

PLANNING STATEMENT

**Delta House, 70 South View
Avenue, Reading RG4 5BB**

Prepared For
**Delta House Developments
Limited**

10258
February 2023



bell cornwell

CHARTERED TOWN PLANNERS

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INTRODUCTION

- 1.1 Planning permission is sought to carry out the development authorised by prior approval reference 211028/OPA (granted on 25 August 2021) with amended condition 2, to allow for amended internal layout whilst still delivering 10 residential flats, overall.
- 1.2 This application also seeks to amend condition 3, to allow an alternative flood risk mitigation scheme and finished floor levels. These details have already been approved, on 24 January 2023, under reference 220823. As this is a s73 application which would result in the grant of a new planning permission for the development, these amendments have been included again in this current application so that the new permission authorises all necessary amendments to the original permission.

THE SITE AND ITS SURROUNDINGS

- 1.3 Delta House is two storey former office building of brick construction, located at 70 South View Avenue in Caversham, Reading RG4 5BB. This L-shaped building is set back from the road frontage with hard standing parking area (16 spaces) to the front together with amenity planting. The building has a pitched tiled roof.
- 1.4 The surrounding area is predominantly residential in character, dominated by semi-detached and terraced dwellings.

RELEVANT PLANNING HISTORY

- 1.5 Delta House was formerly the administrative offices of Caversham Laundry, with consent granted in 1987 (87/TP/592) for front extension for additional office space. A certificate was issued in 1991 (91/0690/DE) confirming change of use of the old laundry to administrative offices. The building was occupied as office space for some 25 years. In 2021 prior approval was granted for change of use to 7 flats (201411).
- 1.6 The permission which the applicant seeks to amend, via s73 of the Town and Country Planning Act 1990 (as amended), is a Class O prior approval decision, reference 211028/OPA. Class O was the permitted development right which pre-dated the current 'Class MA' rights for conversion of Class E properties into C3 dwellings. Permission for the change of use (but no operational development) was granted by regulation (via the



General Permitted Development Order) (“GPDO”), subject to the stated conditions which include the requirement for prior approval of the Local Planning Authority. Prior approval was provided and the conditions of the Permitted Development right satisfactorily met.

- 1.7 The description of development (“the operative part” of the permission) which was approved is as follows:

“Change of use from Class B1(a) (offices) to C3 (dwelling houses) to comprise 10 flats.”

- 1.8 Reading BC have confirmed that the change of use authorised by permission 211028/OPA has been implemented. In 2022 the applicant submitted another Class O prior approval application, which proposed a different flood risk mitigation scheme than that which had been approved in 211028/OPA. The Council refused to grant prior approval on the basis that the premises had already been converted from an office into residential use. The decision notice states:

“Development works at the application site has commenced before written notification has been issued for this Prior Approval application from change of use from office to dwelling. These works mean that the application site is no longer B1a and the change to C3 dwellinghouse sought by this prior approval application is now contrary to Paragraph W of Part 3 of Schedule 2 to the General Permitted Development Order. Therefore, this Prior Approval application should be refused.”

- 1.9 The applicant therefore submitted a s73 application, to amend the original permission (211028/OPA) to secure the alternative flood risk mitigation scheme. That s73 application was approved on 24 January 2023 (decision reference 220823). The description of development is as per the original permission, identified in paragraph 1.6 above.

THE PROPOSED DEVELOPMENT

No change to description of development



1.10 This application is a further s73 application, seeking to amend the original permission, 211028/OPA.

1.11 No change to the description of development is proposed – this s73 application seeks to deliver “*change of use from Class B1(a) (offices) to C3 (dwelling houses) to comprise 10 flats.*” The amendment relate to the details of the internal layout and finished floor levels of the building, rather than the operative part of the permission.

