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# Appeal Decision

Site visit made on 20 March 2017

**by Kenneth Stone BSc Hons DipTP MRTPI**

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

**Decision date: 31 March 2017**

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**Appeal Ref: APP/T1410/W/16/3161201**

**Land west of Larkspur Drive, Eastbourne.**

- 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 Clinton Development Company Ltd against the decision of Eastbourne Borough Council.
  - The application Ref 160908, dated 4 August 2016, was refused by notice dated 21 September 2016.
  - The development proposed is the erection of up to 9 no. dwellings including potential for hard and soft landscaping and car parking.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. The application was submitted in outline with approval being sought for the matters of access, appearance, layout and scale. Only landscaping is to be treated as a reserved matter for future consideration.
3. The Council accept that it cannot identify a five year supply of housing sites and as the proposals are for housing paragraphs 14 and 49 of the Framework are engaged. This means that relevant policies for the supply of housing are not to be considered up-to-date and therefore bullet point two for decision making in paragraph 14 requires that 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. I have considered the appeal in this context.

## Main Issues

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, including Eastbourne Park (the Park).

## Reasons

### *Character and appearance*

5. Eastbourne Park is described, in the Eastbourne Core Strategy Local Plan 2006-2027 (adopted Feb 2013) (Core Strategy), as an important ecological, archaeological and leisure resource that also fulfils an essential flood storage mitigation role. Paragraph 2.4.2 of the Eastbourne Landscape Character Assessment (ELCA) identifies Eastbourne Park as containing an ancient
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landscape formerly marshland interconnected with Pevensey levels to the east. Most of the former marshland has been converted into grassland but remnants persist along the drainage ditch system and the lowest lying area of the Park. The ELCA identifies the park within the Levels Character type and the site is within the Shinewater Lakes Marshes character area, the key characteristics of which include an open flat landscape with a semi-rural character with the urban edge to Langley highly visible and well contained by Larkspur Drive.

6. Policy D11 in the Core Strategy seeks to conserve and enhance the existing environmental and ecological characteristics of Eastbourne Park in part by restricting development other than specifically identified development unless it contributes to the enhancement of the park as an area of importance for ecology, archaeology or leisure/recreation. The policy would therefore restrict the supply of housing and would be out of date given the lack of a five year housing supply. However given the principle purpose of the policy is in relation to other matters which are consistent with the National Planning Policy Framework's advice to conserve and enhance the natural environment and the importance of the ecological and flood mitigation aspects of the Park I still afford the policy significant weight.
7. Added to this given the nature of the designation the ecological value and leisure value of the Park I accept the Council's position that it is a valued landscape in the terms of paragraph 109 of the Framework.
8. The appeal site is now identified within the boundary of the Eastbourne Park policy area. This changed with the adoption of the Core Strategy in February 2013 when before the site was not within that boundary. The change in the policy context for the site is significant and differentiates the considerations in this appeal from those at play when the site was considered for development in the previous appeal, APP/T1410/A/12/2179055. That decision was taken in January 2013 and at that time there was no objection raised to the principle of development and the Inspector did not consider the matter further and accepted that position, based on the fact the Council did not raise it as an issue and that the site lay outside Eastbourne Park at that time.
9. The proposals would introduce significant built form onto the site in an area of relatively undeveloped land. The development of the site would restrict views into the open flat landscape and restrict views out from the Park. The development would bring housing as an intrusive feature into the landscape and on the Park side of Larkspur Drive, which well contains the urban area at this point. Whilst I accept that there is some limited development adjacent these are discreet separate buildings in close proximity to the elevated junction and were approved under a different policy context. They do intrude on the landscape and are harmful and their existence is not of sufficient effect to justify further harmful development.
10. Paragraph 109 of the Framework identifies that the planning system should protect and enhance valued landscapes policy D11 restricts development such that housing would conflict with the policy. On this basis the proposal would conflict with the development plan and the Framework and would result in material harm to the character and appearance of the area.
11. The design of the proposed houses does not relate to the surrounding development of the housing estate opposite and the appellant has sought to justify why such an approach would not lead to high quality housing. I do not

disagree with this assessment. However the proposal would introduce built form to the open landscape and the bulk, mass, height and arrangement of those buildings would intrude into the general appearance of the semi rural character of this side of the road. These are matters that are for consideration at this time.

12. The Council contend that the proposed development is not of such high quality as to be described as exceptional quality or of an innovative nature such that would gain support under paragraph 55 of the Framework in order to support sustainable development in the rural area. The appellant contends this misapplies the policy and that the site is not in the rural area and is contiguous with the built development of Eastbourne. Paragraph 55 provides for an exceptionally high design quality or innovative proposal to come forward as an exception to generally restrictive policies in the rural area. I note the built up area boundary and associated policy is out of date and therefore I attach only limited weight to it due to the lack of a five year housing land supply. Paragraph 55 is however not being applied in the context of assessing whether the proposal is of poor quality and therefore justification for refusal, which the appellant contends does not stand up to scrutiny. But rather that the scheme is not of sufficient quality to positively add to the balance of the scheme such that might outweigh any harm. These are different arguments.
13. I am of the view that the scheme is harmful to the character of the area due to its bulk, mass, height and location and there is an in principle objection, I do not see that there is anything exceptional in the design or innovative in its nature such that paragraph 55 would lend it support, if it were applied.
14. On the basis of the above I conclude that the proposed development would result in material harm to the character and appearance of the area, including Eastbourne Park and that it conflict with the development plan, in particular policy D11 of the Core Strategy.

### **Other matters**

15. The appellant has contended that the latest Council information confirms that it can only identify a 3.41 years supply of housing land with a supply of 881 units against a requirement of 1,291 units (including a 5% buffer). This is not disputed by the Council. In the context of this application, for up to 9 units, the proposal would only make provision for a small number of units and would not make a significant contribution to the existing shortfall. On this basis I afford this positive benefit only moderate weight in the planning balance.
16. The question as to whether the site should or should not form part of Eastbourne Park is not for this appeal; that was a matter for the Core Strategy and the associated proposals map. As this is formally adopted it is now part of the development plan and legislation requires that I determine the application in accordance with the development plan unless material considerations indicate otherwise.
17. Other matters related to sustainability, flood risk, the historic environment and natural environment seek to demonstrate that the proposals would comply with the development plan and general policies on these matters. However, these are not benefits of the proposals, as such, and therefore do not add to the positive side of the balance.

18. The minor economic benefits associated with New Homes Bonus and Council Tax receipts would be limited and any locational sustainability that may be adduced in relation to the scheme is not a benefit of the scheme.

**Overall conclusions**

19. I have concluded that the proposed development would result in material harm to the character and appearance of the area, including Eastbourne Park, and that this would conflict with the development plan. I have also concluded that the site is part of a valued landscape and therefore the proposal would also conflict with the advice in para 109 of the Framework. The relevant policies for the supply of housing in the development plan are however out of date, given the lack of a five year housing land supply, which has affected the weight that I have given them. The advice in the Framework and the lack of a five year supply are material considerations I have taken into account. However, I have still considered that policy D11 should be afforded significant weight and that these material considerations do not in my view outweigh that policy conflict. Furthermore, undertaking the tilted balance exercise in the Framework, at paragraph 14, the small positive benefits that would arise from the additional housing in the absence of a five year supply and associated economic benefits would be significantly and demonstrably outweighed by the harm that I have identified above.
20. For the reasons given above I conclude that the proposals would not amount to sustainable development and the appeal should be dismissed.

*Kenneth Stone*

INSPECTOR