

Deferred Item 3 REFERENCE NO - 15/500955/FULL			
APPLICATION PROPOSAL			
Residential development to provide 35 dwellings comprising 27 houses and 8 flats; access to Marine Parade; Open Space; Landscaping; Car Parking; Footpath link to Beckley Road and Cycle Storage. (Revised scheme to previously approved SW/10/0050)			
ADDRESS Land At Rear Of Seager Road Seager Road Sheerness Kent ME12 2BG			
RECOMMENDATION Grant subject to conditions and the signing of a Section 106 agreement to require affordable housing; KCC contributions, children’s play equipment, wheeled bins; provision of open space and maintenance plan.			
SUMMARY OF REASONS FOR RECOMMENDATION			
This is a retrospective planning application to effectively regularise differences between the approved scheme under SW/10/0050 and the scheme currently being built on site. I have therefore concentrated my assessment on whether the differences would lead to materially worse harm to local residents. I have considered the impact on local residents in detail and conclude that whilst there will be some harm to their amenities, the current scheme does not make this materially worse. The developer has offered to provide obscure glazing to some windows within the development to lessen the overall impact of the development on the worst affected properties. I consider that the design alterations would be acceptable and the solutions to the garage alteration would ensure that there is no harm to highway safety and amenity. The loss of the footpath is not materially harmful to the scheme in my view.			
REASON FOR REFERRAL TO COMMITTEE			
Ward Members request and significant number of objections			
WARD Sheerness East	PARISH/TOWN COUNCIL N/A	APPLICANT Moat Housing AGENT Ubique Architects	
DECISION DUE DATE 19/05/15	PUBLICITY EXPIRY DATE 31/03/15	OFFICER SITE VISIT DATE 10/03/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	
SW/96/1029	five detached houses	Refused	
<i>Outside of the built up area boundary – Swale Borough Local Plan 2000</i>			
SW/02/0612	Five dwellings	Refused and appeal dismissed	
<i>Outside of the built up area boundary – Swale Borough Local Plan 2000</i>			

SW/10/0050	Residential development to provide 35 dwellings comprising 27 houses and 8 flats; access to Marine Parade; open space; landscaping; footpath link to Beckley Road; and associated parking and cycle parking provision	Approved	
The site is allocated for residential in the Swale Borough Local Plan 2008.			

MAIN REPORT

1.0 BACKGROUND

1.01 Members may recall that this application was reported to the planning committee on 2nd April 2015 where Members resolved that they would carryout a site meeting. This took place on 15th April 2015. The application was then reported back to the 23rd April 2015 planning committee where the Head of Planning Service used his Call-in powers, following a unanimous vote for refusal. A copy of the original report, minutes of this meeting, minutes of the planning working group and minutes of the meeting on 23rd April are appended. The ‘call-in’ power is set out in Part 3 (3.2 Responsibility for Council functions – Page 10) of the constitution.

It reads

- (i) *“That in cases where the committee is minded to make a decision that would be contrary to officer recommendation and contrary to policy and/or guidance, the chairman should invite the head of planning to consider if the application should be deferred to the next meeting of the Committee or if there should be a short adjournment for officers to consider the views of the planning committee and give further advice.*

If the application is deferred, at the next meeting, the Head of Planning should advise members of the prospects of such a decision if challenged on appeal and if it becomes the subject of an application for costs.”

1.02 The key issues raised by Members at the meeting of 23rd April 2015 are (please also refer to the minutes):

- The fact that the development was not built in accordance with the approved plans and development has continued on site;
- The potential increase in on-street parking as a consequence of the reduced size of the garages and;
- Detrimental impact (overbearing) on residential amenities, particularly those living in Seager Road.

1.03 The purpose of this report therefore, is to set out the following:

- remind Members of the starting point for the assessment of this planning application;
- set out what would and would not be defensible and legitimate reasons for refusal;
- set out the Council's chances of being successful at appeal, should the application be refused and;
- set out the implications of refusing planning permission in this case.

2.0 DISCUSSION

Assessment of application:

2.01 Planning permission has been granted for a very similar development at this site under SW/10/0050 and as such, the principle of the residential development of this site was previously accepted. This application is retrospective in that it seeks to regularise differences between the approved scheme under SW/10/0050 and the development that is currently on site. For clarity, the differences between the approved scheme and the current proposal are as follows:

- The houses are 1.44m higher to the ridge;
- The flats (block L only) are 1.2m higher to the ridge;
- The eaves to the houses are 1.7m higher;
- The window design has been altered;
- Balconies have been removed;
- The houses are 1 sq m smaller in footprint;
- The arrangement of the integral garages has been altered making them narrower;
- The internal layout of the ground floor has been altered to remove a toilet and utility room;
- The footpath link between the site and Beckley Road has been removed.

2.02 It is important to note that although this is a fresh planning application for the development, the starting point for my assessment of the development is whether this current proposal (i.e. the development on the ground) would have a more harmful impact on the amenities of the surrounding properties; visual amenities and highway safety/amenity than the approved scheme would have had. It is not appropriate to use this opportunity to review the acceptability of the scheme as a whole. Members must acknowledge that the Planning Committee granted planning permission for the original development. It is the case that the scheme before Members is very similar in many ways to the scheme that was approved. If the original scheme was built as per the approved plans, much of the impact that local residents are experiencing now

would have been experienced. Consideration must now be given to the impact of the differences, in terms of building height, on these residents and the other impacts generated by the changes to the window design and garage size.

- 2.03 I have set out in the appended report my assessment of the potential additional impact that the differences may have. I have concluded that there would be no demonstrable harm caused in this case.

Potential reason for refusal:

- 2.04 Members must be clear that they should not let the fact that this is a retrospective planning application influence their decision on this proposal. Similarly, it is not a legitimate planning reason to refuse a scheme on the basis of the development having been built without complying with the approved plans. In considering this application, Members must focus on the planning merits of the current scheme. If harm is identified, this must be material and demonstrable. I refer now to the planning concerns raised by Members at the last committee meeting.

- 2.05 Members noted the reduction in the size of the garages of the houses and the potential increase in on-street parking. I ask Members to refer to paragraphs 8.14 and 8.15 of the appended report which sets out my conclusions in this respect. Please also refer to the minutes of the meeting on 2nd April 2015 where it is confirmed that KCC Highways have no highway objections to the revised scheme. They state:

'...While the width of the garage has been reduced by 350mm over part of its length, the rear section widens out to over 4m, which would provide ample space for accessing a vehicle. To compliment this, 5 additional communal parking spaces will be provided, so the proposed development would actually have more parking spaces available than the approved scheme. It would not be reasonable to object to the proposed development on any difference in parking provision, as it cannot be considered any worse than the approved scheme.'

- 2.06 If Members do still consider the matter of highway safety to cause demonstrable harm, they need to clarify the type of harm that would be caused. In this case, it would be extremely unwise in my view to identify highway safety harm without the support of KCC Highways.

