



Appeal Decisions

Hearing held on 21 November 2023

Site visit made on 1 December 2023

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal A Ref: APP/J4423/W/23/3324229

Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Code Living against Sheffield City Council.
 - The application Ref 23/00696/FUL is dated 28 February 2023.
 - The application sought planning permission to vary condition 2 imposed by planning permission Ref 21/0534/FUL dated 19 April 2022 to revise the approved plans showing reduction in height of the main tower from 38 to 32 storeys, re-configuration of window sizes/positions, facade materials of main tower changed from metal cladding to brickwork, and revised accommodation mix (Application under Section 73 to vary condition no(s) 2 (approved plans) as imposed by planning permission 21/0534/FUL - Application for alterations to elevations and layout (Application under Section 73 to vary condition 2. (approved plans) and remove condition 21. (Dutch Ramp)), imposed by application 20/04572/FUL - Application to revise the housing mix and change of window material (in places) to UPVC (Application under Section 73 to vary condition 2. (approved plans), 12. (energy needs) & 34. (UPVC windows) (Amended Plans) imposed by planning permission 19/03779/FUL - Demolition of existing buildings and erection of mixed use building up to 12/17/38 storeys to form residential units with ancillary amenities including gymnasium, cinema, common rooms and raised external deck, associated cycle and bin storage and ground floor retail unit (Use Class A1) (Development Accompanied by an Environmental Statement as amended 19th December 2019))) at Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield S1 4NN.
 - The condition in dispute is No 2 which states that: The development must be carried out in complete accordance with the following approved documents: Site Plan – P02 Rev AB, Proposed Plans – P03 Rev AF, Proposed Plans – P04 Rev Q, Proposed Elevation 1 – P101 Rev k, Proposed Elevation 2 – P102 Rev J, Proposed Elevation 3 – P103 Rev I, Proposed Elevation 4 – P104 Rev J, Proposed Elevation 5 – P105 Rev I, Proposed Elevation 6 – P106 Rev I, Proposed Street elevation – P107 Rev J, Contextual Street Elevation – P108 Rev L, Illustrative Views – P201 Rev K, Illustrative Views – P202 Rev J, Illustrative Sections and Bay Details – P303 Rev J, Landscape Masterplan – k1537_P401 I.
 - The reason given for the condition is: in order to define the permission.
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Appeal B Ref: APP/J4423/W/23/3324231

Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Code Living against Sheffield City Council.
- The application Ref 23/00697/FUL is dated 28 February 2023.
- The application sought planning permission to vary condition 2 imposed by planning permission Ref 21/0534/FUL dated 19 April 2022 to revise the approved plans showing reduction in height of the main tower from 38 to 35 storeys, re-configuration of window sizes/positions, facade materials of main tower changed from metal cladding to brickwork, and revised accommodation mix (Application under Section 73 to vary condition no(s) 2 (approved plans) as imposed by planning permission 21/0534/FUL - Application for alterations to elevations and layout (Application under Section 73 to vary condition 2. (approved plans) and remove condition 21. (Dutch Ramp)), imposed by application 20/04572/FUL - Application to revise the housing mix and change of window material (in places) to UPVC (Application under Section 73 to vary condition 2. (approved plans), 12. (energy needs) & 34. (UPVC windows) (Amended Plans) imposed by planning permission 19/03779/FUL - Demolition of existing buildings and erection of mixed use building up to 12/17/38 storeys to form residential units with ancillary amenities including gymnasium, cinema, common rooms and raised external deck, associated cycle and bin storage and ground floor retail unit (Use Class A1) (Development Accompanied by an Environmental Statement as amended 19th December 2019))) at Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield S1 4NN.
- The condition in dispute is No 2 which states that: The development must be carried out in complete accordance with the following approved documents: Site Plan – P02 Rev AB, Proposed Plans – P03 Rev AF, Proposed Plans – P04 Rev Q, Proposed Elevation 1 – P101 Rev k, Proposed Elevation 2 – P102 Rev J, Proposed Elevation 3 – P103 Rev I, Proposed Elevation 4 – P104 Rev J, Proposed Elevation 5 – P105 Rev I, Proposed Elevation 6 – P106 Rev I, Proposed Street elevation – P107 Rev J, Contextual Street Elevation – P108 Rev L, Illustrative Views – P201 Rev K, Illustrative Views – P202 Rev J, Illustrative Sections and Bay Details – P303 Rev J, Landscape Masterplan – k1537_P401 I.
- The reason given for the condition is: in order to define the permission.

