

MC/18/1595

Date Received: 25 May 2018

Location: Broom Hill Reservoir Gorse Road Strood Rochester

Proposal: Construction of 4 detached dwellings with associated access and parking together with removal of the existing water reservoirs and infilling with new landscaping

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Ward: Strood North Ward

Case Officer: Majid Harouni

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Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 26th June 2019.

Recommendation – Approval subject to:

- A.
- i. To secure the transfer of ownership of land marked red as identified in drawing 2066-124 Rev B as area A (about 3179msq) to the Friends of Broom Hill to be used as an integral part of Broom Hill Park.
 - ii. Prior to the implementation (i) above to carry out fill and restoration works of the land shown in the drawing 2066-124 Rev B as area A involving fill of the site of the reservoir using cut and topsoil materials excavated from the area shown in drawing 2066/124 Rev B as area B (the application site) only.
 - iii. To pay a dowry of £42K towards long term management and up keep of the area A.
 - iv. Revocation of planning permission granted under ref MC/16/2656 for two detached dwelling houses.

- v. A contribution of £958.44 toward Habitats Regulations (mitigation against Wintering Birds).

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 numbers 2066-116 Rev C, 2066-119 Rev B, 2066-120 Rev B, 2066-121 Rev B, 2066-122 Rev B, 2066-123 Rev B, 2066-124 Rev A , 2066-128 and 2066-129 received on 29/05/2018, 17/07/2018 and 09/05/2019.

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

- 3 No development shall take place until a scheme of operation to include specification details of scheme of excavation of the residential land, infill of the reservoir land and realignment of the Gorse Road have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: Required prior to commencement of development to ensure that the development does not prejudice conditions of amenity and highway safety in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 4 No development above slab level of the houses hereby approved shall be carried out until, full details of both hard and soft landscape works, with respect to the residential dwellings and restored Ex- reservoir land shall have been submitted to and approved in writing by the Local Planning Authority. The soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate, boundary treatment of the residential area. The development shall be implemented in accordance with the approved details and 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.

Reason: To ensure a satisfactory external appearance and provision for landscaping and restoration in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003 and 170 of the NPPF.

5 In this Condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of 5 years from the date of occupation of the building for its permitted use.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written approval of the Local Planning Authority.

Reason: 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.

6 No development above slab level shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented 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.

7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or similar openings shall be constructed in the northwest flank elevation of the house on plot 1 and southeast flank elevation of the houses on plot 4 without the prior written approval of the Local Planning Authority.

Reason: To regulate and control any such further development in the interests of amenity and protection of privacy for neighbouring properties, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 8 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a method statement, and obtained written approval from the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with.

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 Prior to the first occupation of any dwelling herein approved details of the refuse storage arrangements for the dwellings, including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved refuse storage arrangements for that dwelling and/or building are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 10 Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential of the adjoining properties and in compliance with Policy BNE2 of the Local.

- 11 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include: height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use] together with a report to demonstrate its effect on: the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans), the rural landscape, views of the site from the nearby residential properties, bats (including reference to the

recommendations of the Bat Conservation Trust)] and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.

Reason: In order to limit the impact of the lighting on the landscaping of the site, the surrounding landscape and heritage features, nearby residents and wildlife] and with regard to: Policies BNE2, BNE5, and BNE39) of the Medway Local Plan 2003.

- 12 The dwellings herein approved shall not be occupied until the area shown on the submitted layout drawing 2066-119 Rev B as vehicle parking space and carport has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

- 13 None of the dwellings hereby permitted shall be occupied until the Southern Water Reservoirs land has been fully restored and landscaped in accordance with the terms of the conditions no 3 and 4 of this planning permission and written approval of the LPA.

Reason: To ensure that the restoration works and associated landscaping works are satisfactorily implemented and in compliance with policy L3 of the local plan.

- 14 Prior to works commencing a detailed ecological mitigation and enhancement strategy must be submitted to the LPA for written approval. It must include the following:

- Updated preliminary ecological appraisal.
- Updated reptile surveys
- Additional specific species surveys recommended as part of the preliminary ecological appraisal.
- Overview of the proposed mitigation
- Methodology to implement mitigation
- Map showing the mitigation / enhancement areas
- Details of any enhancements to be carried out and length of time for establishing it
- Timings of the proposed works.
- Details of who will be carrying out the works

- Simple management plan for the mitigation/enhancement areas until the site wide management plan is implemented.
- Details of other enhancements to be incorporated in to the site.