Condition 2 – Approved Plans

1.12 It is proposed to amend condition 2 of permission 211028, to substitute revised ground and first floor plans showing alternative layout details for the 10 flats, as follows:

- The ‘landlord storage area’ at the western end of the first floor to form part of one of the ten residential flats, rather than a separate storage area; additional internal stairs in this flat to address variation in floor levels;
- Internal partition walls between some of the flats and rooms at ground first floor level to be in altered locations, with the effect of making some of the units larger and some smaller and reconfiguring the layout of rooms;
- Alternative finished floor levels, in line with revised Flood Risk Assessment (discussed further below); and
- Additional stair riser in communal stairwell at first floor and steps up from ground floor entrance hall in altered location

Condition 3 – Flood Risk Mitigation and Finished Floor Levels

1.13 It is also proposed to amend condition 3 of permission 211028 to secure alternative flood risk mitigation. The arrangements for mitigation of flood risk, in prior approval 211028/OPA, were that the floor levels of all dwellings would be raised to 38.34m above Ordnance Datum. Condition 3 secured compliance with this requirement:

Condition 3: *The development shall be carried out in accordance with the submitted flood risk assessment (ref 25/11/2020, QFRA 1754 version 1.1, UK Flood Risk) and the*



following mitigation measures it details: - Finished flood levels shall be set no lower than 38.34 metres above Ordnance Datum (AOD). These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

1.14 The applicant proposes a finished floor level of 37.82mAOD (as compared with the 38.34m specified in condition 3), so as to reduce the need for demolition of parts of the building. FRA Addendum May 2022 sets out the detail of the revised flood risk mitigation strategy and the calculations underpinning this. These amendments were submitted for approval in 2022 and have been approved already (220823). The Environment Agency responded to consultation on that application, to confirm the amendments were acceptable subject to imposition of a condition requiring finished floor levels at no lower than 27.82mAOD. A copy of their response is provided in Appendix A for reference.

1.15 As such, this proposed change is acceptable.

LEGAL CONTEXT

1.16 The proposed amendments to the approved development do not, in and of themselves, amount to “development” as defined in s55 of the Act. Section 55(2) provides that “The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—(a)the carrying out for the maintenance, improvement or other alteration of any building of works which—(i) affect only the interior of the building, or (ii)do not materially affect the external appearance of the building.

1.17 The conditions of the permission, however, require that development be in accordance with the approved plans and the original FRA. Therefore, a s73 application to amend the conditions is required. As s73 results in the issue of a new standalone permission, this application is seeking an additional approval for the change of use, with altered details as set above.



- 1.18 The High Court has confirmed that s73 is an appropriate route to amend the conditions attached to a prior approval decision (*Pressland v Hammersmith and Fulham LBC* [2016] EWHC 1763 (Admin)). In that decision the applicant had successfully sought permission for change of use from office to three residential flats under Class O. He/she later applied via s73 to amend the conditions and the LPA considered the application invalid, as it related to a prior approval decision rather than a planning permission. The High Court allowed an appeal against that decision, holding that a s73 application is indeed a valid method for seeking to alter the conditions upon which permission granted by the GPDO has been made.

MATERIAL CONSIDERATIONS

- 1.19 It has already previously been shown that the proposed conversion fell within the requirements of Class O, in terms of establishing the historic office use and its vacancy.
- 1.20 Transport and highway impacts of 10 flats at the Site have already been deemed acceptable, with adequate car parking, close proximity to Reading town centre and mainline railway station.
- 1.21 Flood risk is also a material consideration, as the Site is in Zone 3. A Flood Risk Assessment has been prepared, and already deemed acceptable to the Environment Agency (see Appendix A).
- 1.22 Contamination is also relevant in Class O permissions. An Environmental Phase 1 report supported the previous Class O applications and is resubmitted with this application. A condition was imposed requiring ground investigation/ assessment prior to occupation and was discharged by application 220536. As per the approach on application 220823, the condition requiring ground investigation/ assessment could therefore be imposed but noted as already discharged.
- 1.23 Commercial noise is a material consideration on Class O applications. The surrounding area is predominantly residential rather than commercial. The premises to the south (68 St Johns Road) is in Class E uses, allowing for light industrial use. such uses are



compatible, by definition, with nearby residential uses. It is not likely therefore than noise from commercial premises will be a concern.