Decision

1. Appeal A is allowed and planning permission is granted to vary condition 2 imposed by planning permission Ref 21/0534/FUL dated 19 April 2022 to revise the approved plans showing reduction in height of the main tower from 38 to 32 storeys, re-configuration of window sizes/positions, facade materials of main tower changed from metal cladding to brickwork, and revised accommodation mix (Application under Section 73 to vary condition no(s) 2 (approved plans) as imposed by planning permission 21/0534/FUL - Application for alterations to elevations and layout (Application under Section 73 to vary condition 2. (approved plans) and remove condition 21. (Dutch Ramp)), imposed by application 20/04572/FUL - Application to revise the

housing mix and change of window material (in places) to UPVC (Application under Section 73 to vary condition 2. (approved plans), 12. (energy needs) & 34. (UPVC windows) (Amended Plans) imposed by planning permission 19/03779/FUL - Demolition of existing buildings and erection of mixed use building up to 12/17/38 storeys to form residential units with ancillary amenities including gymnasium, cinema, common rooms and raised external deck, associated cycle and bin storage and ground floor retail unit (Use Class A1) (Development Accompanied by an Environmental Statement as amended 19th December 2019))) at Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield S1 4NN, without compliance with condition 2 set out in planning permission Ref 21/0534/FUL dated 19 April 2022, subject to the conditions set out in the attached Schedule.

2. Appeal B is allowed and planning permission is granted to vary condition 2 imposed by planning permission Ref 21/0534/FUL dated 19 April 2022 to revise the approved plans showing reduction in height of the main tower from 38 to 35 storeys, re-configuration of window sizes/positions, facade materials of main tower changed from metal cladding to brickwork, and revised accommodation mix (Application under Section 73 to vary condition no(s) 2 (approved plans) as imposed by planning permission 21/05354/FUL - Application for alterations to elevations and layout (Application under Section 73 to vary condition 2. (approved plans) and remove condition 21. (Dutch Ramp))), imposed by application 20/04572/FUL - Application to revise the housing mix and change of window material (in places) to UPVC (Application under Section 73 to vary condition 2. (approved plans), 12. (energy needs) & 34. (UPVC windows) (Amended Plans) imposed by planning permission 19/03779/FUL - Demolition of existing buildings and erection of mixed use building up to 12/17/38 storeys to form residential units with ancillary amenities including gymnasium, cinema, common rooms and raised external deck, associated cycle and bin storage and ground floor retail unit (Use Class A1) (Development Accompanied by an Environmental Statement as amended 19th December 2019))) at Land bounded by Rockingham Street and Wellington Street and Trafalgar Street, Sheffield S1 4NN, without compliance with condition 2 set out in planning permission Ref 21/0534/FUL dated 19 April 2022, subject to the conditions set out in the attached Schedule.

Applications for costs

3. An application for costs was made by the appellant. This is the subject of a separate decision.

Preliminary Matters

4. As confirmed in the Statement of Common Ground, there is no planning dispute between the parties. The only matter in dispute is whether the Section 73 process can be used in these cases. Legal submissions were made by both parties on this matter. No planning evidence was submitted.
5. In light of the above, and following agreement between the parties, I considered that the appeal procedure should be changed from an inquiry to a hearing.

6. The appellant invited me to consider revised layout plans as part of both appeals. These plans show a slightly different housing unit mix to those made as part of the Section 73 applications. The revised plans have been subject to consultation and no responses were received. The Council does not therefore object to me accepting them. Given this, I consider that there is no conflict with the Wheatcroft principles and I have accepted them for the purposes of making my decision. I have amended the description of proposed development in the decisions from that stated on the application form as the total number of units will now alter, in both appeals.

