

MC/14/3309

Date Received: 10 November, 2014

Location: Broom Hill Reservoir, Broomhill Road, Strood, Rochester

Proposal: Construction of 1no 4 bedroomed and 1no 3 bedroomed detached dwellings constructed within the existing underground reservoir with associated parking and external works

Applicant: Mr Thomas Homas

Agent: Mr M Carter Mark Carter Design Design Studio, Priestfield Stadium Redfern Avenue Gillingham Kent ME7 4DD

Ward Strood North

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 4 March 2015.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no's:

2066 - 002 RevB, 2066 - 003 RevB, 2066 - 009, 2066 - 010, 2066 - 011, 2066 - 012, 2066 - 013, 2066 - 014, 2066 - 015, 2066 - 016, 2066 - 017, 2066 - 018, 2066 - 019 2066 - 020, 2066 - 021, received 10 November 2014
2066 - 06, 2066 - 001 RevC, 2066 - 004 RevB, 2066 - 005 RevB, 2066 - 008 RevA, 2066 - 007 RevA, 2066 - 022, 2066 - 023, 2066 - 024, received 27 November 2014

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall take place until details and samples of all materials to be used externally in the construction of the two dwellings and parking area, including details of the rendered finish and sedum roof, and surface materials for the parking area have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 4 Notwithstanding the details submitted with the application, no development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping (hard and soft) and boundary treatment, appropriate to this sensitive site. The Landscaping scheme should give consideration to bats and breeding birds in the landscaping design. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1, BNE6 and BNE37 of the Medway Local Plan 2003.

- 5 No development shall take place (including ground works and vegetation clearance) until a detailed Mitigation Strategy and Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Mitigation Strategy and Management Plan shall include the following:

- a) Evidence of the appropriateness of the receptor site;
- b) Details of a management programme for the receptor site area;
- c) Details of a precautionary mitigation strategy clarifying how works will be carried out to minimise impact on breeding birds and bats;
- e) Method statement for dealing with reptiles on the site as outlined in Part 5 of the Reptile Survey; and
- f) Demonstration of how the external and internal lighting proposed is designed to minimise the impact on the adjacent site and the retained habitat.

The submitted information must clearly show how it links into the management of the wider site. The approved Mitigation Strategy and Management Plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In the interest of ecology, biodiversity and amenity in accordance with the requirements of policies BNE37, BNE39 and L3 of the Medway Local Plan 2003.

- 6 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 7 to 10) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 10 has been complied with in relation to that contamination.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 7 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 8 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 9 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 8 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Part 1, Classes A - H and Part 2 Classes A - C of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of amenity, and in order to protect the character and appearance of the designated open space, in accordance with Policies BNE1, BNE2 and L3 of the Medway Local Plan 2003.

- 12 Notwithstanding the details shown on the approved plans, no development shall take place until full details showing sufficient drainage provision to serve the parking area on the application site have been submitted to and approved in writing by the Local Planning Authority. Details shall include how the driveway will be surfaced and the provision and location of drainage to the driveway. The drainage works shall be carried out in accordance with the approved plans and thereafter maintained.

Reason: In the interests of sustainability

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

The application seeks full planning permission for the construction of two new detached dwellings (one 4 bedroomed and one 3 bedroomed) within the existing underground reservoir (with associated parking and external works).

Site Area/Density

Site Area: 0.19 hectares (0.469 acres)

Site Density 10.52dph (4dpa)

Relevant Planning History

MC/02/2309

Relocation of existing telecommunications antennae and dishes, increase in height of mast from 15 metres to 20 metres (including height of antennae) and installation of antennae and dishes for 2 additional telecommunication operators together with the provision of two ground level meter cabinets