The impact on highway amenities is perhaps more of a subjective assessment as it focuses on matters such as inconvenience to residents as a result of not being able to park close to their property for example. However, as explained in the appended report and also by KCC Highways, although the width of some of the garages has been reduced, the width at the rear of the building expands to 4 metres thereby allowing ample space for a car to park. This means that essentially, the garages to the houses would continue to provide the same amount of parking as the original 2010 scheme approved by Members. I therefore consider that a reason for refusal of this application on the grounds of highway safety/amenity would be unsustainable at appeal.

2.07 Harm to residential amenities is covered at paragraphs 8.05 – 8.11 of the appended report. The minutes of the meeting indicate that Members' main concern in this respect was the overbearing impact that the proposed properties to the rear of Seager Road would have on the residents of these existing properties. It is my view that if Members were to refuse this application, that this is the most legitimate reason for refusing the scheme and the most defensible should the application be considered at appeal. This is because an overbearing impact is a subjective judgement that cannot be quantified. Members may well, having visited the site and viewed the development from surrounding properties; consider that the development would have an overbearing impact. However, Members should consider the particular properties that may experience this overbearing impact. It is not the case that all of the buildings on the development site would have an overbearing effect. It is my view that the most acute overbearing impact would be on the following properties: 15; 19 and 21 Seager Road. The outlook from the rear of these properties would, out of all the other surrounding properties, be most dominated by the proposed houses. Other surrounding properties in Seager Road and Beckley Road have a distance of at least 26 metres rear to rear. The Barnsley Close properties look directly out over open land to the south. The flats within the proposed development are some 30m distance from the rear of the closest property in Barnsley Close (no. 4) and the proposed houses are to the side of this property thereby resulting in very little impact on the outlook from the rear of this property.

2.08 In conclusion therefore, I consider that if Members were minded to maintain the resolution to refuse this application, they should consider the following as a possible reason for refusal:

“The development, by virtue of the close relationship between the houses in blocks B and C of the development and nos. 15; 17 and 19 Seager Road, in combination with the height of the houses in Blocks B and C, would have a significant and demonstrable overbearing impact on these neighbouring properties to the detriment of their residential amenities. This would be contrary to policies E1 and E24 of the Swale Borough Local Plan 2008.”

2.09 However, I repeat my previous conclusions in respect of an overbearing impact - *It could be convincingly argued that any additional height would increase the overbearing effect. However, the key question is whether the impact would be materially worse. In considering this point, one must have some consideration of the fact that, as set out above, the Seager Road properties would still receive sunlight and daylight to an acceptable degree. Another factor is the design of the buildings themselves which, with articulation to the elevations and rooflines, can often provide relief to what might otherwise be an oppressive elevation. In this case, the houses do offer an interesting, articulated elevation and a varied roofline. This limits the oppressing feeling in my view. I am not persuaded therefore that the scheme as built and the subject of this application would be materially worse in terms of an overbearing impact.*

Chances of the Council's case at appeal

- 2.10 As set out above, I do not consider that refusing this application on the grounds of harm to highway safety/amenity would be justified and am of the opinion that this Council would be likely to lose an appeal for a refusal on this ground. It is also possible that costs would be awarded against this Council in the case of an appeal on these grounds given the fact that KCC Highways, the professional experts in this case, would not support us. Their position is established above.
- 2.11 As set out above, it is my view that the most defensible reason for refusal in this case is the overbearing impact of the development on three properties in Seager Road. In considering this impact, Members must also balance this harm against the positive impacts of the development as a whole. This development is providing much needed housing, a key aim of the current adopted and emerging Local Plans. Indeed, increasing the supply of housing is nationally recognised as being a priority. Not only that, this development is providing highly sought-after affordable housing that will benefit 35 local families, a factor which will weigh heavily in the development's favour at appeal. It is my view that the benefits of providing this housing would significantly outweigh any harm identified by Members. If the reason for refusal were to be amended as recommended, there may be a chance (still fairly slim, in my opinion) of the appeal being dismissed and the reason being upheld.
- 2.12 Should Members consider that the overbearing impact might be wider than I have suggested i.e. not just limited to the three identified properties in Seager Road, I am of the view that the chances of being successful at appeal would be very limited. As explained above, all of the other surrounding properties would be at least 26m from rear to rear and/or the proposed dwellings would be to the side. This Council has approved many housing developments with these proximity relationships, which is compliant with the generally applied standards, namely, houses have a back to back distance of 21 metres and a rear to flank distance of 11m. These distances would be achieved here. I am of the view that if Members cannot identify, with reasonable justification, specific properties that would experience an overbearing impact, it is possible that an award of costs may be made against the Council at appeal.

Implications of a refusal

- 2.13 Any appeal would be conducted by way of a Hearing (or possibly a Public Inquiry) given the complexity of the application and the public interest in it. I have set out the likelihood of the award of costs above and will provide further detail of this under the associated part 6 report.
- 2.14 The developer has confirmed that, should planning permission be refused, they will have no choice but to 'moth-ball' the site. They would not be in a position to continue with the development if they do not have the certainty of a planning permission. This may have a harmful impact on the wider community. The Planning Committee has a responsibility to give consideration to the housing needs of the local community and give this matter due weight. The Head of Housing states, in relation to this application, the following:

“There is a need for all types of affordable housing across the borough with demand continuing to outweigh supply. Of the 156 new build affordable homes delivered in 2014/15 only 20 were built on the Isle of Sheppey. Competition for all affordable tenures continues to increase with growing numbers of low income households competing for increasingly unaffordable housing in the private rented sector, which could lead to an increase in homelessness and the use of costly temporary accommodation.

The uncertainty of the decreasing future national affordable housing funding, compounded with the emerging local plan’s zero percentage viability for the Island on new affordable homes will reduce delivery considerably. Therefore it is imperative that this development of 35 affordable homes is provided now to ensure some level of need is met now and into the future and Resident Services support Moat with the delivery of these homes.”

