

PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE	AGENDA ITEM NO. 6
19 MARCH 2013	PUBLIC REPORT <i>This report contains exempt appendices which are NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that they contain information relating to the financial or business affairs of a particular person (including the authority holding that information) and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.</i>

Cabinet Member(s) responsible:	Councillor Hiller – Cabinet Member for Housing, Neighbourhoods and Planning	
Contact Officer(s):	Nick Harding - Group Manager, Development Management	Tel. 454441

DISCONTINUANCE OF Nos 1-15 (odd Nos only) ROWLEDGE COURT, WALTON (FORMER ROYAL OAK SITE, LINCOLN ROAD)

R E C O M M E N D A T I O N S	
FROM : Director of Operations	Timescale: N/A
That the Committee does not take action to discontinue the development.	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Planning and Environment Protection Committee following a request by Councillor Sandford for the Committee to give consideration to pursuing a Discontinuance Order for Nos. 1-15 Rowledge Court (odd Nos only). These seven dwellings (there is no No.13) make up the ‘rear block’ of the development and back on to existing dwellings on Arundel Road. All but one of the seven dwellings is occupied. The request has its origins in the fact that two households that abut the development remain dissatisfied with the decision to give planning permission for the development principally for the following reasons:
- The modern design of the dwellings
 - The three storey nature of the dwellings
 - Overlooking of their property causing a reduction in privacy

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to obtain a decision from the Committee on whether the discontinuance of the development should be pursued.

- 2.2 This report is for the Committee to consider under its Terms of Reference under para. 2.5.1.2(b) ‘to determine and application, or to decide upon or vary appropriate conditions, limitations, terms or other restrictions upon any approval, consent, licence, permission or registration grantedm or discontinuance or revocation order in case where (b) an application has been referred to the Committee by a Member or a Parish Council’

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. **BACKGROUND**

- 4.1 Planning permission was first granted for the development in 2007. The proposal was contentious at the time because of:

- The development would result in the loss of the Royal Oak Public House
- The modern design of the dwellings
- The three storey nature of the dwellings
- The relationship with the existing residential development adjacent

The development approved was for two rows of seven, three storey dwellings. The application was considered by the Planning and Environmental Protection Committee at the time and was granted planning permission.

- 4.2 The planning permission was not implemented and so in 2011, an application to renew the permission was received. As there were no significant material changes in policy (from when permission was previously approved), planning permission was granted again for the development under officer delegated powers (in accordance with the Council’s constitution).

- 4.3 Two households in Arundel Road have gone through the Council’s formal complaint process and have remained dissatisfied with the outcome. Officers are satisfied that both the planning permissions granted were legally sound. During the process of responding to the complaints, the residents were advised that the only option available that (if agreed and implemented) would ‘take the development away’, would be a Discontinuance Order.

- 4.4 The Council is able to make a Discontinuance Order under Section 102 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”) in respect of any development if, having regard to development plan policies, it is appropriate and expedient in the interests of the proper planning of the area (including the interests of amenity). Discontinuance Orders are made to deal with the use to which land is being put. An order can discontinue any existing use of land (whether lawful or unlawful) or, alternatively, can impose conditions on the continuance of land. It may also require any buildings or works be altered or removed. A claim for compensation may, however, be made to the Local Planning Authority under Section 115 of the 1990 Act if it is shown that a person having an interest in the land has suffered damage in consequence of the making of an order. Other persons may be entitled to compensation in respect of disturbance in their enjoyment of the land or for carrying out works in compliance with the order.

- 4.5 Discontinuance Orders need to be confirmed by the Secretary of State (under Section 103 of the 1990 Act) who has the power to modify the submitted order, including power to grant planning permission or to modify the order’s grant of planning permission. Before confirming an order, the Secretary of State must provide an opportunity to be heard to any person on whom the order has been served (this usually takes the form of a Public Inquiry).

- 4.6 Mr Andy Moffat (Planning Services Manager – Development Management) of Huntingdonshire District Council has been brought in as an independent planning officer to assess whether, having regard to development plan policies, it is expedient in the interests of the proper planning of the area (including the interests of amenity) to serve a Discontinuance Order on the site.