Decision Withdrawn

Decided 15 July, 2004

- MC/02/1279 Application for prior approval under part 24 of the General Permitted Development Order 2001 for installation of a 15 metre high slimline monopole with 3 antennas and 4 dishes, associated equipment cabinet within a secure compound.
Decision Refusal
Decided 8 August, 2002
- MC/01/0466 Application under part 24 of the Town and Country Planning (General Permitted Development) order 1995 for prior approval for the installation of a replacement of equipment cabin with modified ancillary equipment dishes, 6 additional antennae at 12.5 metres high and 4 additional dishes at 12.5 metres high.
Decision No Application Required
Decided 2 April, 2001
- MC/01/0159 Application for prior approval under part 24 of the Town and Country Planning (General Permitted Development) Order 1995 for the installation of three One 2 One cross polar antennas and six One 2 One dish antennas and one radio equipment housing together with the relocation of four One 2 One dish antennas, six orange PCS cross polar antennas and four Orange PCS dish antennas and one radio equipment housing and development ancillary.
Decision No Application Required
Decided 27 February, 2001
- MC/00/0204 Application for Prior Approval under part 24 of the Town and Country Planning (General Permitted Development) Order 1995 for the installation of five microwave dish antennae on an existing telecommunications tower.
Decision Withdrawn
Decided 14 August, 2001
- MC/00/1547 Erection of 5 metre mast extension to existing 15 metre telecommunications mast with installation of 3 dual polar and 1 dish antennae and equipment cabin, transfer of antennae from mast to be removed to the extended mast; and extension of compound area.
Decision Refusal
Decided 6 December, 2000
- MC/00/0368 Application for prior approval under part 24 of the Town and Country Planning (General Permitted Development) Order 1995 for the installation of a replacement 15 metre high tower and three dual polar and one 0.6m dish antenna accompanied by an equipment cabin.
Decision No Application Required
Decided 10 April, 2000

Representations

The application has been advertised on site and in the press as development that does not accord with the provisions of the Development Plan, and by individual neighbour notification to the owners and occupiers of neighbouring properties.

The Environment Agency, Southern Water, and Kent Police have also been consulted

Environment Agency raises no objection to the proposal. The Agency do provide advice on dealing with soil or groundwater contamination which may exist at the site and have requested being informed should any land contamination, not previously identified, is found. In addition, advice on dealing with and disposing of waste, including waste water, is given.

Southern Water raises no objection to the proposal. Advice is given to the protection of existing infrastructure on site during construction. In addition, no excavation, moulding or tree planting should be carried out within 4 metres of the public water main without consent from Southern Water.

KCC archaeological Officer advises that no archaeological measures are required

Mark Reckless MP has written to object to the application on the following grounds;

- Proposal will result in the unacceptable loss of open space designated as such in the Local Plan 2003
- Proposal conflicts with Council's own Broomhill Park vision.
- Risk of fly tipping if top of Gorse Road is re-opened.
- On highest point and would spoil panoramic views and will impact on skyline.

85 letters have been received raising the following objections:

- Site is within protected open space. To allow this development it would significantly undermine this policy and set precedent for similar developments and further development of the Broomhill Park.
- Loss of open space. Documents submitted with the application do not address the loss of open space.
- None of the exceptions for development listed under Local Plan Policy L3 have been met. There are no benefits to the community if this is granted.
- Proposal conflicts with the '10 year vision' for Broomhill Park (Broomhill Park - Ten Year Plan 2013-2023).
- Would the development stop at 2 houses?
- The proposed access to the development involves an increased risk to cyclists/pedestrians using the public footpath as vehicles will regularly be crossing the footpath. Site forms part of a Public Right of Way.
- Development will change the aspect of the public footpath which runs in front of and to the side of the development site. There will be less natural light and feeling of a safe open space will be lost.
- Right of access will be lost along the Public Right of Way.

