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## Appeal Decision

Site visit made on 27 August 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> of September 2025

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**Appeal Ref: APP/Y9507/W/25/3362721**

**Spring Hayes, Ashcombe Lane, Kingston, East Sussex BN7 3JZ**

- 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 N Dowsing against the decision of South Downs National Park Authority.
  - The application Ref is SDNP/24/04975/FUL.
  - The development proposed is the change of use from a paddock to domestic curtilage to formalise use as part of the existing garden.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are the effect of the proposed development on:
  - protected species and their habitats, including bats; and
  - the character and appearance of the area, including whether the proposal would conserve and enhance the landscape and scenic beauty of the South Downs National Park.

### Reasons

#### *Protected species*

3. The appeal site comprises grassland and a small stable building to the rear of the dwelling at Spring Hayes within the open countryside. There is woodland to the rear, with hedges and some trees along the side boundaries.
4. Various species, including bats, are protected by law<sup>1</sup>. ODPM Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It further 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.
5. Policy 5 of the South Downs Partnership Management Plan 2020-2025 (MP) seeks to conserve and enhance populations of priority species in and around the National Park. Further, amongst other things, the National Planning Policy

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<sup>1</sup> Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended)

Framework (the Framework) seeks to avoid harm to biodiversity and gives great weight to conserving and enhancing wildlife in National Parks.

6. No building works are proposed, and it is indicated that the trees, shrubs and stable building would remain as existing. However, domestic use of the site could result in the introduction of a lawn, lighting and other measures which have the potential to affect protected species.
7. The appellant's ecologist visited the site in March 2025, finding no evidence at that time of roosting bats, barn owls or small nesting birds in the stable building. Further, the ecologist considered that the very short sward grassland did not provide any value or suitability for protected species.
8. However, notwithstanding this, government advice for local planning authorities on protected species and development indicates that grassland on a site and woodland and hedgerows next to it could provide habitat for various protected species, including bats. In the absence of an ecological appraisal, the presence of protected species cannot be ruled out and I cannot be certain as to the extent to which they may be affected. Further, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required.
9. In addition, changing the use of the land from a paddock to domestic curtilage could impact the existing on-site habitat. As the site significantly exceeds 25 square metres and without information to the contrary, I cannot be certain that the proposed scheme would be exempt from the statutory requirement for biodiversity net gain.
10. Consequently, I conclude that there has been a failure to demonstrate that the proposal would not harm protected species and their habitats, including bats. This would conflict with Policies SD1, SD2, SD9 and SD11 of the South Downs Local Plan 2019 (LP) where they seek to conserve biodiversity, landscape features and natural habitats, including protecting priority species.

### *Character and appearance*

11. Some of the appeal site is already being used as part of the rear garden for the host dwelling, but the remaining area is rough grassland. There are domestic gardens to the south, and more open land containing paddocks and stables rising towards a block of woodland to the north. The boundary vegetation and rear woodland ensure the site is well contained and provide visual separation between it and the wider countryside to the north and east.
12. The site lies within the South Downs National Park (NP), where there is a statutory duty to seek to further the purpose of conserving and enhancing its natural beauty and wildlife. In addition, the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in NPs which have the highest status of protection. It also seeks to ensure that developments add to the overall quality of the area, are visually attractive, are sympathetic to the landscape setting and protect valued landscapes. Policies 1 and 3 of the MP reflect the statutory duty and the Framework and seek to protect and enhance tranquillity and dark night skies.
13. The proposal would change the character and appearance of the site, likely involving the provision of a manicured lawn, ornamental planting, paths, lighting

and associated domestic paraphernalia. Nevertheless, the proposed extended curtilage would project the same distance as the adjacent residential gardens to the south which include lawns and outdoor equipment. It would also be well screened by landscaping along the north boundary and woodland to the rear, largely hidden in wider views.

14. Given these characteristics, the appeal scheme would align with the existing development pattern and conserve the landscape and scenic beauty of the NP. Conditions relating to landscaping and placing restrictions on permitted development rights<sup>2</sup> would ensure that the character is maintained.
15. The host dwelling and the houses to the south are within Kingston's settlement boundaries defined on the Policies Map, but the land to the rear, including the appeal site, is outside them. Policy SD25 of the LP sets out the development strategy for the NP and only permits certain categories of development outside the settlement boundaries where it responds to the context of the broad area. Whilst the proposed use does not fall within the types of development allowed by Policy DM25, the policy aims would not be undermined and as set out above the scheme would be appropriate in the context.
16. Therefore, I conclude that the proposal would not harm the character and appearance of the area and would conserve the landscape and scenic beauty of the NP. This would comply with Policies SD4, SD5, SD6 and SD7 of the LP where they seek to conserve landscape and local character, key views and tranquillity. Further, I do not find any significant conflict with Policy SD25 of the LP.

## **Conclusion**

17. For the above reasons, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

*A Wright*

INSPECTOR

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<sup>2</sup> Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)