The works must be carried out as detailed within the approved ecology mitigation measures and long term enhancement strategy.

Reason: In the interests or protection of wildlife and protected species and in compliance with Policies BNE37 and BNE39 of the Local Plan.

- 15 Within three months of works with respect to the development hereby approved commencing a detailed ecological management plan is produced and submitted to the LPA for written approval. This must include the following:

- Details of the habitats to be managed
- Details of the aims/objectives of the management
- Rolling 5 year management plan
- Details of enhancements to be incorporated in to the site.
- Details of who will be implementing the management.
- Details of ongoing monitoring

The works must be carried out as detailed within the approved strategy and long term management of the receptor site.

Reason: In the interests or protection of wildlife and protected species and in compliance with Policies BNE37 and BNE39 of the Local Plan.

- 16 No development above ground floor slab level of any part of the development hereby approved shall commence until details of the specification of bird boxes on the buildings and their precise locations have been submitted to and approved in writing by the Local Planning Authority. The approved bird boxes shall be erected/installed in accordance with the approved details before individual dwelling houses are occupied and the boxes shall be retained thereafter.

Reason: In order to compensate for the present potential wild life and birds nest sites in accordance with Policy BNE37 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

This application is for the construction of 4no detached dwelling houses comprising:

- Plots 1 and 4 - two storey 4bed houses with 3rd floor only containing a roof gallery and roof terrace area,

- Plots no 2 and 3 - 4bed houses on 3 floors with 2 bedrooms and a garden room on the second floor, lounge, kitchen and family room with balcony on the first floor, 2 bedrooms and bathroom on the ground floor level.

Change of the land levels involving excavation works to sink the ground floor level of the proposed dwellings into the hill.

The proposal would also involve the construction of a carport with covered green roof for 6 cars and further 6 on-site car parking spaces and associated access road.

Use of the resulting excavated materials to be used for the fill and restoration of the ex-Southern Water reservoir land and new landscaping.

Transfer of the freehold of the reservoir land (forming the development land of MC/16/2656) to the Friends of Broom Hill Trust for use as public open space and part of Broom Hill Park.

Realignment of the eastern section of Gorse Road further to the east.

Site Area/Density

Site Area: 0.4 hectares (1 acre)

Site Density: 10 dph (4dpa)

Relevant Planning History

MC/16/2656	Construction of one 4 bedroomed and one 3 bedroomed detached dwellings constructed within the existing underground reservoir with associated parking and external works Decision Approved 22/11/2016
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 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/00/1547 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; an extension of the 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 and by individual neighbour notification to the owners and occupiers of neighbouring properties.

14 letters have been received expressing the following comments:

- Any construction on Broomhill would ruin its appearance and encroach onto a valuable green space. These recreational spaces are becoming scarce in the Medway towns.
- The planning case should not be influenced by the land swap.

- The land in question is designated protected open space, though recently enclosed by the developer it still offers visual amenity and is a natural habitat for protected species, local flora and fauna.
- The park, open space and allotments should be seen as a whole and not cut in half by development.
- Development in this particular area would be the most undesirable intrusion of residential houses into an area of public open space and will be visible in the skyline.
- There is a deficit of amenity greenspace in the local area, the potential impact that a proliferation of such schemes would have on the quality and functionality of the land in question and the precedent it would set is wholly undesirable.
- The recent approval of MC/16/2656 for 2 dwellings should not become precedent for more development.
- The proposed three-story buildings are in complete contrast to the houses nearby, which are in the main, bungalows.
- Three storey houses would be at the apex of the hill and would be visible from wider surrounding and affect the visual amenity of vast areas.
- These recreational spaces are becoming scarce in the Medway towns and I hope that the council will reject this application and protect Broomhill for future generations to enjoy.
- The proposed design may be contemporary and striking but it is also totally inappropriate to the area.
- The access is patently not suitable for vehicles, removal of the bollard will open up access to all and lead to more anti-social behaviour and the park will be overrun with car racing maniacs.
- The houses will cause overlooking particularly when trees are without leaves.
- The height of the buildings will make them too intrusive as they could be seen from Rochester. They will look totally out of place and not in keeping with the street scene but they are hardly on a street - they are in an open green space!
- It is a habitat for bats, birds, slow worms, hedgehogs and much more. It will completely change the nature of the area.
- The access road is narrow and well used by pedestrians who are often forced into the hedge by cars - this development would increase the traffic considerably.
- Gorse Road is a narrow single-track road with no pavement, which can at times already be a danger to pedestrians, cyclists and is a hazard for use by emergency vehicles.
- The junction of Gorse Road and Westergate Road is already a hazard with the increase in parked cars since the house was built in Gorse Road below the allotments. This junction is also used for parking, pulling up to the gates by those attending their allotments. Cars park on both sides right up to the junction causing a lack of vision on the junction, along with a lack of sufficient space for an emergency vehicle to use Westergate Road to access Broomhill.

