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## Appeal Decision

Site visit made on 7 August 2023 by M Long BA(Hons) MSc

**Decision by L McKay MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> October 2023**

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**Appeal Ref: APP/Y9507/D/23/3316705**

**Wingates, Limbourne Lane, Fittleworth, West Sussex RH20 1HR**

- 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 & Mrs Labeij against the decision of the South Downs National Park Authority.
  - The application Ref SDNP/22/04807/HOUS, dated 13 October 2022, was refused by notice dated 24 January 2023.
  - The development proposed is described as 'Addition of a single storey glass roof/car port located on the side elevation of the property in the private garden'.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The Government published on 5 September 2023 a revised version of the National Planning Policy Framework (Framework). Whilst I have had regard to the revised national policy as a material consideration, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
4. The Authority's officer report states that a survey submitted to accompany a previous application at this site<sup>1</sup> indicated the potential presence of protected species. That scheme initially included a similar car port. No ecology survey was submitted with this application, however. Therefore, it is necessary to consider protected species as a main issue.

### Main Issues

5. The main issues are the effect of the proposed development on protected species and on the character and appearance of the area.

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<sup>1</sup> SDNP/22/04807/HOUS

## **Reasons for the Recommendation**

### *Protected species*

6. Circular 06/2005, paragraph 99, states that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".
7. The evidence before me indicates that there is a reasonable likelihood of protected species being present at the site. However, no further details regarding which protected species may be present at the site, or how the proposal may affect them, have been submitted during the application or at the appeal stage. This matter cannot reasonably be dealt with by conditions, as I do not have sufficient information to know whether the proposal would harm protected species, or to be satisfied that any likely harm could be avoided or mitigated. In these circumstances, I must take a precautionary approach.
8. Therefore, the proposed development has the potential to harm protected species. It has not been demonstrated that the proposal will avoid adverse impacts or, if unavoidable, adequately mitigate those adverse impacts. As such, there would be conflict with Policy SD9 of the South Downs Local Plan, adopted July 2019, which states that development proposals must have particular regard to their effects on species and habitats which have been designated in law as requiring protection or priority.
9. There would also be conflict with the Framework which states that great weight should be given to the conservation and enhancement of wildlife in National Parks. Furthermore, the proposal would conflict with the statutory purpose to conserve and enhance the wildlife of the South Downs National Park (SDNP).

### *Character and appearance*

10. The appeal site is a detached house with outbuildings situated within a large plot on Limbourne Lane, a quiet road with a verdant character. The surrounding properties, many of which have extensions and outbuildings, are also large and there is generous spacing between them. A new housing development with a suburban appearance was under construction a short distance to the south-west of the site.
11. The single-storey height, open sides and use of glazing would ensure the carport would not have an overly prominent scale or appearance. While the proposed materials would have a modern appearance, the overall structure would appear lightweight, so while it would contrast with the existing traditional property, the visual impact would not be significant or jarring.
12. The carport would be viewed against the main dwelling and an outbuilding and extend onto an existing hard surface. Consequently, it would be well contained within the existing residential site and would not detract from any sense of openness or ruralness in this area. It would also retain sufficient spacing to the neighbouring properties. It would be visible from the highway when stood in front of the access, however views from further in either direction along Limbourne Lane would be largely obscured by vegetation. It would therefore have a minimal impact on the wider streetscene.

13. The surrounding dwellings and new-build housing have various design styles, and extensions and outbuildings form part of the character of this area. Therefore, the proposed carport would not be out of keeping with the prevailing pattern of development or be an incongruous addition. The design of the carport would also allow for views through to the countryside beyond.
14. There are no details of lighting in the plans and external lighting could be controlled by condition to protect the dark skies of the SDNP. Although the carport would only extend onto existing hardstanding, there is potential for harm to nearby vegetation during construction through movement and storage of machinery and materials. That vegetation contributes positively to the verdant character of the area, however this risk could be mitigated through the use of an appropriate condition if the proposal were otherwise acceptable.
15. Consequently, the proposal would not harm the verdant and rural character of the area or the landscape character of the immediate or wider setting of the appeal site and would conserve the landscape and scenic beauty of the SDNP.
16. Accordingly, the proposal would not harm the character and appearance of the area and would conserve and enhance the natural beauty and cultural heritage of the SDNP. There would be no conflict with Local Plan Policies SD31, SD4, SD5, SD6, SD8 and SD11 which require development to respect the character of the area, landscape character, dark skies, trees and vegetation and views in the National Park.
17. Nevertheless, the lack of harm identified against the character and appearance of the area would not outweigh the harm identified above to protected species, and consequent conflict with the National Park purposes.

### **Other Matters**

18. The proposal does not benefit from the support offered by Local Plan Policy SD2 as it has not demonstrated an overall positive impact on the ability of the natural environment to contribute to goods and services, nor is it supported by a statement that sets out how the development impacts on ecosystem services.
19. The proposed carport would be an appropriate form of extension to a residential property and there is no substantive evidence before me to demonstrate that the structure or its use it would result in a material change to the tranquillity of the area compared to the existing residential use of the site. Consequently, there would be no conflict with Local Plan Policy SD7.
20. The scheme would be located within 6.5 kilometres of the Mens SAC, and so in line with Policy SD10 should have due regard to the possibility that barbastelle and Bechstein Bats could be using the site and surrounds for commuting and foraging habitat. Given my findings above regarding protected species, there is no need for further exploration on this point as part of this appeal. However, this issue would need to be considered if a later application were to be made at this site.

### **Conclusion and Recommendation**

21. Local Plan Core Policy SD1 states that planning permission will be refused where development proposals fail to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park unless certain criteria are met. In this case there are no benefits that outweigh the potential harm to

protected species and the proposal would conflict with associated policies of the Local Plan. It would therefore conflict with that Policy.

22. Consequently, the proposed development would be contrary to the development plan when read as a whole, and there are no material considerations that justify granting permission contrary to the development plan. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

*M Long*

APPEAL PLANNING OFFICER

**Inspector's Decision**

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the reasoning set out above. There is insufficient information before me to demonstrate that the proposal would not harm protected species, or that a condition could be imposed to avoid or mitigate potential harm.
24. Therefore, although the proposal would not adversely affect the character and appearance of the area, it would conflict with the development plan read as a whole, and with one of the statutory purposes of the National Park. That harm is not outweighed by material considerations. On that basis, the appeal is dismissed.

*L McKay*

INSPECTOR