5. Report By Mr Moffat

- 5.1 I have been asked by Officers at Peterborough City Council to provide an independent assessment of the development in light of current development plan policies and other material planning considerations, including the National Planning Policy Framework (NPPF). I have been asked to assess the proposal in relation to its impact on the character and appearance of the area and the impact on the occupiers of houses in Arundel Road in particular. In terms of local planning policies, my attention has been drawn to the Adopted Core Strategy 2011, the Adopted Planning Policies DPD 2012 and the Adopted Site Allocations DPD 2012.
- 5.2 I note firstly that the site is **allocated for residential development** in the Adopted Site Allocations DPD. Therefore the principle of residential use of the site has been and is clearly established.
- 5.3 I have viewed the development from within the site, from surrounding roads and from the houses and gardens of two properties in Arundel Road. Development in the locality is predominantly residential and of varying ages and designs. It is fair to say that it is not of any particular architectural merit. Most is two storey although there are examples of taller buildings including three-storey development. There are also examples of more contemporary architecture in the wider area, including the development at Baxter Close. The new development is of contemporary but not particularly striking design and is seen from surrounding houses, in gaps between houses as well as from Lincoln Road.
- 5.4 At paragraph 58, the NPPF advises that development should, inter alia, optimise the potential of the site to accommodate development, and, respond to the local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Local Policy PP2 states that planning permission will only be granted for development that makes a positive contribution to the quality of the built environment and would not have a detrimental effect on the character of any adjoining properties or the surrounding area. Given its context, I do not consider that it was necessary for the development to draw upon any particular architectural style and this contemporary development is an appropriate addition to the character and appearance of the area in terms of its scale, height, design and materials.
- 5.5 I understand that of more concern to the local residents is the impact of the development on their amenity, particularly in terms of overlooking. Local Policy PP3 states that planning permission will not be granted for development which would result in unacceptable (my underlining): loss of privacy for occupiers of any nearby property; loss of light to and/or overshadowing of any nearby property; or overbearing impact on any nearby property. One of the Core Planning Principles in the NPPF is to seek to ensure a good standard of amenity for all existing occupants of buildings (paragraph 17).
- 5.6 The development will undoubtedly result in a perception of overlooking, and some overlooking. That said some overlooking is to be expected in residential areas. Whilst there are no minimum back-to-back distances specified in Policy PP3 or elsewhere in Local Policy, distances of close to 30m might be considered a reasonable minimum between three and two-storey development. The plans indicate that the minimum in this instance is 28.5m, although those plans don't appear to include the single storey rear extension to 15 Arundel Road which reduces the minimum distance in that instance to closer to 25m. It is relevant to note that the first and second floor windows facing properties in Arundel Road serve bedrooms where occupiers tend not to spend the majority of their day, and balcony screens are required by condition at second floor level. There are though some 22 first and second floor windows facing properties in Arundel Road. The existing tree planting in the rear gardens of the new properties provides little screening and there is little scope to provide additional planting within the development site. Being to the southwest of properties in Arundel Road, the development will result in some overshadowing and loss of sunlight to these properties, but I would not consider this to be unacceptable in planning terms.

5.7 As a three storey terrace of 7 properties, albeit with flat roofs which reduce its height, the development also affects the outlook from properties in Arundel Road, but I do not consider the new development to be unduly overbearing. To summarise my conclusions on the impact on the occupiers of properties in Arundel Road, the development undoubtedly has an adverse impact on the amenity of the occupiers of properties in Arundel Road but policy PP3 accepts that many approved developments will have an adverse effect on neighbours by stating that planning permission will not be granted for development which would result in “unacceptable” impacts. In my view, the loss of light, overshadowing and overbearing impacts are not unacceptable. Whilst more finally balanced, it is my view that the Council would be quite reasonable to conclude that the loss of privacy, and perceived loss of privacy, of neighbours in Arundel Road are also not unacceptable.

5.8 MY OVERALL CONCLUSION IS THAT HAVING REGARD TO DEVELOPMENT PLAN POLICIES IT IS NEITHER APPROPRIATE NOR EXPENDIENT IN THE INTEREST OF THE PROPER PLANNING OF THE AREA (INCLUDING THE INTEREST OF AMENITY) FOR THE COUNCIL TO PERSUE DISCONTINUANCE.

6. Compensation Costs Associated With a Discontinuance Order

6.1 If discontinuance were to be taken forward, there would be a compensation cost associated with this and Committee should have an understanding of what this might be (Under Section 115 of the 1990 Act). It is important to note that if Committee were to decide to move forward with discontinuance, then such a decision would be subject to budget approval at Full Council as there is no budget provision for meeting the cost of discontinuance.

6.2 A full compensation cost report is attached at Appendix 1 (as an exempt annex - the information is exempt under Schedule 12A of the Local Government Act 1972 as the information is confidential in nature as it contains detailed information which is commercially sensitive). The report concludes that the net cost to the Council (i.e. allowing for income to the Council from the post demolition sale of the site) of a Discontinuance Order on the development (Nos 1-15, odd numbers only) to be £690,662.00.

7. CONSULTATION

7.1 No external consultation has been undertaken as it is neither required or necessary. However, the owners and occupiers of the land / properties have been advised that discontinuance is being considered.

8. ANTICIPATED OUTCOMES

8.1 That the Committee resolves to take NO action to discontinue the development.

9 REASONS FOR RECOMMENDATIONS

9.1 The report undertaken by an independent third party has concluded that having regard to development plan policies, it is not expedient, in the interest of the proper planning of the area (including the interest of amenity) for the Council to pursue discontinuance.

10. ALTERNATIVE OPTIONS CONSIDERED

10.1 Move forward with discontinuance: Such action would have to be subject to budget approval and subsequently approval by the Secretary of State. In making such a decision, Committee would have to satisfy itself that it is expedient, in the interest of the proper planning of the area (including the interest of amenity) for the Council to pursue discontinuance.

11. IMPLICATIONS

11.1 Legal Implications

The decision reached by Committee must be done so based on consideration of the relevant criteria as set by the legislation which has been presented in this report. Any decision either for or against moving forward with discontinuance may be subject to legal challenge (as is the case with all council decisions).

11.2 Financial Implications

Discontinuance will require the council to compensate those with an interest in the land and buildings. As there is no budget provision made for such compensation, and decision made by committee will be subject to budget approval by Full Council.

12. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Sections 102.103 & 115 of the Town and Country Planning Act 1990

National Planning Policy Frameworks

Peterborough Core Strategy 2011

Peterborough Site Allocations DPD 2012

Peterborough Planning Policies DPD 2012

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