KCC ecology has reviewed current aerial photos and are satisfied that the habitats on site have not significantly changed since the survey data 2017; therefore no additional surveys are required to determine the planning application. However, if planning permission is granted an updated reptile survey will have to be carried out to inform a detailed reptile mitigation strategy including translocation and how the area will be managed to support the reptile population. Appropriate conditions are recommended.

The ecological appraisal has confirmed that there is suitable habitat within the site for breeding birds. All breeding birds and their young are protected under the Wildlife and Countryside Act 1981 (as amended) and therefore advise that an informative in this regard is added to any permission.

One of the principles of the National Planning Policy Framework is that *“opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”*. Therefore if planning permission is granted we recommend that a condition is imposed seeking ecological mitigation, enhancement and management plan for the site.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 and are considered to conform.

Planning Appraisal

Background

The site is within the urban area of Strood, designated public open space and adjacent to Broomhill Park. The land rises from west and south toward the east and north. There are allotments along the southwest boundary of the application site and residential properties to the north, south and west, beyond the allotments. The area has a mixed type of properties including two-storey detached, semi-detached houses, and chalet and bungalow dwellings.

Gorse Road is a “U” shape single track narrow road with an unmade surface in parts and is primarily limited to pedestrians and residents access use only. A collapsible bollard allows access for emergency vehicles and local residents.

The proposal would involve the relocation of the existing bollard further up the road beyond the proposed vehicular access for the houses. This would still restrict access as currently exists.

Members will recall that planning permission was granted in November 2016 (MC/16/2656) for the erection of 2 detached dwelling houses with associated car parking

and amenity/garden area on the Reservoirs Site in Broom Hill. The applicant is now proposing not to build out the 2 houses on the Reservoir land and instead to restore and landscape the land and transfer its freehold ownership to the Friends of Broom Hill. This would enlarge the extent of the accessible Broom Hill Park by about 3179sqm.

It is understood that the proposal with regard to the land transfer and restoration works are the outcome of extensive discussions and negotiations between the applicant and the Friends of Broomhill.

In addition the Council's green space officers provided valuable technical advice about specification of the surfacing materials for the proposed footpaths across the reservoir site and appropriate low maintenance landscaping to ensure that the restored area integrate seamlessly with the rest of Broomhill park.

In addition, the applicant proposes to provide a dowry of £42K for the maintenance of the transferred land for the next 15 years post completion of the restoration and landscape works.

In return, the applicant is seeking planning permission for the erection of 4 no detached houses with associated access drive and car parking on the land to the southwest of the reservoir site. The proposed residential land is enclosed by the allotments site from the southwest and Gorse Road from the north and east.

Due to the topography of the land, the proposal would involve excavation works in order to sink the houses into the brow of the hill. The soil material resulting from the excavation works will be used as fill materials for the restoration of the site of the reservoir as shown in drawing 2066-124 Rev B.

Although Medway local plan's proposal map shows both sites A and B (as shown in drawing 2066/124 Rev B) and the wider Broom Hill park to be within designated public open space; neither the Reservoir site nor the application site are accessible to members of the public, as these areas are within private ownership (the applicant) and fenced off and are not being used as public open space.

The proposal would change the ownership of the Area 'A' land to the Friends of Broom Hill Park, enlarge the Broom Hill Park, and enable the public to have access to and benefit from a larger public open space.

The proposal will also require realigning the Gorse Road/RR5 footpath slightly. This is a separate legal application process which the applicant/developer will need to undertake under the terms of TCPA 1990 and Highway Act 1980 to apply for public Path Diversion Order.

Principle

The National Planning Policy Framework 2019 expects local planning authorities to approve proposals that accord with the development plan without delay, encourage the effective use of land by reusing previously developed land, and consider housing applications in the context of the presumption in favour of sustainable development in order to significantly boost the supply of housing.

