



Appeal Decision

Site visit made on 16 April 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/P1615/W/22/3313059

Bullo Dock, Bullo Pill, Newnham, Gloucestershire GL14 1ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Darren Larkham against the decision of Forest of Dean District Council.
 - The application Ref is P0830/22/FUL.
 - The development proposed is described on the application form as, "Retrospective Application for use of Caravan for Security and Seafarer Welfare".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Differing to the description of development in the banner heading above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Siting of Caravan for site security and Seafarer Welfare (Retrospective)". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
3. The Council assessed the application on the basis that the caravan on site is to be used for full-time residential occupation akin to a dwelling for security and welfare reasons. As the appellant has since confirmed that there is a requirement for a continued presence on site at all times, I have considered the appeal on the same basis as the Council.
4. The proposed development is already in place and I have dealt with the appeal on this basis.

Main Issues

5. The main issues are:
 - whether the site provides a suitable location for the development, having particular regard to the settlement strategy for the area and its accessibility by sustainable modes of transport;
 - the effect of the development on the setting and significance of the Grade II listed building, known as Dock and Lock Walls at Bullo Pill;
 - the effect of the development on highway safety; and
 - whether the site is a suitable location for the development, with respect to its vulnerability to flooding.

Reasons

Suitable Location

6. The appeal site comprises a caravan known as 'Balmoral' situated to the south of Bullo Pill Dock, an area around the caravan, and a long access route leading from the A48 towards the caravan.
7. The site is located outside of any settlement boundaries as defined in local planning policies. Such areas are deemed to be in the open countryside for the purposes of planning policy, and in this regard paragraph 3.41 of the Core Strategy (adopted 2012) stresses that the intention is not to allow sporadic, unfocussed development in the countryside. Of further relevance is paragraph 3.38 of the Core Strategy, which mentions that Government policy and the principles of sustainable development are based on locating development in the most sustainable places and within the Forest of Dean these are the towns.
8. Policy CSP. 4 of the Core Strategy provides that, amongst other things, most changes in towns and villages will be expected to take place within the existing settlement boundaries. Policy CSP. 4 lists exceptions to this principle, but these are not relevant to the type of development under consideration in this appeal. Therefore, whilst mention has been made of the need for the caravan to be sited in this location, including with respect to security and in support of maritime operations at the port (including ship-to-shore telephone facilities), the development nevertheless conflicts with Policy CSP. 4.
9. Mention has been made of the future occupiers of the caravan travelling to the site by foot, bicycle, public transport, or a vessel, but it is necessary to consider the trips undertaken from the site to access essential services and facilities, such as those relating to shopping and healthcare, for example.
10. The Council have stated that Newnham is approximately 2.6km away following the A48 from the site, and that the footway on the A48 is predominantly unlit and very narrow over its length, with high vehicle speeds in close proximity, creating an unappealing route. The Council have further stated that there is no cycle provision on Bullo Pill or the A48 in the vicinity of the site. These facts have not been disputed by the appellant.
11. Moreover, although bus stops are present on the A48 near the access route to the site, no bus shelters exist, and there are no pedestrian crossing points to the Gloucester-bound bus stop on the busy A48 near the access route. In all likelihood, then, it would be far more convenient for trips to be made to Newnham or Gloucester by private vehicle. This would particularly be so in the winter or during periods of inclement weather. Mention has been made of bus services to Lydney, but no details of the frequency of these bus services have been provided, including whether they operate in the early morning or in the evening, meaning that the extent to which they could potentially be utilised is unclear.
12. Taking all of the above into account, whilst the site is not far from Newnham and is not isolated from other development, it is likely that the future occupiers of the caravan would predominantly use private vehicles to access the services and facilities available in Newnham and further afield. As such, even though the development would not be likely to generate significant amounts of vehicle

movements over the long-term, the development nevertheless does not assist in the promotion of sustainable transport.