- 2.15 Should planning permission be refused, it is incumbent upon the Council to consider taking enforcement action in this case as the development under consideration has already been built. Should Members consider that the harm is so great that a refusal is the only option, it is likely that an enforcement notice would follow. The implications of serving this notice will be set out in more detail in the part 6 report. However, it is important that Members are aware that owing to the internal layout, positioning of stairs and the flood risk first floor levels (at least 5.2m above Ordnance Datum (AOD) required for this site, that the lowering of the roof and eaves would not be possible without the demolition of the roof, second and first floor of buildings, leaving only the ground floor in place. The architect has confirmed this in writing and has also stated that re-building to the reduced height would, in all likelihood, result in the loss of one bedroom within the properties. Moat have funding specifically for three bedroom units and as such, it is quite possible that if only two bedroom units can be provided on this site, they will lose their funding and the future of the site would be uncertain.
- 2.16 The houses that have been built on this site are at the height that they are owing to various Building Regulations requirements and the flood risk first floor level. The development has not been built in accordance with the approved 2010 plans in order to meet these requirements. Any usable and commercially viable house on this site will always need to have at least three storeys therefore. If limited to a lower height than the houses are at present, I am of the view that the site would be very difficult to re-develop in a way that would be viable. This would potentially result in an allocated housing site being undeliverable.
- 2.17 Lastly, it should also be noted that, should planning permission be refused, the applicant’s offer to obscure glaze key windows within blocks A and C would not be implemented. Overlooking must be a consideration in the determination of this application and it is made clear in the appended report that the current scheme would have provided no greater degree of overlooking than the 2010 scheme. Despite this, a number of the surrounding local residents have

concerns about being overlooked. Under these circumstances, the obscure glazing that was offered as a good-will gesture by the developer, will be rescinded if the current application is refused.

3.0 CONCLUSION

3.01 The outcome of this application should not be influenced by its retrospective nature. This is not a material planning consideration. The starting point for the assessment of this application must be – does this development have a materially worse impact than the previously approved development? It is my professional opinion that it does not. Notwithstanding this, I have advised Members on what I consider to be the only legitimate and defensible reason for refusal – an overbearing impact on three properties in Seager Road. I have stressed the need to focus on the properties that would be affected the most by the change in the height of the proposed houses. These are nos. 15, 19 and 21 Seager Road. Even if Members consider that this overbearing impact would be significant, they should weight this harm against the positive social impacts of this development, i.e. the provision of much needed affordable housing and the implications of refusal as set out in this report.

3.02 I therefore repeat the recommendation contained in my original report that planning permission should be granted in this case.

4.0 RECOMMENDATION – GRANT Subject to the signing of a Section 106 agreement for: affordable housing; KCC contributions, children's play equipment, wheeled bins; provision of open space and maintenance plan and subject to the conditions as set out in the appended report and minutes.

Case Officer: Emma Eisinger

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 1

Appended planning committee report 2nd April 2015

REFERENCE NO - 15/500955/FULL			
APPLICATION PROPOSAL Residential development to provide 35 dwellings comprising 27 houses and 8 flats; access to Marine Parade; Open Space; Landscaping; Car Parking; Footpath link to Beckley Road and Cycle Storage. (Revised scheme to previously approved SW/10/0050)			
ADDRESS Land At Rear Of Seager Road Seager Road Sheerness Kent ME12 2BG			
RECOMMENDATION Approval subject to comments from Kent Highway Services and any conditions recommended by them and the signing of a Section 106 agreement to require affordable housing; KCC contributions (to be confirmed), children’s play equipment, wheeled bins; provision of open space and maintenance plan.			
SUMMARY OF REASONS FOR RECOMMENDATION This is a retrospective planning application to effectively regularise differences between the approved scheme under SW/10/0050 and the scheme currently being built on site. I have therefore concentrated my assessment on whether the differences would lead to materially worse harm to local residents. I have considered the impact on local residents in detail and conclude that whilst there will be some harm to their amenities, the current scheme does not make this materially worse. The developer has offered to provide obscure glazing to some window within the development to lessen the overall impact of the development on the worst affected properties. I consider that the design alterations would be acceptable and the solutions to the garage alteration would ensure that there is no harm to highway safety and amenity. The loss of the footpath is not materially harmful to the scheme in my view given the presence of the existing footpath connection from Marine Parade to Beckley Road			
REASON FOR REFERRAL TO COMMITTEE Ward Members request and significant number of objections			
WARD Sheerness East	PARISH/TOWN COUNCIL N/A	APPLICANT Moat Housing AGENT Ubique Architects	
DECISION DUE DATE 19/05/15	PUBLICITY EXPIRY DATE 31/03/15	OFFICER SITE VISIT DATE 10/03/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	
SW/96/1029	five detached houses	Refused	
<i>Outside of the built up area boundary – Swale Borough Local Plan 2000</i>			

APPENDIX 1

SW/02/0612	Five dwellings	Refused and appeal dismissed	
<i>Outside of the built up area boundary – Swale Borough Local Plan 2000</i>			
SW/10/0050	Residential development to provide 35 dwellings comprising 27 houses and 8 flats; access to Marine Parade; open space; landscaping; footpath link to Beckley Road; and associated parking and cycle parking provision	Approved	
The site is allocated for residential in the Swale Borough Local Plan 2008.			

MAIN REPORT

2.0 DESCRIPTION OF SITE

1.01 The application site lies on the eastern edge of Sheerness. On the western boundary, the site is bordered by the school playing field of Oasis Academy Isle of Sheppey (west) and Barnsley Close. To the north, east and south, the site is surrounded by residential development of properties fronting Marine Parade, Seager Road and Beckley Road; which largely comprise two storey semi-detached and terraced housing, though there are chalet bungalows and three-storey development in the vicinity. Access to the site is taken from Marine Parade, adjacent to no 105. The site is relatively flat with only slight variations between the application site and the adjacent properties in Seager Road and Beckley Road. A footpath runs along the eastern boundary of the site, between the eastern boundary and the rear fences of the Seager Road properties.

1.02 Part of the application site, fronts onto Beckley Road. This is a narrow strip of land that connects to the main area of the application site at the rear.

2.0 PROPOSAL

2.01 This application proposes the construction of 27 houses and 8 flats (35 dwellings in total) on land to the rear of houses fronting Seager Road and Beckley Road. The accommodation comprises twenty five three-bedroomed houses and eight, two-bedroomed flats. A pair of two bedroom semi-detached houses lies at the western end of that cul-de-sac on land adjacent to no.21 Beckley Road

2.02 Development commenced on the proposed development in February 2014. This is a retrospective application to regularise various differences between the development approved under SW/10/0050 and the development currently under construction. The development is due to be completed in May this year.

2.03 The differences between the approved scheme and the current proposal are as follows:

- The houses are 1.44m higher to the ridge;
- The flats are 1.2m higher to the ridge;
- The eaves to the houses are 1.7m higher;
- The window design has been altered;

APPENDIX 1

- Balconies have been removed;
- The houses are 1 sq m smaller in footprint;
- The arrangement of the integral garages has been altered making them narrower;
- The internal layout of the ground floor has been altered to remove a toilet and utility room;
- The footpath link between the site and Beckley Road has been removed.

2.04 It is worth noting that the layout and siting of the buildings has not been altered. All of the dwellinghouses are three stories in height owing to flood risk and the requirement for the first floor living accommodation to be at least 5.2m above Ordnance Datum (AOD). The ground floor of the houses is therefore to be used for parking a car and storage only. The block of flats is arranged over four levels; three full storeys and fourth level within the roof space. Again, the ground floor is for parking and storage space only.