- The development will not improve security/safety of the area.
- The park and Orchard are well used Public Open Spaces
- The modern design of the new development is not sympathetic to its immediate surroundings, this is particularly so from the footpath side of the development. The development is a complete contrast from Crombie Cottage further down the hill.
- The development looks more like a concrete bunker.
- No other dwellings are located on this ridge and the proposed dwellings would therefore be out of character for the area.
- No fires/vandalism have taken place on site as has tried to be portrayed by the applicant.
- Anti-social behaviour here has decreased substantially since the top end of Gorse Road was closed off - any re-opening would result in substantially increased problems for residents.
- The development will have considerable visual impact on area. The development will be on the highest hill in Strood and will be a blot on the landscape.
- The hill would need to be cut into to provide access to the properties, which will create an eye-sore.
- The Mast is very visible across the Medway Towns. Houses would have similar detrimental impact.
- The development would require a much larger area to be set aside for the houses than was occupied by the reservoirs, thereby reducing the park/green space further. The submitted drawings do not show the full extent of the impact on the surrounding land.
- Impact on wildlife has not been considered. The site is home to many flora/fauna which would be affected. The park provides much needed habitat, which would be lost forever.
- The proposed boundary wall of the house and roof will be highly visible from the park land immediately behind (sundial side) and will be intrusive.
- Brown field sites available and no requirement for this site'.
- The proposed buildings would negatively impact on the natural beauty of the area.
- This park is the only natural place left in Strood for Children to play in and needs to be preserved. The site is currently undeveloped and must remain so.
- The park is a vital part of the community.
- The site is one of the only naturally wooded areas in the town.
- The development would spoil the area, which has recently undergone vast improvements by the Council and volunteers.
- Broomhill Park has been considered a 'Beacon of Excellence'. The site has been awarded Green Flag status for 4 consecutive years and obtained Outstanding status in the RHS S.E. in Bloom competition.
- The size of Broomhill Park as a whole has already been reduced with the building of the housing estate on the former allotment land at the bottom of Broomhill.
- The development will only provide 2 dwellings. Hardly worth sacrificing the natural space for.
- The units are not of 'exceptional design' but would spoil the skyline and blemish the immediate landscape.
- Construction traffic accessing the site via Gorse Road would be disruptive to residents.

- Two additional housing units would result in additional traffic to the area, and the roads cannot take further congestion.
- Additional traffic would result in increased noise and air pollution.
- Gorse Road is not suitable and won't cope with additional traffic.
- Increased surface water runoff from the approach road after heavy rain, which will cause issue to neighbours.
- No thought has been given to the additional strain additional housing is having on the resources of Medway.
- Any extension upwards to the development, if proposed, would be easily sought.
- So many houses are already being built in the area (Hoo and elsewhere). There is not need for additional housing.
- Past Applications have been refused for the site.
- The development will obstruct views. These views are greatly valued by local residents and visitors.
- A site meeting is needed

7 further letters have been received (including from the friends of Broomhill group) objecting to the application for the grounds already set out in the report and also requesting a site meeting.

KCC Archaeology advise that the construction of the reservoirs would have removed any archaeological remains and there are no requirements for any archaeological measures.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Planning Appraisal

Main Issues

The main issues for consideration are:

- The principle
- Impact on the character of the area and design,
- Amenity considerations,
- Impacts on the ecology of the area,
- Land contamination,
- Public rights of way and
- Highway matters.

Background and Principle

The general thrust of national and local planning policy is to secure sustainable patterns of development through the efficient re-use of previously developed land,

concentrating development at accessible locations. The proposal is considered to facilitate the achievement of these objectives through the redevelopment of a site which, despite its open space designation, is previously developed land in an accessible location.

No records exist in terms of the reservoir's history, however the Applicant has been able to determine that the structures associated with the reservoir were constructed around 1920, although the reservoir itself appears on an Historic Local map dated 1837.

The site is shown on the Local Plan Proposals Map as forming part of Broomhill Park, although it is clearly segregated from the remainder of the Park by palisade fencing. As a result of forming part of this park land, the site falls within designated Protected Open Space. The reservoirs have sat dormant for some period of time, and over the years the site has become overgrown with vegetation. Nevertheless, the former use of the site as a reservoir and its segregation of the site from the remainder of Broomhill Park by security fencing, has meant that the site has not functioned as useable open space/parkland, in particular since the designation of the park as protected open space in 2003.