1.24 Class O also required adequate natural light to all habitable rooms. As can be seen on the proposed plans (778-020-PL06 and 778-021-PL04) all habitable rooms receive adequate natural light from the existing windows and rooflights of the building. As noted on the plans, the proposed plans as submitted contain additional detail as to extent of fenestration which was not previously available in earlier applications, due to partial access/ building survey of the upper floor.

1.25 Each of the 10 flats proposed will achieve the nationally described space standards as set out below.

UNIT NO.	SIZE	REQUIRED SPACE	ACTUAL SPACE
Unit 1	1 bedroom/1pax w shower room	37sqm	40sqm
Unit 2	1 bedroom/ 1 pax w shower room	37sqm	37sqm
Unit 3	1 bedroom/ 1 pax w shower room	37sqm	50sqm
Unit 4	1 bedroom/ 1 pax w shower room	37sqm	39sqm
Unit 5	1 bedroom/ 1 pax w shower room	37sqm	37sqm
Unit 6	1 bedroom/ 1 pax w shower room	37sqm	37sqm
Unit 7	3 bedroom/5 pax w shower room	86sqm	87sqm



Unit 8	1 bedroom w shower room	37sqm	43 sqm
Unit 9	1 bedroom w shower room	37sqm	45.5sqm
Unit 10	1 bedroom w shower room	37sqm	37.5sqm

CONCLUSION

- 1.26 This application is submitted pursuant to s73 of the Act, and seeks to amend conditions 2 and 3 of permission 211028/OPA which authorised the change of use of Delta House to 10 flats.
- 1.27 The description of development is unchanged. This amendment still proposals 10 flats. The alterations are internal alternations, which include the incorporation of storage room into one of the flats, and revised layout of internal partition walls, together with altered finished floor levels (which have already been approved).
- 1.28 It has been confirmed by the High Court that s73 is a valid route for amending a prior approval decision/ Class O permission.
- 1.29 The amendments are acceptable in planning terms. Each flat achieves the nationally described space standards. The amendments are not 'development' as defined in s55(2) of the Act, as they are alterations which affect only the interior of the building. This application seeks to regularise the detail on the approved plans, to continue to deliver 10 flats at Delta House. The amended finished floor levels have already been deemed acceptable. Questions regarding contamination, commercial noise, and highways impacts have all been considered previously and satisfactorily addressed. Each of the dwellings will receive adequate natural light. The proposal does result in the delivery of 10no. 1-bedroom flats.
- 1.30 For the above reasons, the application should be approved.



**APPENDIX – Environment Agency response re: revised flood risk mitigation scheme/
finished floor levels.**

Reading Borough Council
Development Control
PO Box 17
Reading
Berkshire
RG1 7TD

Our ref: WA/2022/129974/01-L01
Your ref: 220823
Date: 03 November 2022

Dear Sir/Madam

Application For Removal Or Variation Of A Condition Following Grant Of Planning Permission. (211028/OPA)

70 South View Avenue, Caversham, Reading.

Thank you for consulting us on the proposed development noted above and thank you for agreeing an additional timeframe for the provision of our comments.

We have reviewed the following documents with regards to our planning remit:

- Flood Risk Assessment (ref: QFRA 1754, version 1.1) dated 25 November 2020, prepared by Flood Risk Consultants
- FRA Addendum, dated May 2022
- Environment Agency Product 4, dated 7 September 2020
- Modelled floodplain flood levels dated 2020
- Site Location and Block Plan (ref: 778-001-PL00) dated June 2021, prepared by Morse Webb Architects
- Proposed Ground Floor Plan (ref: 778-020-PL05) dated June 2021, prepared by Morse Webb Architects
- Proposed Site Plan (ref: 778-015-PL01) dated June 2021, prepared by Morse Webb Architects
- Letter to Reading Borough Council from Bell Cornwell, dated 6 June 2022
- Proposed Ground Floor Plan (ref: 778-020-PL01) dated June 2021, prepared by Morse Webb Architects
- Proposed First Floor Plan (ref: 778-021-PL00) dated June 2021, prepared by Morse Webb Architects

According to our Flood Map for Planning, the application site lies within Flood Zone 3, which is land defined by the Planning Practice Guidance (PPG) as having a high probability of flooding.