As stated above, the application site for housing and the ex-Southern Water Reservoir site and Broomhill Park are designated Protected Open Space but not accessible to the public.

These sites have become overgrown and separated from the wider Broomhill Park and as a result, they have not functioned as a useable part of open space/parkland, in particular since the designation of the park as protected open space in the local plan in 2003.

Bullet point (ii) of Policy L3 of the Local Plan stated that development which would result in loss of existing formal open space will not be permitted unless:

“Alternative open space provision can be made within the same catchment area and in terms of amenity value”.

As identified above the applicant is seeking a land swap for housing development. The proposal will result in the development of 0.4 hectares of land for 4 houses with associated parking and permanent return of an area of land, about 3179sqm (land area approved for two dwelling houses under MC/16/2656) to be used as part of Broom Hill Park and public open space.

The proposal will increase the extent of usable and accessible public open space. This would represent a significant community benefit and potential to enhance local ecology.

It is considered that subject to the terms (i) to (iv) of section 106 above the proposal would be acceptable having regard to the requirement of Policy L3 of the local plan and paragraph 118 (a) of the NPPF.

The proposed land for residential development is on the edge of Strood residential area, Broomhill Park and is accessible from Gorse Road. The site is close to residential properties, local amenities and services. The application site is well placed for a small residential development under the provisions of Local Plan Policy H4 (Housing in Urban Areas), which considers residential development and infilling for residential purposes to be acceptable in principle providing a clear improvement in the local environment will result.

The proposal would provide 4 new much-needed houses; a net increase of 2 additional dwellings having regard to the two houses previously approved under MC/16/2656 which will be revoked as part of this application.

The proposal would significantly improve the overall appearance of this untidy and overgrown site by the introduction of 4 contemporary designed houses with appropriate landscaping along the site boundaries and providing access to much larger public open space provision by restoration and transfer of the freehold of the ex-Southern Water reservoir land.

It is therefore considered the proposed development to be acceptable in principle under the provision of Local Plan Policies H4 and L3 and the National Planning Policy Framework.

However, the overall acceptability of the proposals is subject to the detail and how well the development will integrate into its setting and respond to the character of the area, as well as matters of design and neighbouring amenities. These matters will, therefore, be addressed in more detail below.

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 the development is appropriate in relation to the character and functioning of the surrounding area.

Section 12 and paragraphs 124 to 132 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 131 of the NPPF advises that '*In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*'

The application site is currently a neglected site, providing limited value to the area and to Broomhill Park.

The area is varied in character due to the presence of Broom Hill Park, allotments, telecommunication Mast and mix of residential designs and styles in the locality. The properties are predominately two-storey houses with some smaller bungalow and chalet units.

The proposed development and indeed the proposed design approach is considered to assist in the enhancement of the local character of the area.

The application site for the houses is on the brow of the hill and overlooks the allotment land to the west and beyond. To minimise the visual appearance of the houses, the proposal would lower the ground levels by excavation in order to sink the buildings well below the existing land natural level. This will allow the ground floor of the plots 1 and 4 and ground and first floor of the plots 2 and 3 houses to be built below the ground levels when viewed from the north and south.

A carport building with green roof along the eastern boundary will screen the development from Gorse Road and Broom hill Park.

The chosen style of the scheme is bespoke house design with flat and terraced roof area and large glazed fenestrations on the rear elevation of the houses.

The proposed buildings are reasonably inventive in their design, offering contemporary design treatment within a landscape setting that has the ability to sit well within the hillside vegetation and punctuate the horizon where the houses are visible.

This is achieved in the landscape through a slot or partial views that reveal built forms through and partially above tree lines in all directions, concealed entrances within courtyard parking and exploitation of the site slope to reduce bulk. A planar architecture then ensures the buildings can be read as a series of planes rather than single objects, supported by recesses to ensure pronounced shadows afforded by an architecture of line, edge and shade.

The proposed siting arrangement would manage the nestling of the scheme into the green horizon of more distant views even though they are high on the Broom Hill slope, while shorter views render buildings largely screened by vegetation/landscaping along the site boundaries from all directions in particular from lower aspects.

The front elevation of the houses which will be primarily single storey will be visible from the access point to the site from Gorse Road, otherwise, the site will be screened by scrub and vegetation. Some degree of the enclosure from the allotment side of the site would be required and this can be achieved by landscaping involving hedge and tree planting. A condition to deal with landscaping issues is recommended.