2.05 The dwellings as built have a total height of 11.1m and the flats have a total height of 14.4m.

2.06 The development is being built by Moat Housing, a Registered Social Landlord. All of the residential units on the site would be classed as 'affordable'. The Section 106 for the original application required just 30% affordable housing across the site. As such, the current scheme exceeds this requirement.

2.07 The site area measures 0.87 hectares and the scheme represents a density of 40.2 dwellings per hectare.

3.0 PLANNING CONSTRAINTS

Flood Zone 3

The site is allocated under Policy H5(1).23 of the Swale Borough Local Plan 2008.

4.0 POLICY AND OTHER CONSIDERATIONS**4.1 The National Planning Policy Framework (NPPF):**

The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking. For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

APPENDIX 1

The NPPF outlines a set of core land-use planning principles (**Para 17**) which should underpin both plan-making and decision-taking including to contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.

Paragraphs 47-55 of the NPPF seek to significantly boost the supply of housing.

Paragraphs 56-68 of the NPPF requires good design

4.2 National Planning Practice Guidance (NPPG) – Flood Risk and Coastal Change; Design; Determining a Planning Application; Land affected by Contamination; Use of Planning Conditions and; Water Supply, Waste Water and Water Quality.

4.3 Development Plan: Swale Borough Local Plan 2008 – E1 (general development criteria); E19 (high quality design); H2 (providing for new housing); H5(1).23 (housing allocation) and T3 (vehicle parking).

5.0 LOCAL REPRESENTATIONS

5.1 Fifty-eight representations have been received from local residents all objecting to the proposal for the following reasons:

- Concern about the fact that the approved plans have not been complied with and that the developer seems to have had no regard for the planning regulations;
- The buildings should be demolished and the development stopped;
- This developer should not be allowed to 'get away with it' and allowing this development will set a precedent for other developers to disregard the rules;
- Objected to the original scheme. Why was the development approved in the first place?;
- The development is detrimental to the character of the landscape (seen from Bartons Pont) and the appearance of the area;
- The buildings are too tall and tower over existing properties – might as well be 4 storeys high;
- Concern about overlooking into gardens and windows of existing surrounding properties;
- Concern for their safety;
- Problems with the development from the start in terms of underground water, use of old sewage and drainage systems;
- Overshadowing and overbearing impact on existing properties;
- The daylight and sunlight report should be dismissed as it does not rely on data gathered on site and has not been independently verified;
- The smaller garages will exacerbate parking problems in the area as they are too small to park in;
- There is a fire safety risk due to the buildings being built so close together;
- Loss of daylight to adjacent properties;
- Invitation to Members to visit their property;
- The design of the buildings is out of character with the area;
- The access to the development is dangerous due to the amount of traffic;
- Disturbance during construction;

APPENDIX 1

- The development has built over a ditch and slow worm habitat;
- De-valuation of property;
- Vibration to no. 4 Barnsley Close property from traffic (particularly construction traffic) using the access;
- Raised patios will be provided to the rear of the properties;
- Question the need for buildings this tall and don't accept the flood risk issues as an explanation;
- Is there a conflict of interests as Moat are working in partnership with SBC;
- Question whether building control were engaged in the development of this site;
- Ruined their views of trees and the sea;
- Increased noise as a consequence of the taller buildings;
- The water ditch has been filled and causes flooding to local residents and concern that the Lower Medway Internal Drainage Board have not approved this;
- Blocks J and K are too close to some trees within the school Reason and;
- SBC are ignoring local opinion and are not using their powers to tackle abuse of the planning system;
- The local area has inadequate capacity for further housing;
- Concern about the diversion of a footpath;
- Concern about the capacity of the sewage system to cope with the development and potential flooding of existing properties as a consequence, especially in light of the comments by Southern Water;
- Noise and light pollution from the development.

6.0 CONSULTATIONS

6.01 The Member of Parliament for Sittingbourne and the Isle of Sheppey raises the following objections to the proposal:

1. The applicant has shown flagrant disregard for the planning consent granted in July 2010 by their failure to seek prior approval to material and substantial changes made to the design and construction of the dwellings;
2. The flood restraints for the development have nothing to do with the changes made to the design;
3. The neighbouring residents should not now be asked to accept their failure to comply to the detriment of their amenity or outlook;
4. The applicant has not sought approval for the higher construction;
5. Fully support constituent's complaints and urge the planning committee to refuse this application at the risk of bringing the whole planning consent process into disrepute;
6. The applicant can appeal and has the option of altering the buildings.

6.02 Southern Water note that the exact position of the public water distribution main must be determined on site by the applicant before the layout of the development is finalised. They note that there is a communication pipe within the site. No dwelling should be within 15 metres of the pumping station. They also note that there is insufficient capacity for the development to use the existing sewerage system and that additional sewers or improvements to existing sewers will require their formal approval. They recommend a condition to require details of the foul and surface water drainage and they note that they do not adopt SUDs systems. Therefore, a strategy for the maintenance of the SUDs should be established.

6.03 The Environment Agency have no comments to make.

APPENDIX 1

6.04 Comments from Kent Highway Services are awaited and will be reported at the meeting.

6.05 The Head of Housing has commented that they continue to support Moat in the delivery of affordable homes on this site.

7.0 BACKGROUND PAPERS AND PLANS

Plans as approved, proposed plans, Daylight and Sunlight report and Planning Statement.

8.0 APPRAISAL

8.01 Planning permission has been granted for a very similar development at this site under SW/10/0050 and as such, the principle of the residential development of this site was previously accepted. The site is allocated for housing under the adopted Local Plan. Therefore, the principle of housing development on this site is accepted.

8.02 As explained above, this application is retrospective in that it seeks to regularise differences between the approved scheme under SW/10/0050 and the development that is currently on site. The mechanism for doing this is through the submission of a new planning application, although Officers did consider whether it was appropriate for the applicant to submit an application for a minor material amendment. In this case, however, Officers considered that the changes to the development were substantially different from the original scheme and that a fresh planning was the appropriate course of action. It is not appropriate to discuss the enforcement options for this development within this committee report. Such matters can be debated outside of the public part of the meeting if required by Members.

8.03 For Members information, I append the original committee report for SW/10/0050 and I ask Members to review this in respect of all material planning considerations relevant to this application. Members should also note that all of the pre-commencement conditions have been met. It is important to note that although this is a fresh planning application for the development, the starting point for my assessment of the development is whether this current proposal (i.e. the development on the ground) would have a more harmful impact on the amenities of the surrounding properties; visual amenities and highway safety/amenity than the approved scheme would have had. It is not appropriate, in my view, to use this opportunity to review the acceptability of the scheme as a whole. Members must acknowledge that the Planning Committee granted planning permission for the original development. It is the case that the scheme before them is very similar in many ways to the scheme that was approved. If the original scheme was built as per the approved plans, much of the impact that local residents are experiencing now would have been experienced. Consideration must now be given to the impact of the differences, in terms of building height, on these residents and the other impacts generated by the changes to the window design and garage size.