Did you know the Environment Agency has a **Planning Advice Service**? We can help you with all your planning questions, including overcoming our objections. If you would like our help please email us at planning_THM@environment-agency.gov.uk

Environment Agency position

In accordance with Policy EN18 of the Reading Borough Local Plan adopted 2019 and paragraph 167 of the National Planning Policy Framework (NPPF), the proposed development will be acceptable if the following **condition** is included on the planning permission's decision notice. Without this condition we would object to the proposal due to its adverse impact on the environment.

Condition

The development shall be carried out in accordance with the submitted flood risk assessment (ref: FRA - Addendum - May 2022) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 37.82 metres above Ordnance Datum (AOD)

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason

This condition seeks to reduce the risk of flooding to the proposed development and future occupants. This condition is supported by paragraph 167 of the NPPF and Policy EN18 of the Reading Borough Local Plan adopted 2019.

Advice to applicant and Planning Authority

Sequential test – advice to Planning Authority

What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Who undertakes the sequential test?

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of

search has been used. Further guidance on the area of search can be found in the planning practice guidance [here](#).

What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance [here](#).

Exception test – advice to Planning Authority

In accordance with the National Planning Policy Framework (paragraphs 164 and 165), the proposed development is appropriate provided that the site meets the requirements of the exception test. Our comments on the proposals relate to the part of the exception test that demonstrates the development is safe. The local planning authority must decide whether or not the proposal provides wider sustainability benefits to the community that outweigh flood risk.

The exception test should only be applied as set out in flood risk table 3 of the Planning Practice Guidance (PPG) following application of the sequential test. The exception test should not be used to justify the grant of planning permission in flood risk areas when the sequential test has shown that there are reasonably available, lower risk sites, appropriate for the proposed development.

In those circumstances, planning permission should be refused, unless you consider that sustainable development objectives make steering development to these lower risk sites inappropriate as outlined in PPG (ref ID: 7-033-20140306).

Our role in the exception test

The exception test is in two parts, described in the NPPF (paragraph 164). In order for the test to be passed it must be demonstrated that

1. The development would provide wider sustainability benefits to the community that outweigh flood risk; and
2. The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Paragraph 165 of the NPPF makes clear that both parts need to be met for the test to be satisfied. It is for the applicant to demonstrate this.

We provide advice on the second part of the test, but it is for you, as the local planning authority, to consider the first part of the test, accounting for the findings of the flood risk assessment and our flood risk advice, and to determine whether the test, overall, has been satisfied. Development that does not satisfy both parts of the exception test should be refused.

Where the flood risk assessment shows the development will be safe throughout its lifetime without increasing flood risk elsewhere

Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by

flooding. You will need to weigh these risks against any wider sustainability benefits to the community.

Flood resistance and resilience - advice to Planning Authority and applicant

We strongly recommend the use of flood resistance and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. If you'd like to find out more about reducing flood damage, visit the Flood Risk and Coastal Change pages of the planning practice guidance. Further guidance on flood resistance and resilience measures can also be found in:

Government guidance on flood resilient construction

<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

CIRIA Code of Practice for property flood resilience

https://www.ciria.org/Research/Projects_underway2/Code_of_Practice_and_guidance_for_property_flood_resilience.aspx

British Standard 85500 – Flood resistant and resilient construction

<https://shop.bsigroup.com/ProductDetail/?pid=000000000030299686>

Flood warning and emergency response - advice to Planning Authority

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The [planning practice guidance](#) (PPG) to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a [design flood](#) and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to '[Flood risk emergency plans for new development](#)' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 167 of the NPPF and the guiding principles of the PPG.

Final Comments

Thank you again for consulting us on this application. Our comments are based on the best available data and the information as presented to us.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me. Please quote our reference number in any future correspondence.

Yours faithfully

Miss Chloe Alma-Daykin
Planning Advisor

Direct dial 0203 025 9872

E-mail Planning_THM@environment-agency.gov.uk