Whilst the design and external appearance of the resulting development will be particularly different from the other houses in the locality, it is considered, having regard to their sunken position into the brow of the hill and that they would not directly front onto any highway or substantially form part of Gorse Road Street Scene, the development would have little or no impact on the street scene and represent an appropriate form of development that would blend well with its landscape backdrop and wider surrounding.

The proposed carport with a green roof would provide a natural finish to the eastern boundary of the site and screen the development from the northeast and Broom Hill public open space.

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.

The proposed houses on plots 1 and 4 would be on two floors with a total habitable floor area of 208m² each and plots 2 and 3 would be on three floors with a total habitable floor area of 276m² each. These houses are respectively 83m² and 142m² larger than the minimum nationally described space standard by the government in 2015.

The internal layout of the houses does not follow convention. The front door access to the plots 1 and 4 would be from the first floor where the kitchen, dining, family room, lounge and third bedroom located; the remaining 3 bedrooms and the bathroom would be at ground floor level which is below ground level when viewed from the access road area.

With regard to plots, 2 and 3 front door access would be from the second floor where the garden room and two bedrooms located. Kitchen, dining, family room, lounge and utility room are located on the first floor and the remaining two bedrooms and bathroom are situated at ground level. The ground and first floor of these two houses would also be below ground level when viewed from the access road area.

The proposal also would provide a garden amenity area of 12m deep and 240m² with respect to plots 1 and 4 and 18m deep and 360m² with respect to plots 2 and 3. In addition, the back to back distance of the proposed houses and the nearest houses to the southwest would be between 54m to 81m. As such it is considered that the proposed houses would provide a satisfactory living environment for the future occupiers. Furthermore, the proposed rear balconies and use of roof terrace area would not cause significant harm to the amenities of the properties beyond the allotment area to the southwest by reason of overlooking, overshadowing or loss of sunlight or daylight.

In addition, any impact in terms of noise and vibration that could be experienced during the 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 4 residential units, served from the 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.

It is considered that the revocation of the MC/16/2656 and retention of the existing bollard just northeast of the residential development access driveway would help to improve

safety and enjoyment of the public open space by reducing the number of vehicles accessing the northern end of Gorse Road.

To ensure that the development would not adversely impact on the amenities of the local residents during the construction phase a CEMP condition is recommended to deal with the issue.

There are no objections to the proposal under the provisions of Policy BNE2 of the local plan.

Open Space and Landscape

As stated above neither the land for residential development nor the reservoir site have been accessible to the public for many years and are not set out for use as public open space (even though they are designated as such). It can be argued that these sites neither contributed to nor have 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 a considerable concern that this proposal would result in the loss of open space, which is home to wildlife.

It is considered that the proposal to restore and return the reservoir site back to nature and public open space use would significantly improve public open space provision and opportunity for open recreational use of the land.

The restoration works would ensure satisfactory reintegration of the reservoir land with the rest of the Broom Hill Park and sensitive additional landscaping and boundary treatment of the residential site would significantly soften the impact of the proposed houses on the brow of the hill. Appropriate conditions are recommended.

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

Biodiversity/Ecology

An Ecological and reptile survey report accompanied this application. The ecological scoping report was carried out in 2017. The report confirmed the presence of reptiles on both sites. The report is two years old and an updated survey would need to be carried out to inform details of a reptile mitigation strategy including translocation programme.

The integration of the restored reservoir land into the rest of the Broom Hill Park would provide the opportunity for further ecology enhancement. It is, therefore, appropriate to add a condition in this regard.

The proposal would result in the loss of suitable habitat for breeding birds and foraging bats. To ensure that no works commence on site during the birds nesting season a

condition is recommended in this regard. In addition as part of the ecological enhancement of the site, birds and bats boxes should also be installed.

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, 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 any protected/notable species present within the surrounding area. Much of the lighting will emanate from the rear of the houses facing the southwest. The wooded area to the east, southeast and north will hardly be affected by light from the dwellings, given that these will be screened by the green roof carport along the eastern boundary of the site. It is considered that the amount of light spill resulting from the development 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

An arboricultural report is submitted with the application. The report concluded that 4 trees are to be removed and 2 groups of trees require partial removal. The trees that are to be removed are Category C trees and their loss would not adversely impact on amenity provided; as part of the landscaping scheme, appropriate new tree replacement will be planted. Furthermore, the working methodology and arboricultural method statement outlined in the Arboricultural Report will inform the tree protection measures condition during the construction period.

