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## Appeal Decision

Site visit made on 1 August 2017

**by G P Jones BSc (Hons) MA MRTPI**

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

**Decision date: 11 August 2017**

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**Appeal Ref: APP/D3125/W/17/3173157**

**Heythrop Zoological Gardens, Green Lane, Heythrop, Chipping Norton OX7 5TU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Ms Jim and Emma Clubb and Hills, Heythrop Zoological Gardens against the decision of West Oxfordshire District Council.
  - The application Ref 16/04040/FUL, dated 2 December 2016, was refused by notice dated 13 February 2017.
  - The development proposed is new detached dwelling, detached garage with first floor accommodation and lion enclosure with fencing.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are as follows:
  - Whether or not it has been adequately demonstrated that there are special circumstances for a new dwelling in an isolated countryside location; and
  - The effect of the proposed dwelling on the character and appearance of the area, having particular regard to its design.

### Procedural and preliminary matters

3. I have used the names of the appellants as described on the application form, even though I note that this is different from the Council's decision notice.
4. The main Heythrop Zoological Gardens/Amazing Animals complex and the adjacent Ascot Structures fall within the curtilage of the Grade II\* listed Heythrop Hall. However, the appeal site falls outside the curtilage and is separated from it by the substantial woodland belt of West Wood. The Council did not consider that the proposal would affect the setting of Heythrop Hall and I concur with this view.

### Reasons

#### *Special circumstances*

5. It is not in dispute that the proposal would be located in open countryside some distance away from the nearest villages, including Little Tew and Church Enstone. The proposed dwelling also would be remote from, but within easy

walking distance of, the existing built development associated with both the Zoological Gardens and the neighbouring collection of buildings belonging to Ascot Structures. The proposal would reduce the need for commuting from a nearby village for one of the appellants. However, the dwelling would be in an isolated location away from other development and some distance from the range of services and facilities required for everyday living. This means that the regular use of a private vehicle would be required and therefore in this regard the location of the dwelling would not constitute a sustainable form of development.

6. Paragraph 55 of the National Planning Policy Framework (the Framework) guides that new isolated homes in the countryside should be avoided unless there are special circumstances, including the essential need for a rural worker to live permanently at or near their place of work in the countryside. This is also reflected in Policy H4 of the West Oxfordshire Local Plan (LP), adopted 2006, which states that additional new dwellings in the countryside will only be permitted if there is a genuine essential agricultural or other operational need for a full-time worker to live on the site. Although the LP precedes the Framework, Policy H4, in having regard to an essential operational need is broadly consistent with the objectives of the Framework and therefore I accord it considerable weight.
7. The emerging West Oxfordshire Local Plan 2031 (eLP) has undergone its first sitting of Examination in Public and the Council has published modifications following the Inspector's preliminary findings. Policy H2 of the eLP refers to new dwellings in the open countryside only being permitted where there is an essential operational or other specific local need, and substantive modifications to this part of the policy are not proposed. In this regard it would appear to be broadly consistent with the aims of the Framework and therefore I afford it significant weight.
8. The appellants have submitted a statement to explain the nature of the existing and proposed business. As well as providing supervision of the lion enclosure the appellants contend that the proposed dwelling would provide a new business headquarters with non-residential facilities including an aquatics room, baby animal room, a specialist library and meeting and entertainment space in connection with the business. These features are considered by the appellants to be integral elements of the new dwelling and that this overall combination of residential and operational facilities and needs demonstrates the special circumstances for the overall proposal.
9. The appellants have provided details regarding the ownership and living arrangements for the nearby residential properties of East Lodge Cottages and The Gatehouse. I concur with the appellants' view that in their current form and ownership these properties would not be suitable for the uses proposed for the new dwelling and detached garage.
10. The Council accepts that there would be a need for supervision of the lion enclosure and I concur with this. However, the scale of the proposal would be far in excess of a basic dwelling required only to accommodate a person or people to supervise the lions. The appellants contend that the use of CCTV would be impractical as it would necessitate the employment of new staff who would be unlikely to have expertise in animal welfare. However, to my mind this does not explain why the presence of a new dwelling near to one end of

quite an extensive lion enclosure would provide better monitoring than the use of CCTV or other means of remote surveillance by the existing staff members, including Mr Clubb, and/or the use of a night watchman with additional 'in person' monitoring from qualified staff as and when required.

11. The appellants have provided little specific evidence to demonstrate why the lion enclosure would require a dwelling nearby and have not identified the specific risks and needs such an enclosure would entail, and how the provision of a dwelling would enable such needs to be met. It is therefore my view that the appellants have not adequately demonstrated that such supervision, through the construction of a new dwelling of this nature, would be entirely necessary, practical or effective.
12. In addition, the new dwelling and detached garage would contain facilities for entertaining clients and providing overnight accommodation for visiting veterinary advisors. However, there are hotels close to the site that could provide conference facilities and a nearby source of overnight accommodation if required. Also the appellants have not adequately demonstrated why some of the business-related facilities proposed within the new dwelling and garage could not be provided on the existing main complex or by purchasing or renting an existing building nearby.
13. The proposal would give rise to a new dwelling in an isolated countryside location and I find that special circumstances in terms of an essential need for a rural worker to live permanently at or near their place of work in the countryside have not been demonstrated. Therefore I consider that the proposal would be contrary to the guidance in paragraph 55 of the Framework, LP Policy H4 and eLP Policy H2.

