



Appeal Decision

Inquiry held on 4 - 6 July 2023

Site visits made on 3 and 6 July 2023

By R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2023

Appeal Ref: APP/U4610/W/23/3317673

Brookside House, Burnsall Road, Coventry CV5 6BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by DR2H Limited against the decision of Coventry City Council.
 - The application Ref FUL/2022/0583, dated 4 March 2022, was refused by notice dated 20 September 2022.
 - The development proposed is the demolition of existing industrial building and construction of purpose built student accommodation (196 Rooms), amenities, landscaping, access and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing industrial building and construction of purpose built student accommodation (196 Rooms), amenities, landscaping, access and associated works at Brookside House, Burnsall Road, Coventry CV5 6BU in accordance with the terms of the application, Ref FUL/2022/0583, subject to the conditions in the attached schedule.

Preliminary Matters

2. In their statement of case, the Council initially stated that their 5-year housing land supply position was 4.19 years¹. However, at the start of the Inquiry they gave a verbal update on this position advising that they can now demonstrate a 1.83² year supply of deliverable housing sites. This was not contested by the Appellant.
3. During the Inquiry, the Council reviewed their position and advised the Inquiry that they no longer sought to defend their reasons for refusal or the appeal.
4. A signed Section 106 Legal Agreement has been provided. I will return to this later on.

Main Issues

5. The main issues are:
 - whether the development would be in an appropriate location, with specific regard to the surrounding employment uses, the impact on the living conditions of future occupiers and access to services, facilities and the university; and

¹ Paragraph 6.9 of Proof of Evidence of Mr Williams

² Confirmed during Evidence in Chief

- the effect of the development on highway safety and nearby living conditions as a result of vehicular parking.

Reasons

Appropriate Location

6. The appeal site currently comprises a vacant industrial building, with a small area of hardstanding to the front and a rear yard. It is located on the edge of an established industrial estate comprising a mix of uses, including B1, B2 and B8 uses. Further along Burnsall Road to the east are residential dwellings, including Burnsall Grove. The A45 dual carriageway runs close by.
7. The existing building is currently unoccupied, and I have been presented with evidence that it has been marketed but was unsuccessful in achieving any offers³ and I note the condition of the building and the features that would deter potential businesses, including the restricted height. As such, it has been adequately demonstrated that the appeal site is no longer suitable for an industrial use. In this regard the proposal accords with Policy JE3 1(a) of the Coventry Local Plan 2016 (Local Plan) which seeks to ensure that the redevelopment of employment land for non-employment uses will only be permitted where it is demonstrated that the site is no longer suitable for employment use.

i) Surrounding Employment Uses and the Living Conditions of Future Occupiers

8. The appeal site is directly adjacent to existing commercial and industrial uses with some smaller premises on the same side of the road and larger industrial premises opposite. The proposed development would involve the demolition of the existing building and the erection of a purpose-built student accommodation block with 196 rooms, internal communal areas and facilities and amenity areas.
9. Whilst the proposed development would introduce residential accommodation into the edge of the industrial estate, I note that there are existing dwellings close by, some of which also sit adjacent to the existing commercial sites. The appeal proposal has been accompanied by noise assessments⁴ which conclude that the internal noise levels experienced within the rooms at the appeal site would fall sufficiently within the BS8233 guidance ranges and the assessment of Dr Sullivan also considers some potential future uses in the calculations. I also note that currently the predominant noise at the appeal site arises from its proximity to the A45 and the traffic noise rather than the industrial businesses.
10. I have little evidence before me that the proposal would deter future commercial uses. In fact, evidence provided in the Appellant's submissions highlight that, despite the proximity of these businesses to the existing residential properties further along Burnsall Road and Burnsall Grove, there has been little complaint or conflict between these different uses. I also note the comments from a nearby business in support of the proposed development expressing the view that it would result in investment, improvements to the nature and outlook of the area and contribute to the general security of the area. Whilst there are not onerous restrictions on the use of premises within the industrial estate, I have had regard to the presence of the existing

³ Section 5, Appendices 2 – 4 Proof of Evidence of Mr Holt, Holt Commercial Limited

⁴ Proof of Evidence: Noise of Dr Sullivan

residential properties nearby and find that these would be likely to be a disincentive for a noisy or intensive future industrial use, irrespective of the proposed accommodation.

11. Consideration has been given to the need for the windows on the eastern elevation to be sealed to ensure that noise levels within the rooms remain within an acceptable range and I have had regard to the noise assessment being based on closed-window scenarios. I also note that, were this to be found necessary, suitable mechanical ventilation could be achieved to ensure that the living conditions of the occupiers were not unduly harmed as a result of the sealing of the windows. Nevertheless, based on the evidence before me, I find that the noise levels likely to be experienced by the future occupiers would not be to a level that would justify the need to seal the windows and that occupiers could use their discretion as to whether there was a need to close their windows at any time.
12. I have been provided with an odour and air quality assessment⁵ which concludes that existing air quality conditions at the site are within the relevant air quality standard and that the proposed development would be unlikely to be adversely affected in terms of air quality and odour. Based on the evidence before me, I am therefore satisfied that the proposed development would not give rise to complaints or conflict as a result of odour or air quality which could impact on existing or future occupiers of the nearby premises.
13. Whilst I accept that new businesses with different operations could move into the estate and occupy nearby buildings, I have been presented with little evidence to indicate that there is likely to be a significant change that would result in adverse impacts on the occupiers of the proposed development or future businesses.

ii) Access to Services, Facilities and the University

14. Moving on to the accessibility of the appeal site, the proposed development will provide accommodation for students of the University of Warwick which has a campus accessed off Lynchgate Road and Millburn Hill Road, amongst other roads. Within the area there are a number of facilities, including a corner shop at the end of Burnsall Road, supermarkets, bus stops and the Canley rail station with services to Coventry, London and Birmingham. Local amenities and their locations and walking, cycling and bus travel times have been provided by the Appellant⁶.
15. In order to reach the University and other facilities, occupiers of the proposed development would need to cross the A45 dual carriageway which is a reasonably busy road. However, there are a number of choices available for crossing comprising the nearby underpass, an unsignalled crossing point near the roundabout and a signalised crossing the other side of the roundabout.
16. The walking times between the appeal site and University equate to around 15 to 30 minutes⁷ depending on whereabouts the destination within the campus lies. The specific times would depend on the walking speed and mobility of those using the route, however I find that these would not be unreasonable

⁵ Proof of Evidence: Odour and Air Quality Dr Bull

⁶ Appendix C Highways Proof of Evidence Mr Forte Mode Transport Planning

⁷ 15 minutes in Appendix C of Highways Proof of Evidence of Mr Forte and 25 – 30 minutes in paragraph 8.16 of Proof of Evidence of Mr Williams

distances and times and I note that the appeal site is closer than the existing student accommodation at the Red Queen. I have had regard to the locations of existing facilities in relation to the appeal site and I consider that, whilst not everyone may wish to use the underpass, particularly after dark, there are suitable alternative options for pedestrians to safely cross the A45 and the routes are along well paved and accessible roads.

17. The proposed accommodation would include the provision for the storage of 50 cycles within the lower ground floor of the building. There would also be the opportunity to provide additional cycle storage if there was a demand for this. Furthermore, the development would contribute towards the provision of hire cycles and a docking station in proximity to the appeal site which would link up to the existing facilities in the wider area, including at the university.
18. Burnsall Road itself is identified as an advisory cycle route and most of the routes between the appeal site and the University are highlighted as cycle routes⁸. Taken together with the cycle storage and the provision of the cycle hire docking stations, I consider that these measures would strongly encourage the use of cycles to access the nearby facilities, including the University.
19. As with walking, cyclists travelling between the development and the nearby facilities and the University would have options, including the underpass or the two aforementioned crossing points. I consider that, for the above reasons, these would provide suitable access for cyclists.
20. As an alternative to cycling and walking, there are also bus stops in proximity to the appeal site, including on the nearby Prior Deram Walk. The bus service would provide a further option to access the University and local facilities in circumstances such as poor weather or if students had a number of bags to carry for example.
21. Consequently, it has been demonstrated that the proposed development would be in a suitable location in respect of its impacts on the nearby employment uses, the living conditions of future occupiers and access to services, facilities and the University. As such, the proposed development would comply with Policies JE3, DE1, H10 and DS3 of the Local Plan. Collectively these seek to ensure that proposals will not have an unacceptable adverse impact on the continuing operation of any nearby existing businesses, locate student accommodation where it is directly accessible from the universities, and ensure development has access to sustainable modes of transport, amongst other things. It would also comply with the aims of Sections 11 and 12 of the National Planning Policy Framework (2021) (the Framework).

Highway Safety and Nearby Living Conditions

22. The proposed development would provide no vehicular parking and be a car-free development. It would provide a minimum of 50 cycle spaces with a mechanism to review this and provide more where required. In addition, the development would contribute to the provision of hire cycles and a dock.
23. The Council's parking standards require 1 parking space per 4 bedrooms⁹, although this is a maximum requirement. However, the Appellants have provided pre-application comments from the Highways Development

⁸ Appendix F Highways Proof of Evidence Mr Forte Mode Transport Planning

⁹ Coventry City Local Plan Appendix 5 – Car and Cycle Parking Standards for New Development

Management team which, although given in relation to a slightly different scheme, advise that development without on-site parking would be acceptable and notes that if on-site parking were included it would encourage car use rather than other sustainable modes of transport¹⁰. Furthermore, for the reasons above, I have found that the proposed development would be accessible to the university and a number of facilities and services via other means, such as cycle, on foot and by bus.

24. The proposed development would include a lay-by parking area to the front of the appeal site which would allow for deliveries and taxis and would be used as an unloading and loading area for days when students were moving into and out of the accommodation. Whilst the proposed development would provide accommodation for around 196 students, I am advised that they do not all move into the accommodation on the same day and that the system will allow them to book a slot on moving days to avoid congestion and on-street parking.
25. There are some on-street parking bays marked along Burnsall Road and Burnsall Close, a number of which are subject to a controlled parking zone restriction (CPZ) for residents who have permits or for short term parking with no return within a number of hours. I also noted that several of the properties on Burnsall Road and Burnsall Grove have driveways for parking. Accordingly, with the car free development including a tenancy agreement which restricts car ownership at the site and surroundings, a booking system for moving days and the overall accessibility of the site, I find that it would be unlikely that parking as a result of the proposed development would result in harm to the living conditions of existing nearby occupiers and would be unlikely to compromise their abilities to park at or near their homes. I also have little before me to lead me to conclude that there would be an issue with highway safety in this regard.
26. I have been provided with correspondence in relation to another student accommodation development in the vicinity of the appeal site, the Red Queen¹¹. This provided parking facilities, however the letters provided indicate that this is under used and that most of the occupiers do not use cars.
27. For the above reasons, I conclude that the proposed development would not be detrimental to the living conditions of nearby residents, nor would it give rise to unacceptable highway safety issues or impact on the access and egress to existing buildings. I concur with the comments of the Highways Development Management Team who support a car free development and I am satisfied that this could be reasonably managed with tenancy agreements. The proposed development would therefore comply with Policies H10 and AC3 of the Local Plan. Collectively these seek to ensure that student accommodation does not materially harm the amenities of occupiers of nearby properties and ensures the consideration of transport demand. It would also meet the aims of Section 9 of the Framework.

¹⁰ Appendix B Highways Proof of Evidence Mr Forte Mode Transport Planning

¹¹ Appendix L Torsion Students Letter dated 15 August 2022 Highways Proof of Evidence Mr Forte Mode Transport Planning

Other Matters

28. A signed Section 106 Planning Obligation dated 19 July 2023 has been provided¹². This makes provision for contributions towards open space, travel plan monitoring, and the west midlands cycle hire docking station and secures the occupation of the development, the management of the property and the control of car usage in relation to the proposed development. I consider that the Council have sufficiently justified the contributions contained within the legal agreement and I am satisfied therefore that these are necessary, directly related, and fairly and reasonably related in scale and kind and therefore meet the tests. The Appellant has entered into the agreement, and it is presented in a way which I am satisfied will secure the necessary contributions.
29. A letter of objection has been received from a nearby resident concerning harm to wildlife, increase in crime, deliveries and noise from the occupiers and setting a precedent for additional student accommodation to come forward. The existing site is an industrial building with hardstanding and whilst there is an area of green space adjacent and a brook running alongside the boundary, I have little evidence before me that there would be an adverse impact on wildlife as a result of the development. Furthermore, conditions can be applied to ensure that the works do not impact on any species or their habitats. Whilst there may be an increase in deliveries, given the commercial nature of the area I do not consider that this would be discernible or give rise to harm. I have little evidence that crime or noise would increase as a result of the proposal. Any further applications for student accommodation in the area would need to be submitted to the Council to be considered on their own merits.
30. A letter of support has been received from a nearby business, however as I am allowing the appeal it is not necessary for me to address the points raised in this letter.

Conditions

31. In addition to the standard time limit condition, I have imposed a condition listing the approved plans as this provides certainty.
32. I have imposed conditions 3 and 4 in the interests of protecting the character and appearance of the area. Conditions 5, 7, 28, 29 and 31 are necessary in the interests of providing suitable living conditions for future occupiers. Condition 6 is included to protect the living conditions of occupiers of nearby dwellings and business premises. I have imposed conditions 8, 9, 10, 11, 12, 13 and 14 to ensure that protected species are not harmed and to safeguard and enhance habitats. Condition 15 is necessary to protect the local air quality. Conditions 16, 17, 18 and 30 are necessary in the interests of highway safety and encouraging sustainable modes of transport. I have imposed condition 19 in the interests of highway safety and protecting the living conditions of nearby occupiers. I have imposed condition 20 to ensure that the development is served by adequate drainage provisions. Condition 21 is necessary to prevent an increase in flood risk. Condition 22 is included to ensure that the development conforms with the Coventry City Council's jobs strategy. I have imposed conditions 23, 24, 25, 26 and 27 in the interests of health and safety of future and neighbouring occupiers and safeguarding the environment.

¹² Section 106 Planning Obligation ref 13511680-1 dated 19 July 2023 between Coventry City Council and Wentforth Group Ltd and DR2H (Burnsall Road) Ltd

33. Conditions 8, 10, 19 and 23 are required to be pre-commencement as it is fundamental to have these works agreed in advance of any works starting on site.

Conclusion

34. I have found that, for the above reasons, the proposed development would comply with the above policies and therefore the development plan as a whole. The development would result in some benefits, namely helping to reduce the number of market housing lost to student HMOs and freeing up some existing market housing, the potential to improve security in the surrounding area, the potential for local workers to be employed during the construction period and a contribution to the local economy. I have identified no harms arising from the proposed development, therefore for the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

R Norman

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan DWG 04-0001A; Existing Site Plan DWG 04-0002A; Existing Floor Plan DWG 04-0003; Demolition Plan DWG 04-0004; Proposed Site Plan DWG 04-0005A; Proposed Floor Plans Level -01 and 0 DWG 04-0010 Rev P02; Proposed Floor Plans Level 01 and 02 DWG 04-0011A; Proposed Floor Plans Levels 3 and 4 DWG 04-0012A; Proposed Floor 05 and Roof Plans DWG 04-0013A; Proposed Front and Rear Elevations DWG 04-0100 P02; Proposed East Elevations DWG 04-0101 P02; Proposed West Elevations DWG 04-0102 P02; Proposed Streetscene DWG 04-0103 P02; Proposed Sections DWG 04-0201 P02; and Proposed Drainage Plan DWG 1175-ROS-00-00-GA-C-09101.
- 3) Prior to their incorporation into the development hereby permitted, sample details of all facing and roofing materials shall be submitted to and approved in writing by the local planning authority. These details shall be installed only in full accordance with the approved details prior to the first occupation of the development.
- 4) Prior to the first occupation of the development hereby permitted, details of both hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatments, including full details of the proposed boundary walls, railings and gates to be erected, specifying the type of bricks and colour of the railings and gates; footpaths; and hard surfacing (which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area). The hard landscaping works shall be completed in strict accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details within the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes, in the opinion of the local planning authority, seriously damaged, defective or diseased, shall be replaced in the next planting season with another of similar size and species. All hedging, trees and shrubs shall be planted in accordance with British Standard BS 8545:2014 Trees: from nursery to independence in the landscape – Recommendations and BS4428 – Code of Practice for General Landscape Operations.
- 5) The development hereby permitted shall not be occupied unless and until the bin storage area(s) have been laid out and provided in full accordance with the approved details and thereafter those facilities shall remain available for use at all times. All bins which serve the development within the red line site area must be stored within the approved bin storage area and not positioned on the public highway or in the open, unless on bin collection days.

- 6) The student accommodation hereby permitted shall be occupied by no more than 196 permanent residents at any time.
- 7) No part of the residential accommodation hereby permitted shall be occupied unless and until the external amenity space has been laid out and provided in full accordance with the details shown on the approved plans and thereafter shall remain available for use at all times.
- 8) No development (including any demolition and preparatory works) shall commence unless and until a further detailed badger survey, including timetabled mitigation measures where appropriate, has been carried out by a qualified badger consultant and has been submitted to and approved in writing by the local planning authority. Any approved mitigation measures shall be implemented in full accordance with the approved timetable of works and once provided shall not be removed or altered in any way.
- 9) No removal of trees/hedges/shrubs or demolition of buildings/structures shall take place between 1 March and 31 August (inclusive) unless a survey to assess the nesting bird activity on the site during this period has been undertaken by a qualified surveyor, and a scheme to protect any nesting birds identified on the site has first been submitted to and approved in writing by the local planning authority. No trees/hedges/shrubs shall be removed, or buildings/structures shall be demolished between 1 March and 31 August (inclusive) other than in strict accordance with the approved bird nesting protection scheme.
- 10) No development (including any demolition or preparatory works) shall commence unless and until an assessment by a qualified bat surveyor in respect of the presence of bats has been carried out and has been submitted to and approved in writing by the local planning authority. Should the presence of bats be found then no demolition or preparatory works shall take place until full details of measures for bat mitigation and conservation in accordance with good practice guidelines have been submitted to and approved in writing by the local planning authority. All works shall be implemented in strict accordance with the approved timings and details and once undertaken any mitigation works shall not be removed or altered in any way.
- 11) Prior to the installation of any street lighting or any external lighting to be fixed to any building(s), an external lighting strategy (including a plan) shall be submitted to and approved in writing by the local planning authority. The strategy shall demonstrate that lighting shall be kept to a minimum at night in order to minimise impact on emerging and foraging bats, and to restrict light spillage onto foraging corridors. The lighting shall be installed in full accordance with the approved strategy and all lighting thereafter shall be subsequently maintained in strict accordance with the approved details.
- 12) Prior the first occupation of the development hereby permitted details of bird and bat boxes shall be submitted to and approved in writing by the local planning authority. The bird and bat boxes shall be fully installed in strict accordance with the approved details prior to the first occupation of the development and thereafter shall be retained and shall not be removed or altered in any way.

- 13) Prior to the first occupation of the development hereby permitted a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority in order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management, including mitigation and enhancement for species identified on site;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
 - g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation;
 - h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The LEMP plan shall be implemented in strict accordance with the approved details within three months of the first occupation of the development and thereafter shall not be withdrawn or amended in any way.

- 14) The development hereby approved shall proceed in accordance with the Biodiversity Impact Assessment submitted within the Primary Ecological Appraisal Report ref PE0275.
- 15) Any gas boilers installed on site shall have dry NO_x emission rates of no more than 40mg/kWh.
- 16) Prior to the first occupation of the development hereby permitted, a student management scheme shall be submitted to and approved in writing by the local planning authority, which sets out clear arrangements for the beginning and end of terms for students moving into and out of the accommodation. Thereafter the building shall only operate in full accordance with the approved details which shall not be amended in any way.
- 17) The development hereby permitted shall not be occupied unless and until cycle parking facilities have been provided in full accordance with the approved details. Thereafter those facilities shall remain available for use at all times and shall not be removed or altered in any way.
- 18) Notwithstanding the requirements set out within condition 17, within one year of the first occupation (but not before 8 months of the first occupation) of the building hereby permitted, a review of the cycle parking facilities shall have been submitted to the local planning

authority. If the building is not fully occupied when the initial review is carried out, a further review shall be carried out once the building is fully occupied and the details shall be submitted to the local planning authority. If any review identifies the lack of cycle parking as a barrier to residents travelling by cycle, additional cycle parking shall be provided within 6 months of the date of that review in accordance with details that shall be submitted to and approved in writing by the local planning authority. Thereafter such cycle parking shall remain available for use at all times and shall not be removed or altered in any way.

- 19) No development (including any demolition) shall take place unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of:
- a) Hours of work
 - b) Hours of deliveries to the site;
 - c) The parking of vehicles of site operatives and visitors during the demolition/construction phase;
 - d) The delivery access point;
 - e) The loading and unloading of plant and materials;
 - f) Anticipated size and frequency of vehicles moving to/from the site;
 - g) The storage of plant and materials used in constructing the development;
 - h) The erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate;
 - i) Wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
 - j) Measures to control the emission of dust and dirt during demolition and construction;
 - k) Measures to control the presence of asbestos;
 - l) Measures to minimise noise disturbance to neighbouring properties during demolition and construction;
 - m) Details of any piling together with details of how any associated vibration will be monitored and controlled; and
 - n) A scheme for recycling/disposing of waste resulting from demolition and construction works.

Thereafter, the approved details within the CMP shall be strictly adhered to throughout the construction period and shall not be amended in any way.

- 20) Save for works of demolition, the development hereby permitted shall not commence until the following drainage details have been submitted to and approved in writing by the local planning authority:
- a) A scheme for the provision of surface water drainage, incorporating SuDS attenuation techniques. On the basis that this site is of

limited area and percolation techniques have been demonstrated to be inappropriate surface water discharge off site will need to be of a limited discharge rate of 5l/s;

- b) Provisions must be made for the drainage of the site to ensure there are no temporary increases in flood risk, on or off site, during the construction phase, particularly with respect to the planned demolition/construction works and the deposition of silts and cementitious materials;
- c) Evidence must be provided to show the management of overland flow routes in the event of exceedance or blockage of the drainage system. Details should include demonstration of how the building will be protected in such an event;
- d) Details of discharge rates that shall not exceed 5l/s;
- e) Where new or redevelopment site levels result in the severance, diversion or reception of natural (or engineered) land drainage flow, the developer shall maintain existing flow routes (where there are no flood risk or safety implications) or intercept these flows and discharge these by a method approved by the local planning authority;
- f) Evidence that receiving water bodies or sewers are capable of accepting attenuated flows and that this will not exacerbate flood risk on or off site;
- g) A detailed strategy for the long-term maintenance of the SuDS and other surface water drainage systems on site.

The drainage details shall be installed in full accordance with the approved documentation prior to occupation of the development and thereafter shall be maintained and shall not be removed or altered in any way.