It is considered that subject to the above, protection measures for the retained trees and landscaping condition no objection is raised in this regard and the proposal would be in conformity with Policy BNE43 of the local plan.

Land Contamination

The environmental health issue raised by this application is contamination. As there is no record of any contamination on site it is recommended that a watching brief condition is imposed to deal with this issue.

There are no objections to the proposal on groundwater and land contamination grounds and is therefore considered acceptable under the provisions set out under Local Plan Policy BNE23.

Public Right of Way

Local Plan Policy L10 and paragraph 98 of the NPPF require that the existing public rights of way are protected and enhanced. The proposal would require slight realignment of the Gorse Road/RR5. This will be subject to a separate legal application process which the

applicant will need to undertake under the terms of TCPA 1990 and Highway Act 1980 to apply for public Path Diversion Order.

The proposal would involve temporary disruption to the Gorse Road/RR5 during the construction period in order to implement the development, As this would be for a short period and the right of way access will not be lost there is no objection to the proposal under the provisions of Local Plan Policy L10 and the NPPF.

Highways

The proposed development will utilise the existing surfaced access to the reservoir/Park site and the residential part of the development via Gorse Road. Concern has been raised with regard to the loss of bollard on the eastern end of Gorse Road which restricts access. The applicant has stated the bollard will be retained and relocated beyond the proposed vehicular access to the proposed 4 dwellings. This will allow the residents of Gorse Road to continue enjoying the right of access they currently have.

The relocated bollard will continue to stop unauthorised vehicular access to Broom Hill Park as such, it is not envisaged that the proposed development will add to anti-social behaviour/activities.

The Gorse Road 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 4 houses, which will benefit from adequate onsite 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.

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

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

S106 Matters

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

The obligations proposed comply with these tests because they directly relate to the development.

- i. To secure the transfer of ownership of land marked red as identified in drawing 2066-124 Rev B as area A (about 3179msq) to the Friend of Broom Hill to be used as amenity land forming part of Broom Hill Park.
- ii. Prior to the implementation (i) above to carry out fill and restoration works of the land shown in the drawing 2066-124 Rev B as area A involving fill of the site of the reservoir using cut and topsoil materials excavated from the area shown in drawing 2066/124 Rev B as area B (the application site) only.
- iii. To pay a dowry of £42K as dowry towards long term management and up kept of the area A.
- iv. Revocation of planning permission granted under ref MC/16/2656 for two detached dwelling houses.
- v. A contribution of £958.44 toward Habitats Regulations (mitigation against Wintering Birds).

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 £239.61 per dwelling (excluding legal and monitoring officer's 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 applicants have agreed to pay this tariff and have/are in the process of submitted/submitted a unilateral undertaking. No objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policies S6 and BNE35 of the Local Plan.

Local Finance Considerations

None

Conclusions and Reasons for Approval

The former reservoir site is not physically accessible to the general public and currently has limited open space value for the reasons discussed. Its development for two new dwellings was considered acceptable as the proposal would have brought back into residential use a brownfield land. However, it is considered that its restoration and return to a wider public open space will provide significant long term public benefits and opportunity for ecological enhance.

The proposed site for residential development is also overgrown, fenced off and has very limited open space value, although it is designated as such in the Medway Local Plan.

The site for four houses is close to Strood residential area and is considered to be suitable for residential development. Also, the topography of the land lends itself to remodelling and sinking the proposed houses into the ground to reduce visual impact.

The proposed contemporary and exceptional design of the houses together with green roof carport would help the visual relationship with the Park and the residential properties surrounding. 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. Land contamination issue can be mitigated against by appropriate conditions, recommended.

As such the proposed bespoke scheme for 4 houses, are in accordance with the above mentioned Development Plan Policies and can be considered an exception to Policy L3 Protected Open Space. Despite the proposed houses representing a departure from this Local Plan Policy, the other material planning considerations outlined above provide sufficient justification and reasoning to allow the proposed development.

Subject to the terms of Section 106 contributions sought and the suggested conditions, no objection is raised under Paragraphs 47, 98, 118, 124 to132, 175, 176 and 177 of the NPPF and Policies S6, BNE1, BNE2, BNE3, BNE6, BNE8, BNE23, BNE25, BNE35, BNE39, BNE43, H9, T1, T2, T3, T13 and CF13 of the Medway Local Plan 2003 and the application is 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.

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://publicaccess1.medway.gov.uk/online-applications/>