8.04 I will therefore address each of the differences in turn:

The houses are 1.44m higher to the ridge; the flats are 1.2m higher to the ridge and; the eaves to the houses are 1.7m higher.

8.05 The key considerations in this respect are the potential for additional overshadowing, overbearing and overlooking.

APPENDIX 1

8.06 With regards to overshadowing, the applicant has commissioned a Daylight and Sunlight study to assess the impact of the additional height over the approved scheme. I consider that this is the correct approach to take given the previously approved development. To be clear, the dwellings as built have not been moved any closer to the adjacent properties. The footprint of the buildings is actually very slightly smaller than the approved buildings. As such, it is purely the additional height that should be considered. It is the case, as demonstrated by the Daylight and Sunlight report that, based on the sun's position in the sky on 21st March in any one year, the Barnsley Close properties, specifically no. 4, would be overshadowed by the development during the morning – between 7am and 9am. However, this would have been the case if the scheme were built as previously approved. The Seager Road properties would not be affected in the morning due to the orientation of the application site to these properties. The Barnsley Close properties would not be overshadowed by the development at any other time during the day. The Seager Road properties would start to be overshadowed to a notable degree by the development between 14:00 and 17:00 with the rear sections of their gardens overshadowed earlier in the afternoon and completely overshadowed by 17:00. The overshadowing would not be notably worse than for the approved scheme. This leaves a large proportion of the day where the gardens of both the Seager Road properties and the Barnsley Close properties would be unaffected by the proposal and it is the case that between 10am and 2pm, the gardens would receive full sunlight, according to the report. I consider this conclusion to be reasonable given the fact that the development is immediately due west of the Seager Road properties and so the sun during the middle part of the day, which will be to the south, will be unaffected. It should also be noted that the report is tested on the basis of the position of the sun in March. In the summer months of June, July and August when the sun is higher, the rear gardens of these properties would receive the sun for longer periods.

8.07 The daylight impact, as opposed to sunlight, is based on the amount of light available on the outside plane of a window as a ratio of the amount of unobstructed sky visible following the introduction of barriers, such as the houses at Seager Road. The Daylight and Sunlight report notes that the difference between the proposed scheme and approved scheme, would be negligible in terms of the amount of daylight reaching the windows within the adjacent properties.

8.08 What the Daylight and Sunlight report does not give any indication of, is the effect on residents from the buildings being overbearing. This is unquantifiable in formulas (as in the submitted Daylight and Sunlight report) as it is reliant on one's perception of the situation. In this case – does the development cause the local residents to feel unduly enclosed or, is the development unduly oppressive? Given the close relationship between the development and nos. 13-21 Seager Road, I believe that these properties will be the most affected by the proposal in terms of an overbearing impact. I have stood in the rear gardens of nos. 15 and 19 Seager Road to make a judgement in this respect and whilst I believe that there is certainly some detriment to these residents in respect of an overbearing effect, I do not consider that the development as built is notably worse than the development as approved. The residents of nos. 13 and 15 Seager Road benefit from parts of their rear gardens that are not spanned by the flank elevation of the house closest to them and there is a distance of 14 m from the rear of these Seager Road properties to the flank of the closest house. The Council often accepts an 11m flank to rear relationship, albeit for a two storey property. The shortest back to back distance between the proposed houses and the Seager Road properties is 20m (to no. 19). Generally a 21m distance is accepted for two storey properties. However, the Seager Road properties were always planned to be 3 storeys and the 20m distance has not changed. As such, it is the additional height of 1.4m to the ridge and 1.7m to the eaves that I must consider in respect of any additional

overbearing effect. It could be convincingly argued that any additional height would increase the overbearing effect. However, the key question is

APPENDIX 1

whether the impact would be materially worse. In considering this point, one must have some consideration of the fact that, as set out above, the Seager Road properties would still receive sunlight and daylight to an acceptable degree. Another factor is the design of the buildings themselves which, with articulation to the elevations and rooflines, can often provide relief to what might otherwise be an oppressive elevation. In this case, the houses do offer an interesting, articulated elevation and a varied roofline. This limits the oppressing feeling in my view. I am not persuaded therefore that the scheme as built and the subject of this application would be materially worse in terms of an overbearing impact .

8.09 In terms of overlooking, it is the case that the windows proposed within the original scheme were, for the most part, full height to the front and rear elevations, as now provided on the current scheme. The windows would serve living areas on the first floor and bedrooms on the second floor, as they would have under the original scheme. As such, it is the case that the current scheme would offer no more opportunity to overlook the neighbouring properties than they would have done under the approved scheme. This is perhaps with the exception of two rear bedroom windows within the middle unit of the block of three houses, which under the original scheme would not have been full height. Having visited the site and having stood in the bedroom of no. 19 Seager Road, it is clear that there would be mutual overlooking between some of the proposed units and nos. 17-21 Seager Road (the properties further along Seager Road see separation distances of 26 + metres). The developer has recognised that this is indeed the case and despite the fact that there is a good case to conclude that this scheme is no worse in terms of overlooking than the approved scheme, given the increases in height and additional impact on residents (although as set out above, this is not materially harmful in my view) they are willing to provide obscure glazing to a large proportion of the rear windows within block C (immediately to the rear of 17-21 Seager Road). Only the smaller opening windows and the very top windows to the vaulted ceilings in the bedroom would remain with clear glass. Although potential overlooking would therefore not be eliminated, it is my view that the residents of 17-21 Seager Road would be left in a much better position than they would have been under the original scheme in respect of overlooking. The developer is willing to provide this as a 'good will gesture' in consideration of the cumulative impact that all of the changes to the scheme may have.

8.10 I have also identified acute overlooking of the garden of no. 4 Barnsley Close from block A. The developer has also agreed to obscure glaze the majority of the front windows within this block. Again, the overlooking would not be any worse than the original scheme but the developer is willing to provide obscure glass in any case.

8.11 In summary, I am of the view that the proposed development would not be materially any more harmful to the surrounding residents than the approved scheme.

The window design has been altered and balconies have been removed

8.12 It is disappointing that the finesse of the glazing detail and vertical emphasis of the fenestration has not been achieved to the same degree as it would have under the original scheme. However, I was able to view some of the houses with the scaffolding removed and I conclude that the appearance of the houses and flats is pleasant and of a good quality. The architecture is of course different to the surrounding houses but this would have always been the case. The loss of the balconies to the flats does not detract from the appearance of them in my opinion. I therefore consider that the alterations made to the window design and the removal of the balconies is acceptable, having no detriment to the visual amenities of the surrounding area.