#### *Character and appearance*

14. The proposed new dwelling would be of a considerable scale and it would be located in an isolated position towards the southern end of a large field. The substantial tree belt of West Wood to the west of the proposed new dwelling and garage would provide screening when viewed from further to the west. The trees that border Green Lane would provide some screening, particularly in the Summer months. However, the proposed dwelling and its residential curtilage would be noticeable when viewed from the proposed access off Green Lane and at a distance from the public footpath leading to Heythrop Hall.
15. The design of the dwelling would seek to mimic the appearance of an African hunting lodge. This would entail the provision of a number of roof forms with varying eaves and ridge heights, with a large porch area and upper balcony forming part of the front elevation and balconies on the first floor rear elevation. In addition, there would be a discordant variety of fenestration including a significant two storey glazed element to the rear elevation of the property. There would also be a nearby large, detached garage with accommodation above that would be accessed via an external staircase. The design of this additional building would add to the overall visual incongruity of the proposal. For these reasons, I do not consider that the proposed dwelling would fall within a reasonable definition of exceptional quality or innovative design as detailed in the fourth bullet point of paragraph 55 of the Framework.
16. I accept that there would not be any buildings close to the appeal site to provide an immediate architectural context. However, due to its style and

design the proposed building would be out of keeping with the elegant and simple architectural character of the local vernacular, as for example evidenced by the two residential buildings at the entrance to the main site and the dwellings within the village of Church Enstone. It is my view that due to its scale, siting and design the proposed dwelling and detached garage would give rise to a substantial and incongruous feature within an open, rural landscape, some distance away from other the other built development relating to both the appellants' business operations and those of Ascot Structures.

17. I note the Council's reservations in terms of the visual impact of the lion enclosure on its own. I concur with the Council that the lion enclosure should be considered as an integral part of the overall proposal. As I have found the dwelling and associated garage to be unacceptable I have not considered the visual effect of the proposed lion enclosure in isolation.
18. I consider that the overall design, scale and siting of the proposal would be unacceptable and thus it would be contrary to paragraphs 17, 58 and 60 of the Framework and to LP Policies BE2, NE1, NE3 and H2 to which I attach considerable weight. In addition the proposal would be contrary to eLP Policies OS1 and EH1, and to eLP Policies OS2, OS4, H2, to which I attach significant weight and moderate weight respectively depending on the nature of modifications, if any, that are still to be assessed as the eLP progresses towards adoption. Taken together these policies seek, among other matters, to ensure that new development promotes good design that respects the scale, character and distinctiveness of the surrounding area and enhances the appearance of the local landscape.

#### *Other matters*

19. The Council has cited a number of appeal decisions as part of its evidence. However, with the exception of the Magpie Farm appeal<sup>1</sup> that was for a change of use, none of the appeals are close to the site that is before me. Furthermore, none of these appeals match the particular and unique circumstances of the operations undertaken by the appellants, and therefore I have accorded limited weight to them in reaching my decision.

#### **Balancing exercise**

20. The proposal would give rise to benefits in terms of creating a new and much larger enclosure for the lions on the site thereby also facilitating an increase in the size of the tiger enclosure, thus resulting in improvements in animal welfare. In addition, it would provide a very modest contribution to boosting the supply of housing within the locality, and enable the business to expand on this overall site with associated benefits in terms of providing additional local employment, a venue for business entertaining and also for college students and other visitors to attend.
21. However, the proposal would give rise to a new dwelling in an open countryside location that would be some distance away from the goods and services available in the nearest centres of population and therefore would not be sustainable. In addition the scale and design of the building would far exceed the requirements for supervision of the lion enclosure and it would appear as a

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<sup>1</sup> Appeal reference APP/D3125/A/14/2224254

conspicuous feature in the landscape with an incongruous architectural style that would not accord with local distinctiveness considerations.

22. Despite applying a 'tilted balance' in terms of paragraph 14 of the Framework, the Council states that it is now far from clear that it has a five-year housing land supply shortfall. However, I have not been presented with any specific information regarding the deliverability of specific sites and I note that this matter will be considered fully at the next sitting of the Examination in Public for the eLP. The Council considers that none of the policies it has applied in regard to this proposal could be considered policies for the supply of housing if a narrow interpretation was used. Even if I were to conclude that the Council could not demonstrate a five-year housing land supply, and therefore relevant policies for the supply of housing should not be considered up to date and that this might include LP Policy H4 and eLP Policy H2, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

### **Conclusion**

23. I consider that the appellant has not adequately demonstrated that there are the necessary special circumstances for a proposal of this scale and design and in this particular location. Consequently, I conclude that the appeal should be dismissed.

*GP Jones*

INSPECTOR