

Rebuttal to LPA's Statement & 3rd Party correspondence

SECTION 78 APPEAL

ON BEHALF OF REYNOLDS GROUNDWORK SERVICES LIMITED

7 MEADOW CLOSE, RUISLIP, HA4 8AP

PROPOSAL:

CHANGE OF USE OF EXISTING SINGLE FAMILY DWELLINGHOUSE INTO 2 DWELLINGHOUSES WITH ASSOCIATED EXTERNAL AND INTERNAL AMENDMENTS (REVISED DESCRIPTION 01.05.24).

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004



1. Response to LPA Appeal Statement

- 1.1. This rebuttal statement has been prepared by Total Planning to support an appeal against refusal of planning application ref: 75385/APP/2024/878 for change of use of an existing residential building comprising a dwellinghouse which would become 2 semi detached dwellings with associated external modifications/alterations including provision of a front door to replace an existing window. In particular, the purpose of this statement is to respond to Hillingdon Council's Appeal Statement.
- 1.2. This Rebuttal should be read in conjunction with the original Appellant Statement of Case and the accompanying Appeal Statement prepared by Lanmor Consulting (Flooding Specialists) (Appendix 1 of the SofC).
- 1.3. This statement will not repeat the Appellant's Statement of Case and will focus on addressing matters raised in the Council's Appeal Statement.
- 1.4. In paragraphs 2.1 and 2.2 of the Council's Statement of Case, the LPA demonstrates an certain level of understanding of the appellant's arguments for why the development meets the Sequential Test Exemption which is clearly set out in the NPPF. However, the LPA maintains that a sequential test is necessary for this proposal *"as it represents not just a change of use but an intensification of use. Converting a single dwelling into two separate residential units increases the number of residents and the demand on existing infrastructure, thereby intensifying the flood vulnerability of the site"*.
- 1.5. Firstly, as it appears that the Council are now relying on a perceived intensification of the residential use as justification for the need for a Sequential Test, it is worth highlighting that any change of use from commercial to residential would also result in an intensification of residential occupants on a site and despite this being the case and as set out in the original Appellant's Statement of Case, the Council have approved a significant number of such planning consents for buildings situated within Flood Zones 2 and 3 without the need for a Sequential Test as stipulated by paragraph 174 of the NPPF. Therefore, this reasoning is not consistent with previous decision making by the Council.



- 1.6. Secondly, although not considered relevant given a Sequential Test is not required, it is nonetheless worth addressing that the Council's view on the perceived residential intensification.
- 1.7. In response to this point, it is important to appreciate that the existing situation is that the building is currently a large dwellinghouse comprising 10 habitable rooms with 6 of these situated on the first floor level and 4 at ground level. The development is a relatively recent new build and as required by the FRA when it was approved, the development was made safe from any risk of flooding for future occupants.
- 1.8. With regards to the appeal proposal and to compare whether there is an intensification of residential use, yes the proposal would sub divide an existing dwelling and create 1 additional dwelling. However, no additional internal floor space is to be added, or any new rooms or habitable spaces created. Therefore, the number of possible occupants likely to occupy the building would remain similar. It is certainly our professional opinion that the proposal would not significantly increase the number of occupants and as explained in the Appellant's Statement of Case, the development and building has been built to be safe from the risk of flooding, including from the increased impact of climate change. Therefore, future occupants would be safe from any risk of flooding.
- 1.9. Lastly in response to this thread of an argument by the LPA, we would wish to draw the Inspector's attention to the fact that the Council recognises that the appeal proposal constitutes a 'Change of Use' and therefore in accordance with paragraph 174 of the NPPF, a Sequential Test is not required.
- 1.10. For clarity and in response to paragraph 2.3 of the LPA's Appeal Statement, the appellant is not arguing that the development constitutes 'minor development' or a 'householder development', therefore these points are irrelevant.
- 1.11. The appealed scheme constitutes a 'change of use' as recognised by the LPA's own Appeal Statement and as such under paragraph 174 of the NPPF a Sequential Test is not required.



- 1.12. In response to paragraph 2.4 of the LPA's Appeal Statement, it is unclear where the Council are making this claim that a Sequential Test should be applicable where if the change results in increased flood risk through an intensification of residential use through additional units as the NPPG paragraph 014 reference ID: 7-014-20220825 does not state this. It states that:

'As changes of use are not normally subject to the Sequential or Exception tests, when formulating policy, the local planning authority will need to consider what changes of use will be acceptable, taking into account the Strategic Flood Risk Assessment. This is likely to depend on whether developments can be designed to be safe and that there is adequate emergency planning provision.'

- 1.13. Contrary to the LPA's interpretation of the NPPG referenced in paragraph 2.11 of the LPA's Statement of Case, which would mean that the Council would potentially require a Sequential Test for any change of use where new residential units would be created, the NPPG and paragraph 014 is specific about how this guidance is regarding how the Council should formulate policy given that some changes of use may not be acceptable. The Council has not referenced any such formulated policy. Therefore, a Sequential Test should not be required as per adopted NPPF policy.
- 1.14. It is important to stress at this point that the Council have not raised any concern that future occupiers would be at risk from flooding as the development has been designed and built to be safe from this specific risk.
- 1.15. Paragraph 2.6 of the LPA's Appeal Statement references the previous appeal, however this is not relevant as this was a proposed new build development and not a 'Change of Use' which is specifically exempted from requiring a Sequential Test by paragraph 174 of the NPPF.
- 1.16. Overall, the proposal is considered to be a change of use which simply does not require sequential test, the development is safe from the risk of flooding and as such is unlikely to impact emergency planning as claimed by the Council, and the proposal would not represent a significant intensification of the residential use in any case.



- 1.17. The Council have approved many applications as listed previously where there was significant intensification of residential uses (such as provision of many new homes from conversions from office use) without the need for a sequential test, therefore, the Councils' arguments in their Appeal Statement appears not consistent with their own decision making.
- 1.18. No policy has been formulated by the Council that appears to mean that a Sequential Test would be required for this development.
- 1.19. For the reasons set out in the original Appellants Statement of Case and as explained above, it is respectfully requested to allow this appeal.
- 1.20. With regards to the Council's suggested conditions, these are considered acceptable.
- 2. Response to other 3rd party correspondence**
- 2.1. No 3rd party correspondence has been received.