13. I therefore find that the site does not provide a suitable location for the development, having particular regard to the settlement strategy for the area and its accessibility by sustainable modes of transport. It conflicts with Policy CSP. 4 of the Core Strategy which provides that, amongst other things, new development must contribute to reinforcing the existing settlement pattern in a manner which emphasises the importance of the towns, and with Policy CSP. 5 of the Core Strategy which provides that, amongst other things, priority will be given to development on previously developed land and on sites identified for housing in the development plan.
14. The development conflicts with Policy CSP. 16 of the Core Strategy which provides that, amongst other things, development proposals at villages will be required to comply with the Core Policies and in doing so will take account of the scale, function and level of services accessible from their intended location and of the availability of public transport, and where appropriate, the defined settlement boundary will be a key determinant in judging the acceptability of proposals.
15. The development conflicts with Policy AP 1 of the Allocations Plan 2006 to 2026 (adopted 2018) (Allocations Plan) which provides that, amongst other things, allocations in accord with the Core Strategy and the Allocations Plan and in any completed neighbourhood plans are considered to be able to be implemented in a sustainable manner and planning applications in accord with these will be permitted subject to any other material considerations.
16. The development also conflicts with chapter 9 of the National Planning Policy Framework (the Framework), which seeks to, amongst other things, promote sustainable transport.
17. Policy CSP. 1 of the Core Strategy and Policy AP 4 of the Allocations Plan are both referred to by the Council in their decision notice. However, as these policies relate to design and environmental protection, they are not directly relevant to this main issue. Nevertheless, the above-mentioned policies are more than sufficient for me to come to a view on this main issue.

Listed Building

18. The caravan that is the subject of this appeal is located a short distance from a Grade II listed building, known as Dock and Lock Walls at Bullo Pill, and is within its setting. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s66(1) that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
19. The significance of the listed building derives in part from its historic stone walls, which, although in a state of disrepair, are (as stated in the listing description) an important remnant of the former trade routes in and across the Severn. The Council has asserted, and this has not been disputed by the appellant, that the site forms part of an area along the river bank to the south of the setting of the listed building and this land formed part of the dock

complex that included a tramway and mooring posts that terminated at a small wharf. Accordingly, the setting, which includes the site, contributes to the significance of the listed building through its historical association with the dock.

20. The appellant has described the design of the caravan as being utilitarian, in-keeping with its function. However, the caravan is of a generic design, which does not exhibit any particular features that mark it out as being used for site security. Nor does its design bear any particular aesthetic relationship to the dock or to maritime operations in general. As such, it appears as an incongruous feature in this location, which undermines the contribution which the setting makes to the historic interest of the listed building.
21. It follows that the significance of the listed building as a designated heritage asset is harmed by the caravan within its setting. Given that this appeal relates to one caravan only, which is not located directly adjacent to the listed building, the harm identified is less than substantial in the terms of the Framework. Nevertheless, this degree of harm is of considerable importance and weight. It must be weighed against the public benefits of the development.
22. In this regard, the appellant has referred to the caravan supporting security (including preventing vessels being stolen from the dock), maritime operations, and other seafaring welfare responsibilities. Mention has been made of up to 5 port-related jobs being created by existing port and commercial activities. However, the extent to which the maritime operations at the port provide benefits to the public at large has not been quantified, and few details have been provided to demonstrate to what extent the appeal scheme contributes to these activities in economic terms, including with respect to supporting new employment initiatives. Similarly, few details have been provided to illustrate the scale of any economic contribution to Newnham via the appeal scheme.
23. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. The little weight resulting from the public benefits arising in this case means that these benefits do not outweigh the harm caused to the significance of the listed building.
24. I therefore find that the development has an unacceptable and harmful effect on the setting and significance of the Grade II listed building, known as Dock and Lock Walls at Bullo Pill. It conflicts with the second bullet point of Policy CSP. 1 of the Core Strategy which provides that, amongst other things, the impact on any protected sites (natural and historic sites and heritage assets) and potential for avoiding and / or mitigating any impacts, or providing enhancement, should be considered in achieving the maintenance or enhancement of the important characteristics of the environment.
25. The development also conflicts with chapter 16 of the Framework which seeks to, amongst other things, conserve and enhance the historic environment.

Highway Safety

26. The long-established access road serving the caravan joins the A48 at a junction. In appeal decision Ref APP/P1615/W/16/3143912 the Inspector noted that the available visibility to the north of the junction is significantly below that considered necessary for safe operation of the junction. Whilst historic

accident data has not been provided, there is nothing to suggest that this situation has changed since that appeal decision was issued.