APPENDIX 1

The houses are 1 sq m smaller in footprint; the arrangement of the integral garages has been altered making them narrower and; the internal layout of the ground floor has been altered to remove a toilet and utility room;

8.13 The removal of the utility room and toilet to the ground floor and the smaller footprint would have no undue impact on the overall scheme and the ability of the future residents of the development to enjoy their property in my view.

8.14 Of more concern was the narrowing of the garages to 2.55m from 2.9m. The resulting size of the garages would have rendered them impractical for use by a standard size car. At present there is an approximately 15cm high 'kerb' built to the rear of the garage area (5.4m from the front elevation) to act as a separator between the garage and the remaining 'storage' area to the ground floor. This is to be removed and such an action is necessary to ensure that a car can have full use of the entire length of the ground floor. After a depth of 5.4m, the narrow garage could then open up to the width of the house – 5m. Drawings have been provided showing how this space can function as an extension to the garage area to allow car doors to be easily opened whilst retaining space for storage and cycle parking. Subject to the removal of the separating 'kerb', I consider that the ground floor will continue to offer a practical space for the parking of a car, cycle parking and other storage.

8.15 The applicant has acknowledged that the garages are not built as originally approved and although they have come up with the above solution, they have confirmed that they will provide five additional communal parking spaces within the site. These are shown on the submitted site layout plan as being centrally located so that they are convenient for the majority of residents. I am awaiting comments from Kent Highway Services but I am of the view that the amended scheme would have no detriment to highway safety and amenity.

The footpath link between the site and Beckley Road has been removed.

8.16 When this application was submitted, a footpath link to Beckley Road was to be implemented in accordance with the original scheme. However, the building contractors have investigated how this footpath could be achieved and have concluded that the footpath would end up being very narrow and that this is dangerous so close to a ditch that would run immediately beside it. I accept that this would not be ideal and probably impractical. I am not convinced that the footpath is necessary or that it would be well used. I note that there is an existing footpath that runs from Marine Parade, along the rear of the Seager Road properties and out to Beckley Road. The applicant has confirmed that this provides a through route from Marine Parade to Beckley Road and they note the footpath has been left in the same state that it was in before the construction commenced on site. I have asked the applicant to investigate the possibility of ensuring that the access that would serve the pumping station could also provide direct access from the development site to this footpath. I will update Members at the meeting.

Developer Contributions

8.17 The original scheme was the subject of the section 106 agreement to require contributions towards: secondary education; adult social services; adult education; children's play equipment; libraries; recycling; youth and community and a monitoring fee. The total contributions came to £145,309.47. In addition, the scheme was required to provide 30% affordable units. The scheme is now being developed by Moat and as such, all of the

APPENDIX 1

residential units are 'affordable'. I am liaising with the applicant's agent, KCC and our Legal Officers as to the requirement for a new Section 106 and possible contributions and hope to update Members at the meeting.

Other Matters

8.18 Local residents have raised a number of concerns in respect of the impact on the landscape (houses seen from Bartons Point); impact on trees in the school Reason; vibrations felt in no. 4 Barnsley Close from traffic; unsafe access to the development and increased noise. All of these matters were considered at the time of the original proposal and the current scheme does not make any difference to these considerations in my view. The sewage and drainage issues raised by Southern Water and local residents were addressed some months ago by the Developer and I have been provided with a copy of Southern Water's Technical Approval dated March 2014 for connection to the sewage system. Their comments on this application therefore don't reflect the situation on site. The applicant's agent has also commented that the consent of the Lower Medway Internal Drainage Board has been received. I await this document and will update Members at the meeting.

8.19 Fire risk would have been adequately considered under Building Regulations and the devaluation of properties is not a material planning consideration. I am not aware of any drainage ditches being filled as part of this development and my observations on site were that the ditches to the south of the development were functioning as they should be. There are concerns about a conflict of interest in the Local Planning Authority dealing with this application when the developer – Moat, is working with the Council's Housing team to deliver the affordable housing. Members will be well aware that the Local Planning Authority must deal with this application on its own merits and are not influenced in any way by the work of another other part of the Council in delivering their services.

9.0 CONCLUSION

9.01 Having considered the relevant planning policies, comments from local residents and consultees I am of the view that planning permission should be granted for the reasons set out above. This is a retrospective planning application to effectively regularise differences between the approved scheme under SW/10/0050 and the scheme currently being built on site. I have therefore concentrated my assessment on whether the differences would lead to materially worse harm to local residents. I have considered the impact on local residents in details above and conclude that whilst there will be some harm to their amenities, the current scheme does not make this materially worse. Members will note that the developer have offered to provide obscure glazing to some window within the development to lessen the overall impact of the development on the worst affected properties. I consider that the design alterations would be acceptable and that the solutions to the garage alteration would ensure that there is no harm to highway safety and amenity. The loss of the footpath is not materially harmful to the scheme in my view given the presence of the existing possible footpath connection from Marine Parade to Beckley Road , however I will update members on this at the meeting.

9.02 I therefore consider that the current proposal would be acceptable and that planning permission should be granted.

APPENDIX 1

10.0 RECOMMENDATION – GRANT Subject to the comments of Kent Highway Services and the signing of a Section 106 agreement for: affordable housing; KCC contributions, children’s play equipment, wheeled bins; provision of open space and maintenance plan and subject to the following conditions:

CONDITIONS to include

1. The development hereby approved shall be carried out in accordance with the following approved drawings: 604-P05 A; 604-P01; 604-P03; 604-P02 A and 604-P04.

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking or re-enacting that order) no fence, wall or gate or other means of enclosure shall be erected or provided in advance of any wall or dwelling fronting a highway or other front area (such as a public open space) without the written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

3. Full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of this decision. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area.

4. Upon completion of the approved landscaping scheme, any planting or trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with planting of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of visual amenity.

5. The trees shown to be planted shall be planted by the next planting season following the completion of the development. If any tree is removed, dies, is severely damaged or becomes seriously diseased within ten years of planting it shall be replaced with a tree of such a size and species as may be agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

6. The development hereby approved shall be carried out in accordance the following mitigation measures:

- a. The eventual occupants shall be made aware of the flood risk to the site and should ensure they are registered with the Agency’s Flood Warning service:
- b. All appropriate flood-proofing measures shall be incorporated into the proposed development up to a level of at least 5.2maODN;

APPENDIX 1

- c. The finished floor level for all living accommodation shall be no lower than 4.9maODN with all sleeping accommodation above 5.2maODN;
- d. An effective means of escape shall be provided at the first-floor level or above.

Reason: To ensure the occupiers are aware of the risk of flooding and that the development reduces the impact on flooding and that there is a safe means of access/egress in case of flooding.

7. Before any part of the development hereby approved is first occupied details of the public street-lighting columns within the development shall be submitted to and approved in writing by the Local Planning Authority. Details shall also include which columns if any shall incorporate the “Hawkeye” surveillance system at the time of their installation. Development shall be carried out in accordance with the approved details and thereafter retained unless otherwise agreed to in writing by the Local Planning Authority.