The National Planning Policy Framework (NPPF) advises that 'previously developed land' is land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. This excludes land that was previously developed but where the remains of the permanent structure or fixed surface have blended into the landscape in the process of time. Whilst the structures associated with the former reservoir use are underground, and their presence is not immediately obvious from above ground, these structures still remain in situ. The land within the site is not considered to be at a 'natural' level, soil has been built up around the reservoirs and characteristically, there remains a 'man made' feel to the site. It does not sit comfortably with the surrounding parkland. It is clear when on site where the two underground reservoirs are located as the ground sinks in and flattens above each. One is at least 1m higher than the other and an unnatural slope exists between them. Whilst overgrown, given the unnatural characteristics of the site in relation to the former reservoir operation, it is considered that the site continues to constitute previously developed land in accordance with the definition in the NPPF.

The site itself is located on the edge of the Broomhill Park Land (to the north-west), which benefits from an existing access via Gorse Road (although public access is currently prevented) adjacent to a residential area in Strood; it is in close proximity to local amenities and services and communal open space. It is therefore considered that in principle, the application site is well placed for a small redevelopment to provide residential uses under the provisions of Local Plan Policy H4 (Housing in Urban Areas), which considers that redevelopment and infilling for residential purposes is acceptable in principle providing a clear improvement in the local environment will result.

Within urban areas the retention of public and private open space or recreational and amenity value is important. Medway Council attaches great importance to the retention of recreational and amenity open space in urban areas and recognises that

once built on, open space is likely to be lost to the community forever. The loss of open space as a result of development has been raised as a particular concern via representation to this planning application. Policy L3 (Protected open Space) of the Medway Local Plan (the Local Plan) seeks to protect the loss of existing formal open space, informal open space, allotments or amenity land unless certain criteria are met. This current proposal is considered a departure from the provisions of this Local Plan Policy in so much as it does not meet the criteria listed. In support of the provisions of Local Plan Policy L3 , NPPF Paragraph 74 adds that existing open space and land should not be built on unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements.

Whilst no assessment has been made, and despite the obvious departure from Local Plan Policy requirements, it is considered that an exception can be made in this instance but only if the design of the development is of exceptional quality, paying due regard to its prominent location and relationship to the Park. While it is previously developed land and is fenced off from the remainder of the Park, it is very prominent and is visually read at a distance as being associated with the park. A standard form of residential development of the site would therefore be entirely inappropriate and would be harmful from distant views and would poorly relate to the Park. It has already been considered that the development site does not constitute useable open space and does not function as such due to the site's previously developed nature and the fact that it is physically separated from the remainder of the Park by palisade fencing. Principle policy support for the redevelopment of the site is found under Paragraph 111 of the NPPF, which advises that decisions should encourage the effective use of land by re-using land that has previously been developed, provided it is not of high environmental value. It is considered that not all open spaces are of equal merit and some, such as the site the subject of this application, may be suitable for alternative uses. In this instance, it is considered that its visual environmental value is low (given its previous use and current state) - other than its long distance views and that a visual improvement to this portion of land could be achieved through appropriate redevelopment. Again, it must be stressed that design quality, as advocated in the NPPF (as referred to in the design section below), is essential if the principle of the development of this site is to be accepted. Its prominence and location adjacent to the Park require sensitive design. Whilst clearly resulting in the loss of a small proportion of designated open space, it would not result in the loss of useable open space, with the remainder of Broomhill Park being kept and preserved as such in accordance with the provisions of Local Plan Policy L3 and the National Planning Policy Framework.

Further discussion regarding the proposal's impact on open space will be given below under the relevant heading, however, given the extensive open space provision in the vicinity of the site (which will remain unaffected) and the fact that it is not publicly accessible, it is considered that the development proposal for this site could be acceptable in principle if the design solution is appropriate and as such (subject to detailed matters in particular of design) there is no principle objection to the development in this regard.

The proposal can be considered acceptable in principle under the provisions set out under Local Plan Policy H4 and the National Planning Policy Framework provided that the design is of exceptional quality. Subject to this detailed consideration, the

development is considered to be an acceptable in principle departure from the provisions set out under Local Plan Policy L3.

Street Scene, Character and Design

Development Plan Policy places considerable emphasis on the importance of achieving good design to ensure that all new developments are appropriate to the shape, size and location of the site. Local Plan Policy BNE1 seeks to ensure that the design of development is appropriate in relation to the character and functioning of the surrounding area.

The application site is currently a neglected site, providing limited value to the area and to Broomhill Park. The proposed development and indeed the proposed design approach is considered to assist in the enhancement of the local character of the area. This proposal includes for two houses within two former water reservoir tanks in a dramatic hilltop position overlooking Broomhill park. The tanks are set into the ground such that the only visible evidence of the complex is the grass and scrub covered earth mound that buries the upper levels of the tanks. The roof (lid) of the tanks is to be removed and two houses set within the remaining perimeter walls. Left over space within the tanks is to form open light wells to provide light to all parts of the houses, and also allows for a shared entrance courtyard. The south west perimeter walls of the tanks are being removed to provide an open aspect to the courtyard and to the access road beyond. Parts of the perimeter wall of each tank are to be left intact within the courtyard to provide privacy to each property.

The two storey height of the main bulk of the houses is such that the buildings will be almost completely hidden from outside view by the earth mound. Only the edge of new grass covered roof plus a thin strip of windows will be visible above this level. A third storey is provided to each house in the form of projecting central stairwells that give access to small balconies on the grass covered roof. These are small and will have a limited visual impact.

The main elevation of the houses will be visible from the entrance road, but this in turn will be screened by scrub and vegetation. Some degree of enclosure to the rest of the site may be required and as such a condition requesting details of boundary treatment is recommended.

Paragraph 56, 58 and 61 of the NPPF advises of the importance of design within the built environment and considers the importance of innovative design and the architecture of individual buildings being important factors. Paragraph 63 of the NPPF advises that '*in determining applications, great weight should be given to outstanding or innovative designs*'. In this instance, the chosen style of the scheme is bespoke and modernist with flat roofs and exposed concrete. It will undoubtedly be dramatic, however, given the semi-underground and inward looking nature of the scheme it will be largely invisible to anyone other than inhabitants of the houses - despite the hill top location. Notwithstanding the details provided within the submission, a condition regarding the submission of details of materials is recommended.

Concern has been raised with regard to the potential to extend the development

upwards following grant of planning permission. This is recognised and a condition is recommended to remove permitted development rights.

Overall, the proposed development has attempted to take a sensitive approach to the existing constraints in relation to the existing topography and the use of an existing access road which will assist with the integration of the surrounding built and natural environments. The application proposal comprises the redevelopment of previously developed land to provide a contemporary high quality residential scheme which would create a sustainable living environment for future residents of the site without causing detriment to the amenity of the surrounding area.

It is considered that the proposal accords with the provisions set out within Local Plan Policies BNE1 and H4 and the National Planning Policy Framework.

Amenity

All development should secure the amenities of its future occupants and protect those amenities enjoyed by nearby and adjacent properties. According to Policy BNE2, the design of development should have regard to: privacy, daylight and sunlight; noise, vibration, light, heat, smell and airborne emissions and activity levels and traffic generation.

Each house is of a generous size. The smaller house exceeds the Medway Housing Design Standards (interim) 2011 by a factor of almost two, whilst the larger house is almost three times larger than that required by the Medway Housing Design Standards. The houses are inward looking with the principle rooms looking onto the shared internal courtyard. The courtyard is divided by freestanding walls that afford a degree of separation and privacy for each household. The courtyard also provides a garden for each household, plus ponds at the entrance to each house. Other than this the main outdoor amenity space is in the form of the small rooftop balconies.

The gardens are small for the size of the house, but they are large enough to achieve acceptable amenity provision, especially given the proximity to Broomhill Park. Notwithstanding this, the houses are bespoke and would be lived in by people who are choosing a particular lifestyle.

Given the location of the development away from other residential properties, and the fact that these units will primarily be underground means that the impact on neighbour amenity would be minimal, with no impact in terms of overlooking and privacy, loss of sunlight and day light. In addition, any impact in terms of noise and vibration that could be experienced at construction phase would be short lived and temporary. Concern has been raised in terms of the impact on neighbouring amenity from additional traffic. The development is for two residential units, served by an existing access road (albeit narrow) up to the site. The development is unlikely to result in a large number of vehicles using this access point and as such, unlikely to cause harm to residential amenity in terms of traffic generation in this regard.

There are no objections to the proposal under the provisions set out under Policy BNE2.

Energy Efficiency

A key aim of the NPPF is to promote energy efficient, sustainable new homes. Policy BNE4 of the Local Plan is compliant with the aims of the NPPF in this regard. Energy efficiency measures will be sought within development proposals, providing there will be no detriment on the amenity. Proposals should have regard to appropriate siting, appropriate use, energy efficient technology, high standards of insulation and use of building materials. In the case of this proposal, the applicant has aimed to achieve Code Level 5. The reuse of existing structures on site, inclusion of a sedum/grass roof and reduction in the amount of materials needed in their construction has assisted with this achievement.

There are no objections to the proposal under the provisions of the NPPF and Policy BNE4.

Open Space and Landscape

To reiterate much of the detail discussed in the Background and Principle section above, the site of the two reservoirs is within designated Protected Open Space in the Local Plan and as such for development to be permitted there is a need to satisfy the following criteria set out under Local Plan Policy L3 :

- Sports and recreation facilities can best be implemented, or retained and enhanced through redevelopment of a small part of the site; or
- Alternative open space provision can be made within the same catchment area and is acceptable in terms of amenity value; or
- In the case of outdoor sports and child's play space provision, there is an excess of such provision in the area (measured against the n.p.f.a standard of 2.4 hectares per 1000 population) and such open space neither contributed to, nor has the potential to contribute to, informal leisure, open space or local environmental amenity provision; or
- in the case of educational establishments, the development is required for educational purposes and adequate areas for outdoor sports can be retained or provided elsewhere within the vicinity; or
- the site is allocated for other development in the Local Plan.

Paragraph 123 of the NPPF, states that decisions should aim to identify and protect areas of tranquillity which have remained relatively undisturbed and are prized for their recreational and amenity value for this reason. It is recognised that Broomhill Park has won a Green Flag award in years past. The reservoir site has however, not been accessible to the public for many years and is not set out for use as public open space (even though it is designated as such). It can be argued that the site neither contributed to, nor has the potential to contribute to informal leisure, open space or local environmental amenity provision. The site has not formed part of the useable space of Broomhill Park. It is recognised that there has been considerable concern that this proposal would result in the loss of a much loved open space, which is home to wildlife and enjoyed by so many. It is also acknowledged that there has also been concern raised with regard to the precedent this development may set for other such 'developments' in the area, or within the park itself.

The site constitutes previously developed land, and in itself forms a small proportion of the designated protected open space, as indicated on the proposals map of the Medway Local Plan 2003. The site is not however a useable plot of land. The impact on the workings of the park, and the local environmental amenity is considered negligible, and a scheme of exceptional design utilising the former reservoirs is likely to result in an improvement to the visual appearance of the site above and beyond what is currently experienced. The development to the rear, backing onto the sun dial, will be barely visible (apart from the very top glass stair well element). No useable part of Broomhill Park will be affected and the 10 year vision, which is clearly set out within the '*Broomhill Park - 10 Year Vision Document 2013 -2023*', will remain unaffected by the development itself. The concern in terms of setting precedent is unfounded given that the remainder of the park is useable open space, none of which falls within the definition of previously developed land. The proposal itself is bespoke, one of its kind, making use of existing features of the site and sites comfortably within the existing topography. Generally speaking, the open space and landscape will be affected in a very minimal, yet sensitive way.

A sensitive approach to additional landscaping and boundary treatment is advisable and appropriate conditions are recommended. Any landscaping could aid in mitigating against the impact the development may have on the open space at this hill top location.

Overall, it is considered that the proposed scheme accords with the provisions set out under Local Plan Policies BNE6 and L3. An the provisions set out in the NPPF.

Biodiversity/Ecology

An Ecological Survey has been submitted and accompanies this application. The ecological scoping report was carried out in 2011 and as such, there have been concerns that information provided within it would not be valid. Nevertheless, the reptile survey was carried out in 2014 and the information provided within the report has confirmed that there have been no significant changes on site since the original survey was carried out.

The proposal would result in the loss of suitable habitat for breeding birds and foraging bats and it is disappointing that no specific survey has been carried out to assess the impact from the loss of habitat as a result of the proposed development. However, it is accepted that for this application, there is sufficient information but to minimise the impact, the landscaping proposed for the development site is designed to be beneficial for bats and breeding birds.

A reptile survey has been carried out on the proposed development site and receptor site and identified that reptiles are present. Sufficient information has been provided to ensure that if planning permission is granted, that the proposed receptor site is appropriate as a receptor site. A detailed mitigation strategy is required by condition.

The proposed reptile site is to the south of the proposed development site. It is advised that this is also managed to enhance its suitability for bats and breeding birds and an appropriate condition is recommended.

The proposed development site is within a larger area of green space. As such the impact the proposed development would have on the wider area, particularly the impact of lighting on the surrounding area, needs to be considered. The site sits adjacent to a woodland area and as such an increase in lighting may have a negative impact on the site and any protected/notable species present within the surrounding area. Much of the lighting will emanate from the front of the development, at lower ground level than the existing. The wooded area to the south and land to the rear and north will hardly be affected by light from the dwellings, given that these remain underground, within the existing shell of the reservoir containers. There amount of light spill resulting from two units in this regard is likely to be minimal.

Subject to the above mentioned conditions, no objection is raised to the proposal under the provisions set out under Local Plan Policies BNE22, BNE37 and BNE39.

Trees

No trees would be affected by the proposed development and as such no objection is raised in this regard.

Public Right of Way

It is important that existing public rights of way are protected and enhanced (paragraph 75 of the NPPF). The proposal would not encroach on to the public right of way, which runs in front of and to the side of the development site. Cars associated with the site would need to cross the public right of way to reach the site, but this would not prevent the footways from being publicly used. Consideration in terms of pedestrian safety in this regard will be considered under the Highways section below.

No rights of access will be lost.

There are no objections to the proposal under the provisions set out under Local Plan Policy L10.

Land Contamination

The environmental health issue raised by this application is contamination. The applicant has submitted a desk study report in support of this planning application. The desk study includes a site history, site walkover, information on the geology and hydrogeology at the site. A conceptual site model has been developed for the site. The desk top study recommends that a site investigation is undertaken to support the conceptual site model. Appropriate conditions are therefore recommended.

In addition to land contamination issues, the site is also located within a source protection zone. The Environment Agency has advised that they do not consider this proposal to be high risk and as such have not provided detailed site specific comments with regard to this matter but would appreciate being informed if contamination is subsequently identified poses a significant risk to controlled waters. The developer should address risks to controlled waters from contamination as the

site, following the requirements of the National Planning Policy Framework. Appropriate conditions are recommended.

There are no objections to the proposal on ground water and land contamination grounds and is therefore considered acceptable under the provisions set out under Local Plan Policy BNE23 and the requirements set out in paragraphs 120 and 121 of the NPPF.

Highways

The proposed development will utilise the existing surfaced access to the reservoir/Park site. Concern has been raised with regard to the loss of two bollards (one on the surfaced part of Gorse Road, on access to the site, and the other on the unsurfaced part). It is not the applicant's intention to remove the bollard preventing access to the park from the unsurfaced part of Gorse Road. The bollard at the proposed access to the site will be replaced with a new bollard, allowing key fob entry to those occupants of the proposed new dwellings, in addition to others who have right of access to the site in this manner. There will continue to be a deterrent for unauthorised access in this regard and as such it is not envisaged that anti-social behaviour/activities will resume as a result of the development.

The access is wide enough for one car to access and egress the site, and is single lane but in relatively good condition. The proposal is for two units, which will benefit from two parking spaces each, in accordance with Medway Council's Vehicle Parking Standards. The access is acceptable in terms of the low level of use the development would afford to it, and is considered adequate in this regard.

Details of the proposed hard standing for the car parking spaces has been indicated in the submission, with reference made to a paved self draining courtyard, however, full details of this, including drainage details, are conditioned for later approval.

The level of traffic and additional traffic generation as a result of the development would be negligible. Emergency vehicles would be able to access the site effectively and the access to Gorse Road would be unaffected.

The impact of cars associated with the two units, which would have to cross a public right of way, is low and potential impact on pedestrian safety would be low, as the rights of way themselves, although well used, are not heavily trafficked all of the time.

There are no objections to the proposal under the provisions set out under Policies T1, T2 and T13.

Other Matters

Members of the Committee are fully aware that loss of view (as opposed to impact on outlook) is not a planning consideration.

There have been concerns raised with regard to the security of the site and a feeling of safety, which would be diminished as a result of the development. In response to

this, it is considered that a permanently occupied site would improve security of the area, making it less likely that anti-social behaviour (fires, vandalism and such like) would re-occur or continue to happen. The development, being predominantly underground, is unlikely to affect natural light afforded to the public rights of way and as such the safety of pedestrians using these footways will not be impinged.

Concern has been raised with regard to the strain additional houses will have on resources in the area, namely water, sewerage, fire service and ambulance. Two additional units in this location are unlikely to cause additional strain on these resources. The development is small scale and will be able to make use of existing facilities in the area without causing harm to others.

Reference has been made, via representation to the planning application, to previous planning refusals at the site. There are no records of any proposals for residential use of the reservoirs, and no relevant planning history in this regard.

Concern that the engineering works to the front of the two units would not be able to be carried out as there is not the room. There is considered suitable space within the site, as shown on the plans to carry out the works, and all works would need to comply with British Standards, and be cleared by Building Regulations in this regard.

Local Finance Considerations

There are no local finance considerations relevant to this development.

Conclusions and Reasons for Approval

In summary, the former reservoir site is considered to be previously developed land given its previous use. The site is not physically accessible to the general public and has limited open space value for the reasons discussed. Whilst the site is designated in the Local Plan as open space, it is considered that it does not fulfil the true purposes of this designation and is therefore suitable for residential development subject to exceptional design reflecting the prominence of the site and the visual relationship with the Park.. The development is acceptable in terms of its impact on the street scene and character of the local area by way of design and layout for the reasons given above, and there are no concerns raised with regard to amenity protection. Matters relating to ecology and land contamination can be mitigated against and appropriate conditions are recommended.

As such the proposed bespoke scheme for two residential units, which utilise the existing reservoir containers, and will predominantly be underground, are in general accordance with the above mentioned Development Plan Policies, and can be considered an exception to Policy L3 Protected Open Space. Despite being a departure from this Local Plan Policy, there has been sufficient justification and reasoning given to allow for the development of this site. As the proposal is a justified departure from the Local Plan, it is hereby recommended for approval.

The application would normally fall under Officer delegated powers of determination, but is being reported to Committee due to the high number of representations received expressing a view contrary to the recommendation.

Cllr Hubbard has requested that the application be reported to Committee for determination due to the sensitive location of the site.

The application was reported to the Planning Committee of 4 February 2015 but deferred to enable a Member Site Visit to be undertaken.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>