- 21) Finished floor slab levels must be 300mm above the 1 in 100-year pluvial flood levels, and above the 1 in 1000-year fluvial flood levels.
- 22) The development hereby permitted shall only proceed in strict accordance with a scheme for targeting and utilising local people for construction and employment, which shall be submitted to and approved in writing by the local planning authority.
- 23) An investigation and risk assessment (in addition to any assessment provided with the planning application) must be completed in accordance with a scheme to assess the nature and extent of any contamination on site; whether or not it originates on the site; and any report of the findings must be submitted to and approved in writing by the local planning authority prior to the commencement of development (including any demolition). The report of the findings, to be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' must include: (i) a survey of the extent, scale and nature of contamination, (ii) an assessment of the potential risk to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters,

- ecological systems, archaeological sites and ancient monuments, (iii) an appraisal of remedial options, and proposal of the preferred option(s).
- 24) The development shall only be undertaken in accordance with a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, which shall be submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 25) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out the remediation. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.
- 26) Prior to occupation of the development hereby permitted and following completion of the measures identified within the remediation scheme approved under condition 25, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the local planning authority for approval in writing.
- 27) In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 23, and where remediation is necessary and remediation scheme must be prepared in accordance with the requirements of condition 24, which shall be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the local planning authority in accordance with condition 26.
- 28) Prior to the first occupation of the development hereby approved, noise mitigation measures shall be implemented in full accordance with the recommendations set out at Section 8 of the Clover Report dated 17 June 2022, subject to an additional 3dB mitigation to the north façade and an additional 3dB to the east façade top floor rooms. These measures shall be implemented in full and retained thereafter.
- 29) The mitigation measures set out within the approved air quality assessment prepared by Hydrock dated 3 March 2022 shall be carried out in full prior to the first occupation of the development and these measures shall be maintained in accordance with the approved details thereafter and shall not be removed or altered in any way.
- 30) Prior to the first occupation of the development hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including a timetable and methods of monitoring the performance of the Plan), to

promote travel by sustainable modes, and shall be implemented in accordance with the details specified therein.

- 31) The development hereby permitted must be carried out in accordance with the ventilation strategy (22274-MMEP – Ventilation Strategy) dated 19 June 2023, within Mr Paul Barton's Rebuttal Proof of Evidence, dated 23 June 2023.

APPEARANCES

FOR THE APPELLANT:

Ian Ponter, Counsel, Kings Chambers - instructed by Harris Lamb, 75-76 Francis Road, Edgbaston, Birmingham B16 8SP

He called:

Adrian Forte BSc (Hons), MCIHT

Nick Holt BSc (Hons)

Rory Sullivan BA(Hons), PhD, CEng, MIOA, MAAS, MASA

Paul Barton BSc (Hons), MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Christian Hawley, Counsel, No5 Chambers - instructed by Coventry City Council Legal Services.

He called:

Frances Taylor, Environmental Health Officer, BSc (Hons) Chem, BSc (Hons) Env Health, Dip Acoustics and Noise Control

Owain Williams, Principal Town Planner, BA(Hons), MA Spatial Planning, MRTPI

DOCUMENTS SUBMITTED DURING THE INQUIRY

ID1 Copy of Appendix F of Mr Forte Proof of Evidence (missing from original document)

ID2 Opening Submissions on behalf of the Appellant

ID3 Opening Statement on behalf of Coventry City Council

ID4 Planning Committee Report for FUL/2018/0800 – 429 Fletchamstead Highway

ID5 Planning Committee Report for FUL/2016/1660 – 1-3 Broad Lane

ID6 Map showing site visit route

ID7 Amended suggested conditions

ID8 Draft Planning Obligation ref: 13428697 – 3

ID9 Closing Submissions on behalf of the Appellant

DOCUMENTS SUBMITTED AFTER THE INQUIRY

Section 106 Planning Obligation dated 19 July 2023 Ref 13511680-1 between Coventry City Council, Wentforth Group Ltd and DR2H (Burnsall Road) Limited