter category, and as I have found that the appeal proposal fails the Framework's "paragraph 134" test, this is a material consideration which weighs significantly against the grant of planning permission. Moreover, I have found that the appeal proposal is at odds with some of the objectives of CS Policies CSP.1, CSP.4 and CSP.5 and would not be sustainable development. Because of these points, my overall conclusion is that this appeal should be dismissed. I have had regard to all other matters raised, but they are not sufficient to cause me to reach a different conclusion.

David Wildsmith

INSPECTOR

APPEARANCES

FOR THE COUNCIL:	
Mr P Wadsley of Counsel	instructed by the Solicitor to the Forest of Dean District Council
He called	
Ms Jamie Mattock EngTech MIHE	Principal Development Co-ordinator, Highways Development Management Team, Gloucestershire County Council
Mr David Haigh BA MA GradDiplCons(AA) FSAScot IHBC	Conservation Consultant, Forest of Dean District Council
Mr Nigel Gibbons BSc MRTPI	Forward Plan Manager, Forest of Dean District Council
Mr Stephen Colegate BA(Hons) MPlan MRTPI	Principal Planning Officer, Forest of Dean District Council
FOR THE APPELLANT:	
Ms Nina Pindham of Counsel	instructed by Mr Darren Larkham
She called:	
Mr G D Acton CEng MICE DipMunE DMS	Independent Highway and Transportation Consultant
Mr D Gundry BA(Hons) GradDip(AA) MSc IHBC Speaking to the proof of: Ms K Graham MA(Hons) MA PG Dip Cons(AA)	Senior Consultant, The Built Heritage Consultancy Ltd
Mr P Tufnell DipTP MRTPI	Principal, Tufnell Town & Country Planning

DOCUMENTS & PLANS SUBMITTED AT THE INQUIRY, AND SHORTLY BEFORE

Document	1	Letter of notification of the inquiry, and list of persons notified
Document	2	Opening submissions on behalf of the appellant
Document	3	Opening submissions on behalf of the Council
Document	4	Supplementary proof of evidence of Nigel Gibbons , submitted by the Council
Document	5	Ecological Statement of Common Ground between Bullo Ltd and the Council
Document	6	Statement of Common Ground between Bullo Ltd and the Council
Document	7	Bundle of 4 documents relating to planning permission granted for 2 detached dwellings with ancillary works at Newnham Rubber Mill, Bullo Pill, submitted by the Council
Document	8	Note providing details of the qualifications, background and experience of David Gundry, submitted by the appellant
Document	9	Design Advice from Mr Gundry, submitted by the appellant
Document	10	Bundle of 5 legal authorities, submitted by the appellant
Document	11	Amended Plan No 516/01A, showing details of proposed improvements to the site access road and junction with the A48, submitted by the appellant
Document	12	Appeal Decision APP/P1615/W/16/3151911 relating to land at Gloucester Road, Hartpury, Gloucester, submitted by the appellant
Document	13	Extracts from the Forest of Dean Core Strategy, Adopted Version (pages 20-37 & 92-95), submitted by the Council
Document	14	Email correspondence between the appellant and the Gloucestershire County Council Planning Enforcement Section, submitted by the appellant
Document	15	Extract from the Planning Practice Guidance – Paragraph 029 Reference ID:2a-029-20140306 “What is the total need for affordable housing?”, submitted by the Council
Document	16	List of largely agreed conditions (with notes indicating where there was disagreement between the parties)
Document	17	Suggestion for an alternative version of Condition 6, submitted by the appellant
Document	18	Signed and completed Section 106 Agreement between Darren Clive Larkham and the Forest of Dean District Council
Document	19	Suggested viewpoints for the site visit, including the approximate location from which Fig 16 in Mr Haigh’s evidence was taken, as agreed between the parties
Document	20	Closing submissions on behalf of the Council
Document	21	High Court Judgment – Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin) Case No CO/2334/2013, submitted by the Council
Document	22	Closing submissions on behalf of the appellant