Main Issue

7. The main issue is:

Whether the proposals to reduce the height of the towers from 38 storeys to 32 storeys in the case of Appeal A and to 35 storeys in the case of Appeal B, are within the scope of amendments permitted to be made under section 73 of the Town and Country Planning Act 1990 (the Act)

Reasons

Background

8. The appeal site is a cleared, vacant area of land within Sheffield city centre. It is bounded by Wellington Street, Rockingham Street and Trafalgar Street. It lies within an area of change. A number of high-density schemes have been developed on nearby sites in recent years.
9. Planning permission was granted in July 2020 for the erection of three adjoining residential tower blocks of 12, 17 and 38 storeys in height with ground floor retail use and ancillary amenities including a gym, cinema and common rooms. The development provided a total of 1,235 apartments with a mix of self-contained studios and 1 and 2 bed apartments in a co-living accommodation scheme for students and non-student young professionals and affordable private rented accommodation. Demolition and clearance works commenced on the site in 2021 but the site is now fenced off and there is currently no construction activity.
10. Since the original permission was granted, multiple section 73 applications and a section 96a application have been submitted to amend the scheme. These changes included a slight increase in height, amendments to housing mix, elevation and layout changes, materials changes and most recently by way of appeal, the removal of the affordable housing provision. There are now four separate extant planning consents on the site. For the applications which are subject to these appeals, the relevant parent permission is 21/05354/FUL.

Use of Section 73

11. The dispute is quite simple. The appellant wishes to reduce the height of the tallest part of the building proposed in the scheme. In Appeal A the proposed height is 32 storeys and in Appeal B the proposed height is 35 storeys. The appellant says that the plans showing the new proposed height would not alter the operative part of the permission, that is, the description of development since it refers to a development of *up to* 12/17/38 storeys.

12. The Council argues that since this is a full planning permission the approved plans are fundamental to the consideration of what is permitted and that a proposal of a lower height would not accord with the description of development.
13. Both parties refer me to case law, mainly the same cases. I have had regard to all the authorities submitted to me in reaching my decision.
14. PPG - Flexible Options for Planning Permission¹, amended by the Secretary of State in July 2023, helpfully sets out the position following the Armstrong² judgement. Armstrong rejected the proposition that a section 73 application could only be made for a minor material amendment. This is supported by the case of Finney³ where it was confirmed that section 73 is directed at conditions and does not permit variation of the 'operative part' of a planning permission. The PPG update confirms that a change permissible under section 73 must only relate to the conditions and not to the operative part of the permission. It also states that Section 73 cannot be used to change the description of the development.
15. The appellant makes it clear that in its view if the words '*up to*' had not been used in the approved description of development, then the appeal should be dismissed. But those words have been used. These words tend to be more commonly used in outline consents, but examples were presented by the appellant where they had been used by other authorities in relation to full consents. At the hearing, the Council was not able to explain why they were used in this case.
16. Condition 2 of the original consent requires the development to be carried out in complete accordance with the approved documents. These are listed on the decision notice and include the plans. The Council refers to the Barnett⁴ judgement where it was said that the plans and drawings describing the building works were as much a part of the description of what has been permitted as the permission notice itself. The Council therefore argues that the original submission should be interpreted as permitting the erection of a building *of* 12/17/38 storeys and not a building *up to* these heights.
17. If the appeals were allowed, the development would still accord with the written description of development, i.e. of a building of up to 12/17/38 storeys. In Finney, in referring to the Arrowcroft⁵ case, it was said that the operative part of the planning permission was the description of development rather than the conditions. I have taken '*up to*' in the current case to mean that a lower height than 12/17/38 storeys could still accord with the description of development.
18. The PPG states that there is no statutory limit on the degree of change permissible under Section 73, but the change must only relate to conditions and not to the operative part of the permission. In any case, if the appeals were allowed, the scheme would not be fundamentally altered from that originally proposed. It would still be a scheme of principally the form originally proposed. It would be a mixed-use scheme comprising residential units and

¹ 013 Reference ID: 17a-013-20230726

² Armstrong v Secretary of State [2023] PTSR 1148

³ Finney v Welsh Ministers [2020] PTSR 455

⁴ Barnett v Secretary of State [2010] 1 P&CR 8

⁵ R v Coventry City Council ex p Arrowcroft Group plc [2001] PLCR 7

supporting facilities and be of a form of three blocks. One of the blocks would be less high than in the original scheme. However, there would no greater land use impact, no additional policy considerations and the Council acknowledges that there are no additional planning concerns raised in either appeal. Having visited the site and considered the evidence before me, I agree with that position.

19. For the reasons set out above I consider that the proposals are within the scope of amendments permitted to be made under section 73 of the Act.

Conditions

20. Decision notices for the grant of planning permission under Section 73 are also required to restate the conditions imposed on earlier permissions that continue to have effect. A decision taker also has the power to not attach conditions which were previously imposed, or to attach modified versions of them.
21. Condition 1 of the original consent which related to the time limit for commencement, is not needed as the development has commenced.
22. The conditions were discussed at the hearing and agreed in a Statement of Common Ground. Condition 2 is the plans condition which is the subject of these appeals. I will amend this condition to refer to the revised plans in either appeal.
23. The conditions now attached in the schedule reflects the various applications made to approve details reserved by conditions and amends then accordingly to require compliance with the approved details. I have therefore updated a number of the conditions as suggested by, and in agreement with, both parties. I have re-numbered the conditions consecutively in the interests of clarity.
24. As a result of discussion at the hearing and agreement between the two parties, I impose two new conditions, 37 and 38 on the new schedules for both appeals. These conditions require material samples and details for the window frames to be submitted to the local authority for approval and the development to accord with the approved details. They are necessary in the interests of the character and appearance of the area.

Planning Obligations

25. The appellant has submitted a Unilateral Undertaking (UU) for each appeal capable of securing planning obligations pursuant to section 106 of the Town and Country Planning Act 1990. This mirrors the approach taken by my colleague Inspector in respect a recent section 73 application appeal for the site.⁶
26. The UU is essentially the same as in that case, maintaining the same viability review mechanism for affordable housing as in that case. It is agreed by both parties that affordable housing should be provided in the event that the scheme is not progressed within an appropriate period of time and market conditions improve over that period. I agree with this approach.
27. I consider that the obligations are necessary to make the development acceptable in planning terms, are directly related to the development and are

⁶ APP/J4423/W/23/3318273

fairly and reasonably related in scale and kind to the development. I am satisfied that they meet the requirements of the Community Infrastructure Levy Regulations 2010 and I have therefore taken the UU into account in my decision.

Conclusion

28. For the reasons given above I conclude that both Appeal A and Appeal B should succeed. I will grant two new planning permissions each without the disputed condition 2 but substituting it for a new plans condition, restating those undisputed conditions that are still subsisting and capable of taking effect and amending/adding other conditions as necessary as explained above.

Mike Worden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Killian Garvey	Kings Chambers	Instructed by Chris May of Howes Percival
Chris May	Partner	Howes Percival

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Byass	Landmark Chambers	Instructed by Sheffield City Council
Michael Eaglestone	Principal Planning Officer	Sheffield City Council

DOCUMENTS

Documents submitted on the day of or after the event

- 1) Statement of Common Ground Addendum – setting out list of agreed conditions
- 2) Unilateral Undertaking with supporting documents
- 3) Costs application made by the appellant.

SCHEDULE OF CONDITIONS APPEAL A

APP/J4423/W/23/3324229 (23/00696/FUL)

1. The development must be carried out in complete accordance with the following approved documents except as may be specified in the conditions attached to this permission, which shall in all cases take precedence:
 - 1537-P2-P02D Site Plan
 - 1537-P2-P03C Proposed Plans Sheet 1
 - 1537-P2-P04C Proposed Plans Sheet 2
 - 1537-P2-P101 Elevation 1
 - 1537-P2-P102 Elevation 2
 - 1537-P2-P103 Elevation 3
 - 1537-P2-P104 Elevation 4
 - 1537-P2-P105 Elevation 5
 - 1537-P2-P106 Elevation 6
 - 1537-P2-P107 Street Elevations
 - 1537-P2-P108 Contextual Street Elevations
 - 1537-P2-P201A Illustrative Views
 - 1537-P2-P202 Illustrative Views
 - 1537-P301A – Room Types
 - 1537-P302A Room Conversion Options
 - 1537-P303K Indicative Details
 - 1537-P401D Cycle Parking
 - 1537-P402D Service Yard Signage
2. The development is a phased planning permission which shall be carried out in accordance with the following phases:
 - 1) Phase one shall comprise the demolition of existing buildings, including the removal of existing ground slabs
 - 2) Phase two shall include all other construction works, including but not limited to enabling, engineering and preparatory works
3. The development shall be carried out in accordance with the Employment and Development Plan approved by the Council on 26 May 2021 pursuant to application reference 19/03779/COND3
4. The development shall be carried out in accordance with the archaeological Written Scheme of Investigation approved by the Council on 11 August 2021 pursuant to application reference 19/03779/COND7 subject to the further submission of a detailed post-excavation report to allow a detailed understanding of the site to be gained as well as associated publication and archiving. This further report shall be submitted to and approved by the Local Planning Authority before any works on site re-commence.
5. The development shall be carried out in accordance with the Construction Environmental Management Plan approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4

6. The Surface Water Drainage scheme shall be implemented in accordance with the details approved by the Council on 23 July 2021 pursuant to application reference 19/03779/COND9
7. The reduction in surface water peak flow shall be in accordance with the Drainage Design approved by the Council on 23 July 2021 pursuant to application reference 19/03779/COND9
8. The development shall be carried out in accordance with the contamination and remediation report and details approved by the Council on 20 September 2021 pursuant to application reference 20/04572/COND1
9. The development shall be carried out in accordance with the Phase 2 Ground Investigation Report and the Coal Mining Grouting Specification Drawing approved by the Council on 28 May 2021 pursuant to application reference 19/03779/COND5
10. The development shall be carried out in accordance with the Phase 2 Ground Investigation Report, Terra97 ref. C21374G Issue 1.1; 17/06/2021 and Remediation Strategy Report, Terra97 ref. C21374RS Issue 1.2; 17/06/2021 approved by the Council on 20 September 2021 pursuant to application reference 20/04572/COND1
11. The development shall be carried out in full accordance with the 'Wellington Street Co-Living Scheme Fabric First 10% DFEE Report - Rev J'. The measures to achieve a minimum 10% reduction in energy requirements through the fabric first approach, shall have been installed/incorporated before any part of the development is occupied, and a report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed/incorporated prior to occupation. Thereafter the agreed measures shall be retained in use and maintained for the lifetime of the development.
12. The development shall be carried out in accordance with the vehicular ingress and egress details approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4
13. The development shall be carried out in accordance with the details of site accommodation including an area for delivery/service vehicles to load and unload, the parking of associated site vehicles and the storage of materials approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4
14. The Highway Improvement Works listed within the Section 278 (Highways Agreement) shall be carried out before the development is brought into use, as approved by the Council on 18 November 2021 pursuant to application reference 20/04572/COND2.
15. The development shall be carried out in accordance with the details relating to effective cleaning of wheels and bodies of vehicles leaving the site approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4
16. The development shall not be used unless all redundant accesses have been permanently stopped up and reinstated to kerb and footway, and any associated changes to adjacent waiting restrictions that are considered necessary by the Local Highway Authority including any Traffic Regulation Orders are implemented.

17. The co-living accommodation shall not be occupied until details of a scheme have been submitted to and approved in writing by the Local Planning Authority to ensure that, with the exception of disabled persons, the future occupiers of the residential units will not be eligible for resident parking permits within the Controlled Parking Zone. The future occupation of the residential units shall then occur in accordance with the approved details.
18. Prior to occupation of the development, or an alternative timeframe to be agreed in writing by the Local Planning Authority, a Detailed Travel Plan based on the submitted Interim Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Detailed Travel Plan shall include:
- a) Clear & unambiguous objectives to influence a lifestyle that will be less dependent upon the private car;
 - b) A package of measures to encourage and facilitate less car dependent living;
 - c) A time bound programme of implementation and monitoring in accordance with the City Councils Monitoring Schedule;
 - d) Provision for the results and findings of the monitoring to be independently validated to the satisfaction of the Local Planning Authority;
 - e) Provisions that the validated results and findings of the monitoring shall be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets.
- Prior to occupation of the development, or an alternative timeframe to be agreed in writing by the Local Planning Authority, evidence that all the measures included within the approved Detailed Travel Plan have been implemented or are committed shall have been submitted to and approved in writing by the Local Planning Authority.
19. The development shall be carried out in accordance with the details of the cycle parking approved by the Council on 11 August 2021 pursuant to application reference 19/03779/COND7
20. The residential accommodation hereby permitted shall not be occupied unless a scheme of sound insulation works has been installed and thereafter retained. Such scheme of works shall:
- a) Be based on the findings of approved noise assessment report ref 03409-730103 (19/09/19).
 - b) Be capable of achieving the following noise levels:
Bedrooms: LAeq (8 hour) - 30dB (2300 to 0700 hours);
Living Rooms & Bedrooms: LAeq (16 hour) - 35dB (0700 to 2300 hours);
Other Habitable Rooms: LAeq (16 hour) - 40dB (0700 to 2300 hours);
Bedrooms: LAFmax - 45dB (2300 to 0700 hours).

c) Where the above noise criteria cannot be achieved with windows partially open, include a system of alternative acoustically treated ventilation to all habitable rooms.

Before the scheme of sound insulation works is installed full details thereof shall first have been submitted to and approved in writing by the Local Planning Authority.

21. Before the use of the development is commenced, Validation Testing of the sound insulation and/or attenuation works shall have been carried out and the results submitted to and approved by the Local Planning Authority. Such Validation Testing shall:

a) Be carried out in accordance with an approved method statement.

b) Demonstrate that the specified noise levels have been achieved. In the event that the specified noise levels have not been achieved then, notwithstanding the sound insulation and/or attenuation works thus far approved, a further scheme of works capable of achieving the specified noise levels and recommended by an acoustic consultant shall be submitted to and approved by the Local Planning Authority before the use of the development is commenced. Such further scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained.

22. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

23. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance current Land Contamination Risk Management guidance (LCRM; Environment Agency 2020) and Sheffield City Council's supporting guidance issued in relation to validation of capping measures and validation of gas protection measures.

24. No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the building unless full details thereof, including acoustic emissions data, have first been submitted to and approved in writing by the Local Planning Authority. Once installed such plant or equipment shall not be altered.

25. The development shall be carried out in accordance with the detailed landscaping scheme approved by the Council on 18 June 2021 pursuant to application reference 19/03779/COND10
26. The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved by the Local Planning Authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.
27. The development shall be carried out in accordance with the ecological enhancement details approved by the Council on 18 June 2021 pursuant to application reference 19/03779/COND10
28. Details of all proposed external materials and finishes, including samples when requested by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.
29. A sample panel of the proposed masonry shall be erected on the site and shall illustrate the colour, texture, bedding and bonding of masonry and mortar finish to be used. The sample panel shall be approved in writing by the Local Planning Authority before any masonry works commence and shall be retained for verification purposes until the completion of such works.
30. Large scale details, including materials and finishes, at a minimum of 1:20 scale of the items listed below shall be approved in writing by the Local Planning Authority before that part of the development commences:
 - a) Windows and doors
 - b) Window reveals
 - c) Metal detail to windows
 - d) Ground floor glazing
 - e) Commercial unit shop front
 - f) Detail and cross section of window bays
 - g) Canopy
 - h) Louvers
 - i) Parapet
 - j) Service entrance doorsThereafter, the works shall be carried out in accordance with the approved details.
31. The development shall be carried out in accordance with the service yard signage details approved by the Council on 11 August 2021 pursuant to application reference 19/03779/COND7
32. No customer shall be permitted to be on the premises of any commercial use adopted within the building outside the following times: 0700 hours to 2330

hours Monday to Saturday and 0800 hours to 2300 hours on Sundays and Public Holidays.

- 33.No amplified sound or live music shall be played within the commercial use(s) hereby permitted at above background levels, nor shall loudspeakers be fixed externally nor directed to broadcast sound outside the building at any time. The specification, location and mountings of any loudspeakers affixed internally to the building shall be subject to written approval by the Local Planning Authority prior to installation.
- 34.Movement, sorting or removal of waste materials, recyclables or their containers in the open air shall be carried out only between the hours of 0700 to 2300 Mondays to Saturdays and between the hours of 0900 to 2300 on Sundays and Public Holidays.
- 35.Commercial deliveries to and collections from the building shall be carried out only between the hours of 0700 to 2300 on Mondays to Saturdays and between the hours of 0900 to 2300 on Sundays and Public Holidays.
- 36.No doors/windows shall, when open, project over the adjoining highway.
- 37.No part of the building shall be constructed above ground level until full scale samples of both the proposed UPVC and aluminium window frames have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.
- 38.Notwithstanding the details shown on the approved plans the UPVC windows at the 5th storey and below on elevations 1, 2, and 4 are not approved. No part of the building shall be constructed above the 2nd storey (excluding basement) until details of the window frames to be utilised on elevations 1, 2 and 4 (as shown on the 'Elevation Key' included on the approved plans) at the 3rd, 4th and 5th storey levels have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

SCHEDULE OF CONDITIONS – APPEAL B

APP/J4423/W/23/332423 (23/00697/FUL)

1. The development must be carried out in complete accordance with the following approved documents except as may be specified in the conditions attached to this permission, which shall in all cases take precedence:
 - 1537-P3-P02C Site Plan
 - 1537-P3-P03C Proposed Plans Sheet 1
 - 1537-P3-P04C Proposed Plans Sheet 2
 - 1537-P3-P101A Elevation 1
 - 1537-P3-P102A Elevation 2
 - 1537-P3-P103A Elevation 3
 - 1537-P3-P104A Elevation 4
 - 1537-P3-P105A Elevation 5
 - 1537-P3-P106A Elevation 6
 - 1537-P3-P107A Street Elevations
 - 1537-P3-P108A Contextual Street Elevations
 - 1537-P3-P201B Illustrative Views
 - 1537-P3-P202A Illustrative Views
 - 1537-P301A – Room Types
 - 1537-P302A Room Conversion Options
 - 1537-P303K Indicative Details
 - 1537-P401D Cycle Parking
 - 1537-P402D Service Yard Signage
2. The development is a phased planning permission which shall be carried out in accordance with the following phases:
 - 1) Phase one shall comprise the demolition of existing buildings, including the removal of existing ground slabs
 - 2) Phase two shall include all other construction works, including but not limited to enabling, engineering and preparatory works
3. The development shall be carried out in accordance with the Employment and Development Plan approved by the Council on 26 May 2021 pursuant to application reference 19/03779/COND3
4. The development shall be carried out in accordance with the archaeological Written Scheme of Investigation approved by the Council on 11 August 2021 pursuant to application reference 19/03779/COND7 subject to the further submission of a detailed post-excavation report to allow a detailed understanding of the site to be gained as well as associated publication and archiving. This further report shall be submitted to and approved by the Local Planning Authority before any works on site re-commence.
5. The development shall be carried out in accordance with the Construction Environmental Management Plan approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4

6. The Surface Water Drainage scheme shall be implemented in accordance with the details approved by the Council on 23 July 2021 pursuant to application reference 19/03779/COND9
7. The reduction in surface water peak flow shall be in accordance with the Drainage Design approved by the Council on 23 July 2021 pursuant to application reference 19/03779/COND9
8. The development shall be carried out in accordance with the contamination and remediation report and details approved by the Council on 20 September 2021 pursuant to application reference 20/04572/COND1
9. The development shall be carried out in accordance with the Phase 2 Ground Investigation Report and the Coal Mining Grouting Specification Drawing approved by the Council on 28 May 2021 pursuant to application reference 19/03779/COND5
10. The development shall be carried out in accordance with the Phase 2 Ground Investigation Report, Terra97 ref. C21374G Issue 1.1; 17/06/2021 and Remediation Strategy Report, Terra97 ref. C21374RS Issue 1.2; 17/06/2021 approved by the Council on 20 September 2021 pursuant to application reference 20/04572/COND1
11. The development shall be carried out in full accordance with the 'Wellington Street Co-Living Scheme Fabric First 10% DFEE Report - Rev J'. The measures to achieve a minimum 10% reduction in energy requirements through the fabric first approach, shall have been installed/incorporated before any part of the development is occupied, and a report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed/incorporated prior to occupation. Thereafter the agreed measures shall be retained in use and maintained for the lifetime of the development.
12. The development shall be carried out in accordance with the vehicular ingress and egress details approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4
13. The development shall be carried out in accordance with the details of site accommodation including an area for delivery/service vehicles to load and unload, the parking of associated site vehicles and the storage of materials approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4
14. The Highway Improvement Works listed within the Section 278 (Highways Agreement) shall be carried out before the development is brought into use, as approved by the Council on 18 November 2021 pursuant to application reference 20/04572/COND2.
15. The development shall be carried out in accordance with the details relating to effective cleaning of wheels and bodies of vehicles leaving the site approved by the Council on 28 September 2021 pursuant to application reference 19/03779/COND4
16. The development shall not be used unless all redundant accesses have been permanently stopped up and reinstated to kerb and footway, and any associated changes to adjacent waiting restrictions that are considered necessary by the Local Highway Authority including any Traffic Regulation Orders are implemented.