27. The appellant has mentioned that vehicles only travel to maritime and other buildings at Bullo Pill. Even so, this situation cannot be mandated, and in any event could change at any time. In this regard, whilst the caravan does not generate large numbers of vehicle movements, I concur with the Inspector's observation in appeal decision Ref APP/P1615/C/22/3303152 that if the junction is dangerous then it is dangerous whether the increase in traffic is large or small.
28. In this case, considering the seriously substandard visibility identified at the junction, the development creates an unacceptable impact on highway safety. Mention has been made of new residential development in the immediate and adjoining area, but as no plans have been provided, the extent to which those schemes are comparable with the appeal scheme is unclear. The fact that other roads within the area might have substandard visibility splays does not alter the site-specific safety credentials of the junction under consideration in this appeal.
29. I therefore find that it has not been demonstrated that the development does not result in unacceptable impacts on highway safety, which paragraph 115 of the Framework sets as the threshold for development to be prevented or refused on highways grounds.

Flood Risk

30. The site is located within Flood Zone 3, i.e. an area where there is a high probability of flooding. In such areas, the sequential test is applicable. Paragraph 168 of the Framework provides that, amongst other things, the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source, and that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
31. I note that the Inspector in appeal decision Ref APP/P1615/C/22/3303152 found that there is plenty of land, even in Bullo Pill, that is not in Flood Zone 3. The evidence before me does not indicate that this position has changed.
32. In this regard, in applying the sequential test, the Planning Practice Guidance (PPG) requires catchment areas to be defined¹. Whilst reference has been made to assistance for maritime / port-related operations (including security), seafarer welfare, and the use of ship-to-shore telephone facilities, and the Council have previously instigated enforcement action concerning the wider site and on an adjoining site², the specific catchment area for the type of development involved in this appeal has not been defined. Hence, the methodology required by paragraph 168 of the Framework, which requires areas with a lower risk of flooding to be considered, has not been followed.
33. Furthermore, evidence has not been provided which clearly rules out other potentially reasonably available sites outside of Flood Zone 3, such as those in Bullo Pill, that would meet the requirements of the development type. It follows the sequential test has not been passed.

¹ Paragraph 7-027-20220825

² Considered in appeal decision Ref APP/P1615/C/22/3291233

34. As it has not been shown that there are no reasonably available, lower-risk sites, suitable for the development, to which the development could be steered, the exception test is not applicable, as the PPG makes clear³. The submitted Flood Modelling report, and whether the development provides wider sustainability benefits to the community, are more properly considered at exception test stage. Accordingly, these matters do not change my findings above.
35. I therefore find that it has not been demonstrated that the site is a suitable location for the development, with respect to its vulnerability to flooding. The development conflicts with the fifth bullet point of Policy CSP. 1 of the Core Strategy which provides that, amongst other things, whether the development is at risk from flooding, whether it can be permitted taking into account any risks, and the sequential approach and any mitigation that may be necessary to ensure the development is safe and flood risk is not increased elsewhere should be considered in achieving the maintenance or enhancement of the important characteristics of the environment.
36. The development conflicts with part 1, 3. of Policy CSP. 2 of the Core Strategy which provides that, amongst other things, proposals for development will be required to demonstrate that their design and layout will reduce the impacts of climatic change as identified in national, regional and local predictions over the lifetime of the development concerned, including flood risk - ensuring that risks (including changing risks due to climate change) are taken account of in new development, including improving resistance, resilience and safety of the areas concerned.
37. The development also conflicts with chapter 14 of the Framework which seeks to, amongst other things, meet the challenge of climate change, flooding and coastal change.

Other Matters

38. The public benefits of the appeal scheme have been summarised on the second main issue above, to which little weight has been accorded. The need for the caravan in this location has been noted, but as few details have been provided to accurately quantify the scale of the various economic, social, and environmental benefits in this regard, little weight has been given to this matter in support of the appeal scheme.
39. In relation to all four main issues, the appeal scheme conflicts with the relevant policies of the development plan and / or the Framework. It follows that conflict also arises with Policy AP 1 of the Allocations Plan which provides that, amongst other things, in assessing planning applications the primary consideration will be whether or not the development proposed is sustainable with the overall aim of improving the economic, social and environmental conditions of the area.
40. The appeal scheme accordingly conflicts with the development plan when considered as a whole. None of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

³ Paragraph 7-030-20220825

Conclusion

41. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR