

MC/16/2656

Date Received: 17 June, 2016

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

Proposal: Construction of one 4 bedroomed and one 3 bedroomed detached dwellings constructed within the existing underground reservoir with associated parking and external works - resubmission MC14/3309

Applicant: Mr Thomas

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

Ward Strood North

Case Officer Majid Harouni

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 16 November 2016.

Recommendation - Approval subject to;

A. The submission of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to secure £223.58 per new dwelling towards Designated Habitats Mitigation.

B. And the following 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 nos 2066-001 Rev D, 2066 - 002 Rev C, 2066- 003 Rev D, 2066-004 Rev D, 2066-005 Rev D, 2066-007 Rev A, 2066-008 Rev A, 2066 - 013, 2066 - 022 Rev B, 2066 - 023 Rev A, 2066 - 024 , 2066 - 027 Rev B received on 20 June 2016

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

- 3 No development above slab level shall take place and the parking area shall not be provided 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 sedium 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; In the interests of the visual amenity of the area and to accord with policy BNE1 of the Medway Local Plan 2003.

- 4 Notwithstanding the details submitted with the application, no development above slab level shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping (hard and soft) 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 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 Policies BNE1 and BNE6 of the Medway Local Plan 2003.

- 5 No development shall take place (including ground works and vegetation clearance) until a detailed Ecological Mitigation Strategy and Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Ecological 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 Ecological Mitigation Strategy and Management Plan shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on protected species and in accordance with Policies BNE35 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: Required before commencement of development to avoid any irreversible detrimental impact on human health and water courses as a result of the potential mobilising of contamination and 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: Required before commencement of development to avoid any irreversible detrimental impact on human health and water courses as a result of the potential mobilising of contamination and 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: Required before commencement of development to avoid any irreversible detrimental impact on human health and water courses as a result of the potential mobilising of contamination and 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: Required before commencement of development to avoid any irreversible detrimental impact on human health and water courses as a result of the potential mobilising of contamination and 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 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A - H (inclusive) and Part 2, Classes A - C (inclusive) 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, in accordance with Policies BNE1 and BNE2 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: To ensure that the development permitted does not prejudice conditions of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

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

Proposal

Construction of one 4 bedroomed and one 3 bedroomed semi detached dwellings constructed within the existing underground reservoir with associated parking and external works - resubmission MC14/3309

Site Area/Density

Site Area: 0.19 hectares (0.469 acres)
Site Density 10.52dph (4dpa)

Relevant Planning History

MC/14/3309	Construction of 1no 4 bedroomed and 1no 3 bedroomed detached dwellings constructed within the existing underground reservoir with associated parking and external works Decision Refusal
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Decided 5 March, 2015
Appeal dismissed 25/02/2016

- MC/02/1279 Application for prior approval under part 24 of the General Permitted Development Order 2001 for installation of a 15 metre high slim-line 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 letter to the owners and occupiers of neighbouring properties.

A petition with **40** signatures, **67** letters individual letters including a letter on behalf of friends of Broom Hill have been received raising objections on the following grounds:

- The previous application was dismissed on appeal and this is very similar to that application. The Council should not have been entertained this new application.
- Site is within protected open space. The proposal would significantly undermine the protected open space and would set precedent for similar developments in the Broomhill Park.
- The proposal would result in loss of open space.
- The development has no benefits for the community if this is granted.
- Proposal conflicts with the '10 year vision' for Broomhill Park (Broomhill Park - Ten Year Plan 2013-2023).
- 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 impact on the public footpath which runs along the in front and side of the application site.
- 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 proposed dwellings would be out of character in this area.
- No fires/vandalism has 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.

- 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 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.
- The proposal 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.
- Previous Application has been refused for the site.
- The development will obstruct views. These views are greatly valued by local residents and visitors.

Environment Agency raises no objection to the proposal. The Agency provides 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.

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

KCC Ecology The bat survey report and recommendation is acceptable.

Kent Police has no objection

Local MP Kelly Tolhurst has written in (on behalf of Mr Webb who also has written in twice) expressing similar views as the local residents.

Open Space Society The site is in an area of natural beauty and should be protected. This park has been awarded Green Flag status for the past 5 years.

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

Background

Following a Members' site visit, a similar scheme under ref MC14/3309 was refused by the Planning Committee for the following reason in March 2015.

"The application by virtue of its location and design is contrary to the provisions set out within Medway Local Plan (2003) Policies BNE1 and L3 and the National Planning Policy Framework (2012), having a detrimental impact on the character, appearance and functioning of the Protected Open Space of Broomhill Park. The appearance and design of the scheme does not represent 'exceptional design', enough to warrant a departure to the Development Plan Policies in this instance."

An appeal against the Council's decision was lodged and the planning inspector in dismissing the appeal on 25/02/2016 made the following comments:

Paragraph 4: the site is located within the designated protected open space (Policy L3 of the Local Plan).

Paragraph 5: site is a previously developed land as defined by the National Planning Policy Framework.

Paragraph 7: there is no current right of public access to any of the site such that it can offer an opportunity for sport or recreation. However, it may have public value as a visual amenity and may have some environmental value.

Paragraph 10: The design of the dwellings is very modern. ...this form of design reflects the nature of the site itself, reusing the space within the reservoirs and retaining parts of the walls from those structures, and is isolated from surrounding development by the park and woodland.

Paragraph 11: The sides of the first floor of the proposed dwellings are slightly above ground level and this insures that they would not be visible except in views from a close range. Although visible, they would not dominate the surrounding footpaths or parkland and could be partially disguised from view with appropriate landscaping such that they would not harm the visual amenities of the surrounding park.

Paragraph 12: The proposed pavilions are positioned above the main roofs of the building and would be visible from close views within the park between existing

landscaping as well as longer range views....In standing above the roof of the main part of the proposed buildings they would appear somewhat incongruous, with no apparent relationship to the surrounding land. The pavilions contain a lot of glass that, when illuminated would draw attention to the buildings during the evenings and night time. Domestic paraphernalia that may be provided on the balconies would further add to this impact on the visual amenity of the park.

Paragraph 13: ...Broom Hill is the focal point in views from Rochester Bridge with the top of the hill, of which the site forms part, being prominent as the highest point. From this viewpoint, the hilltop is dominated by the trees surrounding the site and the telecom mast, most of which is visible from the bridge. In this context, the top of the closest pavilion would be visible above the lower landscaping on this side of the site, framed by the surrounding trees and mast, **although the remainder of the development would not be visible.However, this pavilion would harm the visual amenity of the park when seen from wider views including that from Rochester Bridge.** From other views, the site is better screened by more mature landscaping such that there would be no effect on visual amenity when viewed from these directions.

Although visible, they would not dominate the surrounding footpaths or parkland and could be partially disguised from view with appropriate landscaping such that they would not harm the visual amenity of the surrounding park.

In paragraph 14: The Inspector refers to the issues relating to parking and access elements of the appeal case and said:

"The proposal would see the access drive sunk into the ground to provide access to the new dwellings. This ensures that parking and domestic paraphernalia to the front of the dwellings would be largely hidden out of sight from most views from the surrounding park and footpaths. There would not be harm to the visual amenity of the open space from this aspect of the development."

Paragraph 17: Based on the evidence before me it is unlikely that this site would be incorporated into the park in the foreseeable future.

Paragraph 19: ... there have been issues with anti-social behaviour in and around the site. I consider that the issues with altering the bollards to allow access could be overcome and that provision of dwellings in this location may improve security as a residential use is likely to discourage such anti-social behaviours.

Principle

In determining the appeal against the previous decision, the Inspector stated that the dwellings would provide an acceptable re-use of this previously developed site. As such there is no objection in principle to the site for residential development.

Street Scene, Character and Design

The previous application and the subsequent appeal are material in considering this current application. In determining the appeal, the Inspector concluded that,

"The design of the dwellings is innovative and would provide an acceptable re-use of this previously developed site. However, the pavilions proposed

on the roofs of the dwellings would adversely affect the visual amenity of the open space at Broomhill Park and this would cause harm to the environmental value of the site by reason of the visual impact. As such, the proposed development would adversely affect the character, appearance and functioning of the open space at Broomhill Park such that the proposal would be contrary to the Framework and Policies BNE1 and L3 of the Medway Local Plan (LP) that require development to be appropriate in relation to the character, appearance and functioning of the built and natural environment'.

This application is a revision of the application that was refused. The revised design involves the removal of the glazed pavilions and the lowering of the height of the main spine feature walls. All other elements of the design remain the same. The main consideration therefore is whether the revised design elements are sufficient to address the concerns with regard to the impact on visual amenity raised by the Inspector.

The proposed development and indeed the proposed design approach are considered to assist in the enhancement of the local character of the area. The proposal includes construction of two houses within two former sunken water reservoir tanks in a 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 top cover (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 would be 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 for the future occupier of each dwelling.

The two storey houses would fit within the reservoir to the extent that the buildings will be almost completely hidden from outside view by the earth mound. Only the edge of new grass covered roof will be visible above this level. The proposed dwellings will be screened by the existing boundary hedge and trees and will have no 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.

Paragraphs 56, 58 and 61 of the NPPF and Policy BNE1 of the Local Plan collectively advise 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 would be barely visible to anyone other than inhabitants of the houses - despite the hill top location.

Notwithstanding the details provided within the application, a condition regarding the submission of details of materials is recommended.

These dwellings would have flat roof and any roof addition involving increase in the roof height would require planning permission. However to control other future development that would ordinarily be achieved under householder permitted rights a condition is recommended to remove these rights.

Overall, the proposal takes 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 with the surrounding built and natural environments. The proposal would still provide a contemporary high quality residential scheme which would create a sustainable living environment for future residents of the site but adequately addresses previous concerns raised and would be without detriment to the amenity of the surrounding area.

It is considered that the proposal accords with the paragraphs 56, 58, 61 and 63 and Policies BNE1 and H4 of the Local Plan.

Amenity

Point four of paragraph 17 of the NPPF and Policy BNE2 of the Local Plan seeks to protect the amenities of existing and future occupiers of residential properties.

Each of the proposed dwellings is of a generous size. The smaller dwelling exceeds the Technical Housing Standards - nationally described space standards 2015 by a factor of almost two, whilst the larger house is almost three times larger than that required by the 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.

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. It is also acknowledged that the houses are bespoke and would be occupied by people choosing a particular lifestyle.

Given the location of the development away from other residential properties and that these units would 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 daylight. 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. As mentioned above, in considering the appeal, the Inspector felt that the issue of altering the bollard to allow access could be overcome.

The proposal is considered to be in accordance with point 4 of paragraph 17 of the NPPF and Policy BNE2 of the Local Plan.

Open Space and Landscape

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, 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 not be visible. 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 sits comfortably within the existing topography. Whilst the introduction of this

proposal will change the appearance of the open space and landscape, it will do so in a very minimal and 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 paragraph 123 of the NPPF and Policies BNE6 and L3 of the Local Plan.

Biodiversity/Ecology

The proposal would result in the loss of suitable habitat for breeding birds and foraging bats. However, it is accepted that there is sufficient information 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. The 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 paragraph 118 of the NPPF and Policies BNE22, BNE37 and BNE39 of the Local Plan.

Trees

No trees would be affected by the proposed development and as such no objection is raised in this regard and the proposal is considered to be in accordance with Policy BNE43 of the Local Plan.

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. On this basis the proposal is considered to be in accordance with paragraph 75 of the NPPF and Policy L10 of the Local Plan.

Land Contamination

The desk study carried out in relation to potential contamination at the site 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.

Subject to the imposition of the suggested conditions, the proposal is considered to be in accordance with paragraphs 120 and 121 of the NPPF and Policy BNE23 of the Local Plan.

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. In fact in considering the appeal, the Inspector stated that "the proposed dwellings in this location may improve security as a residential use is likely to discourage such anti social behaviours".

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, it is recommended that 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 of the Local Plan.

Other Matters

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.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest.

Natural England has advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officer costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014.

The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicant has agreed to pay this tariff and has submitted a unilateral undertaking. No objection is therefore raised under Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Local Finance Considerations

There are no local finance considerations relevant to this development.

Conclusions and Reasons for Approval

In summary, following the dismissal of the appeal, the applicant has amended the proposal to address previous concerns with regard to the visual impact. The site is not 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.

The proposed bespoke residential dwellings are in accordance with the NPPF and the Local Plan and can be considered an exception to Policy L3 of the Local Plan (Protected Open Space). Despite being a departure from this Local Plan Policy, having regard to the Inspector's assessment of the previous application, there has been sufficient justification and reasoning given to permit this modern development on this previously developed land. 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 number of representations received expressing a view contrary to the recommendation.

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/>