Reason: In the interests of public amenity and safety.

8. The areas indicated on the submitted layout as vehicle parking space and the garage spaces as shown on drawing no. 604-P 01 shall be provided, surfaced and drained before the buildings are occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure the development provides for adequate and satisfactory parking areas.

9. Before blocks A and B hereby permitted are first occupied, the fixed panes of first and second floor windows in the rear elevation of block C and the front elevation of block A (with the exception of the top windows to the vaulted ceiling), shall be obscure glazed to a level that shall first be agreed in writing by the Local Planning Authority and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

10. Prior to the occupation of the dwellings hereby approved, the raised ‘kerb’ that currently separates the garage from the rest of the ground floor space shall be removed in its entirety.

Reason: To allow vehicles to access the entire length of the ground floor space in the interests of highway safety and amenity.

Case Officer: Emma Eisinger

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council’s website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 2**Minutes of planning committee 2nd April 2015****2.4 REFERENCE NO - 15/500955/FULL
APPLICATION PROPOSAL**

Residential development to provide 35 dwellings comprising 27 houses and 8 flats; access to Marine Parade; Open Space; Landscaping; Car Parking; Footpath link to Beckley Road and Cycle Storage. (Revised scheme to previously approved SW/10/0050)

ADDRESS Land At Rear Of Seager Road Seager Road Sheerness Kent ME12 2BG

REASON FOR REFERRAL TO COMMITTEE

Ward Members request and significant number of objections

WARD Sheerness East

APPLICANT Moat Housing
AGENT Ubique Architects

The Major Projects Officer reported that seven additional letters of objection had been received; the comments were similar to those already noted in the report. He clarified why there had appeared to be differing numbers of representations received and explained that some had been duplicates, or from the same household which had resulted in the total numbers being received reported differently to that on the website. He confirmed that all representations had been reported to the Planning Committee, some verbally, following the report being published.

The Major Projects Officer reported that KCC Highways had no objection to the application, subject to the imposition of conditions to prevent mud on the public highway, loading/turning/parking of construction vehicles, covered cycle parking, and provision of access/footways and carriageways before any building was first occupied. Southern Water had clarified that their previous comments on insufficient sewage capacity had been superseded. The applicant had confirmed that they had agreed with Southern Water to contribute to an upgrade to the pumps within the pumping station to improve capacity.

The Major Projects Officer reported that the developer had installed two culverts. He stated that the Lower Medway Internal Drainage Board (LMIDB) had advised that consent was required by them for the culverts to be installed. A formal notice had been issued to the applicant. The Major Projects Officer reported that the approved surface water drainage (SuDS) scheme under the 2010 application had not yet been implemented. The LMIDB objected to the current application and had requested further details of the surface water drainage strategy.

The Major Projects Officer reported that following one of the culvert pipes being blocked, this had now been unblocked and the applicant had provided drainage drawings. The culverts would be removed and the ditches re-instated, and a response from the LMIDB was awaited. The Major Projects Officer recommended an additional condition to require the final details of the foul and surface water drainage to be submitted prior to the occupation of the units. He explained that, in lieu of the footpath link to Beckley Road, the applicant could not confirm that the gates for Southern Water access to the pumping station would be left unlocked. The

APPENDIX 2

Major Projects Officer explained that he had encouraged the applicant to negotiate with Southern Water on this matter, although he did not consider that the loss of the footpath to amount to a reason for refusal. He further explained that no comments had been received from KCC Education in regard to the Section 106 contributions.

The Major Projects Officer sought delegated authority to approve the application subject to the imposition of the additional conditions requested by KCC Highways, and in respect of drainage on the site, and the signing of a suitably worded Section 106 agreement.

The Chairman moved a motion for a site meeting. This was seconded by Councillor Prescott.

Mr Geoff Smith, an objector, spoke against the application.

Mr Laurence Mineham, the Agent, spoke in support of the application.

A Member requested a Stop Notice be issued. The Locum Senior Planning Lawyer advised that this matter should be discussed in closed session.

On being put to the vote the motion for a site meeting was agreed.

Resolved: That application 15/500955/FULL be deferred to allow the Planning Working Group to meet on site.

APPENDIX 3**15/500955/FULL Land at Rear of Seager Road, Sheerness, Kent, ME12 2BG**

- Meeting of Planning Working Group, Wednesday, 15th April, 2015 9.30 am (Item 607.)

Minutes:

PRESENT: Councillors Barnicott (Chairman), Sylvia Bennett, Bobbin, Mick Constable, Derek Conway, Mark Ellen, June Garrad, Mike Henderson, Prescott, Ben Stokes, Ghlin Whelan and Tony Winckless.

ALSO IN ATTENDANCE: Councillor Adrian Crowther.

OFFICERS PRESENT: James Freeman, Kellie Mackenzie and Jim Wilson.

APOLOGIES: Councillors Andy Booth, Sue Gent and Peter Marchington.

The Chairman welcomed the agent, applicant and members of the public to the meeting. The Major Projects Officer introduced the retrospective application 15/500955/FULL which sought to regularise changes made to application SW/10/0050 for 35 dwellings comprising 27 houses and 8 flats. He reminded Members that there had been a Planning Working Group at the site held in late 2010 to consider the original application.

The Major Projects Officer reported that the retrospective application dealt with the following differences to the approved scheme namely: the houses were 1.44 metres higher to the ridge; the flats were 2.1 metres higher to the ridge; the eaves to the houses were 1.7 metres higher; the window design had been altered; balconies had been removed; the houses were 1 sq metre smaller in footprint; the arrangement of the integral garages had been altered making them narrower; the internal layout of the ground floor had been altered to remove a toilet and utility room; and the footpath link between the site and Beckley Road had been omitted. The Major Projects Officer stated that the mix of dwellings remained unchanged and foul water and sewage discharge would not be affected. KCC Highways raised no objection. Further correspondence had been received since the 2 April 2015 Planning Committee raising points including: drainage problems; timing of the site visit; breaches of planning control; public right of way implications; and in-filling of water ditches. The Major Projects Officer stated that further correspondence from the Lower Medway Internal Drainage Board was awaited.

The Major Projects Officer considered that the application should be approved subject to the conditions set out in the committee report and the signing of a suitably worded Section 106 Agreement.

Mr Mineham, representing Ubique Architects (the agent), explained that they had submitted the application to deal with changes made to the scheme and their impacts. He considered that of the ten or so alleged breaches the most critical were the ridge height issues but considered that the others had now been resolved.

Mr Ings-Wotton, representing Moat Housing (the applicant), stated that the development was included within Swale Borough Council's Local Plan. He added that Moat Housing worked closely with SBC and the local community to ensure that much needed affordable housing was provided.

Several statements raising objection were read out by local residents. The Chairman agreed that these would be forwarded to the Planning Committee and also included with these minutes.

APPENDIX 3

The following further objections were raised by local residents: private householders would have to comply with the Building Regulations, so Moat Housing should; Southern Water stated that there should be no dwellings within 15 metres of their pumping station and there were; obscure windows had not been fitted; the development had breached the Human Rights Act 1988 in respect of overlooking; would cause overlooking to properties in Barnsley Close; developer had used an illegal entrance to access the site; the in-filling of the ditch has caused flooding in Beckley Road; the reduced size of the garages would lead to parking problems in Beckley and Seager Road; disgrace that developer had been allowed to deviate from the approved plans; why had a Stop Notice not been issued as soon as it was clear that breaches were occurring?; would Planning Committee Members want this development where they lived; developer had not considered the residential amenity of local residents; properties in Barnsley Close had suffered unacceptable levels of noise and dust; some adjacent properties have experienced shaking to their property, would this affect their foundations?; should have been better collaboration between the relevant parties and local residents; the Planning Committee should look harshly at this application; can we have assurances that misted glass would be provided and not sticky back plastic; the developer had not adhered to the original plans making them invalid, as such they should not be considered; the dwellings were high fire risk as there were no fire escapes; Marine Parade was a busy road and could not cope with the development; why did Planning insist that they could not act until the ridge height had been built as it was clear once the floating rafters were erected that they were too high; the Planning department received several hundred calls from local residents and visits to their offices why did they not act; why were the planning officers still recommending approval given all the local resident complaints; and how many fire hydrants would be provided on the site?

A Member queried why a supplementary planning application had not been submitted before the changes were made.

Members then toured the site and viewed the site from properties in Seager Road and Barnsley Close with the officers, agent, applicant and developers.

APPENDIX 4**Minutes of planning committee 23rd April 2015
15/500955/FULL Land at rear of Seager Road, Sheerness, Kent, ME12 2BG**

The Major Projects Officer reported that the applicant had confirmed that the unconsented culverts had been removed from the site and this was accepted by the Lower Medway Internal Drainage Board (LMIDB). The LMIDB therefore removed their objection provided that the Council was satisfied that the revised proposal included for surface water to be restricted to no more than 7l/s/ha, a standard requirement, with on-site storage provided to accommodate the 1 in 100 year rainfall event +30% to allow for the predicted effects of climate change, and that maintenance of the surface water drainage (SuDS) was ensured for the lifetime of the development.

The Major Projects Officer noted that at the meeting on 2 April 2015 he had recommended that a further condition be added to require details of the foul and surface water drainage to be submitted. These details would then be reviewed by both Southern Water and the LMIDB and at that stage could ensure that the requirements of the LMIDB were met.

The Major Projects Officer reported that an additional comment had been received from a local resident, on behalf of the residents' association. They remained unconvinced that the sewage system would be able to cope with the additional waste from the development and noted that the existing pumping station dated back to 1935. They considered its failure would have devastating affects on properties and residents and asked for additional and detailed information with regards to the sewerage handling equipment.

The Major Projects Officer further reported that a second additional letter from a neighbour had also been received suggesting that the timing of the site visit was inappropriate and questioned what Moat Housing were going to do to rectify the discrepancies between the approved development and the scheme as built. The Major Projects Officer stated that in his previous update he had confirmed that Southern Water raised no objection to the proposal noting that the developer would upgrade the existing pumping station to cater for the additional load. With regards to the request for additional information, the detailed design of the foul and surface water drainage would be required by the additional condition as previously mentioned.

The Major Projects Officer stated that KCC had reviewed their requirements for community contributions based on the current need. They now requested that the developer pay a total of £177,680.55 - £116,000 for primary education, specifically a new school at Thistle Hill and, £1,680.55 for additional book stock for Sheerness library.

The Major Projects Officer advised that he had asked the applicant to confirm whether they were to pay these contributions noting that they were asking for £8,690.57, more than they did under the 2010 application (SW/10/0050). In addition, the costs of the other contributions, namely children's play equipment, the provision of bins and the monitoring fee, had increased resulting in a total additional contribution of approximately £13,000. The Major Projects Officer advised that the applicant had responded and he read this out for Members.

The Major Projects Officer drew attention to the Committee report which stated that it was hoped that the future residents of the development may be able to access the alleyway behind the Seager Road properties via the gates that would eventually provide access through the development to the Southern Water Pumping Station.

The Major Projects Officer stated that he had received communication from a local resident stating that this was a private access owned by the residents of Seager Road. The Major Projects Officer had no evidence to either support or refute this claim but considered that

APPENDIX 4

encouraging access onto a potentially private access was not appropriate. The applicant had therefore confirmed that the Southern Water gates would be locked with access only allowed to Southern Water employees as would have previously been the case. The Major Projects Officer did not consider that the loss of this access would fundamentally undermine the scheme.

The Major Projects Officer stated that a letter had been received from the applicant responding to Committee's concerns about the development. This was tabled for Members.

The Major Projects Officer concluded by seeking delegated authority to approve the application subject to conditions as set out in the report, the additional condition for foul and surface water drainage, and the signing of a suitably worded Section 106 Agreement.

The Chairman moved the officer recommendation for approval and this was seconded.

A Ward Member spoke against the application. He raised the following points: had never seen so much dissatisfaction amongst local residents; the developer and Moat Housing were 'taking the mickey' out of the local residents; the reduced size of the garages would lead to on-street parking; and proposed conditions relating to sewage may help but note that the LMIDB were originally against the application. In response to a query, the Major Projects Officer stated that officers were not saying that no harm had been caused, but that in his professional opinion on balance this application would not cause unacceptable impacts and that the application should be supported.

Members raised the following points: appalled and concerned that a major developer had done this; had caused so many problems in Seager Road; about time that the Planning Committee stood up for local residents; would set a precedent for other developers to do the same and the Planning Committee would become known as a Committee with no backbone; should refuse and the builder be made to build to the original plans (as approved under SW/10/0050); detrimental to residential amenities of local residents; had a significant impact on properties in Seager Road and the developer should reduce by 5 or 6 feet; impact on local residents was sufficient reason to refuse the application; starkly different to what was approved, developer must be made to lower height of the buildings; this was due to a design fault by the architect and as such not the fault of Swale Borough Council's (SBC) Planning Committee; dwellings were intrusive, overbearing and too dominant on either side of the site.

The Head of Planning reminded Members that they needed to consider the application in terms of any additional impacts arising from the proposal in comparison to the originally approved scheme.

The motion to approve the application was lost.

At this point the Head of Planning used his delegated powers under Part 3, Part 3.2, 3.2.1 (Planning Committee) of the Constitution to 'call-in' the application.

Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application would be deferred to the next meeting of the Committee on 21 May 2015 when the Head of Planning would advise Members of the prospects of such a decision if challenged on appeal and if it becomes the subject of an application for the award of costs against the Council.