17. The co-living accommodation shall not be occupied until details of a scheme have been submitted to and approved in writing by the Local Planning Authority to ensure that, with the exception of disabled persons, the future occupiers of the residential units will not be eligible for resident parking permits within the Controlled Parking Zone. The future occupation of the residential units shall then occur in accordance with the approved details.
18. Prior to occupation of the development, or an alternative timeframe to be agreed in writing by the Local Planning Authority, a Detailed Travel Plan based on the submitted Interim Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Detailed Travel Plan shall include:
- a) Clear & unambiguous objectives to influence a lifestyle that will be less dependent upon the private car;
 - b) A package of measures to encourage and facilitate less car dependent living;
 - c) A time bound programme of implementation and monitoring in accordance with the City Councils Monitoring Schedule;
 - d) Provision for the results and findings of the monitoring to be independently validated to the satisfaction of the Local Planning Authority;
 - e) Provisions that the validated results and findings of the monitoring shall be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets.
- Prior to occupation of the development, or an alternative timeframe to be agreed in writing by the Local Planning Authority, evidence that all the measures included within the approved Detailed Travel Plan have been implemented or are committed shall have been submitted to and approved in writing by the Local Planning Authority.
19. The development shall be carried out in accordance with the details of the cycle parking approved by the Council on 11 August 2021 pursuant to application reference 19/03779/COND7
20. The residential accommodation hereby permitted shall not be occupied unless a scheme of sound insulation works has been installed and thereafter retained. Such scheme of works shall:
- a) Be based on the findings of approved noise assessment report ref 03409-730103 (19/09/19).
 - b) Be capable of achieving the following noise levels:
Bedrooms: LAeq (8 hour) - 30dB (2300 to 0700 hours);
Living Rooms & Bedrooms: LAeq (16 hour) - 35dB (0700 to 2300 hours);
Other Habitable Rooms: LAeq (16 hour) - 40dB (0700 to 2300 hours);
Bedrooms: LAFmax - 45dB (2300 to 0700 hours).

c) Where the above noise criteria cannot be achieved with windows partially open, include a system of alternative acoustically treated ventilation to all habitable rooms.

Before the scheme of sound insulation works is installed full details thereof shall first have been submitted to and approved in writing by the Local Planning Authority.

21. Before the use of the development is commenced, Validation Testing of the sound insulation and/or attenuation works shall have been carried out and the results submitted to and approved by the Local Planning Authority. Such Validation Testing shall:

a) Be carried out in accordance with an approved method statement.

b) Demonstrate that the specified noise levels have been achieved. In the event that the specified noise levels have not been achieved then, notwithstanding the sound insulation and/or attenuation works thus far approved, a further scheme of works capable of achieving the specified noise levels and recommended by an acoustic consultant shall be submitted to and approved by the Local Planning Authority before the use of the development is commenced. Such further scheme of works shall be installed as approved in writing by the Local Planning Authority before the use is commenced and shall thereafter be retained.

22. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

23. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance current Land Contamination Risk Management guidance (LCRM; Environment Agency 2020) and Sheffield City Council's supporting guidance issued in relation to validation of capping measures and validation of gas protection measures.

24. No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the building unless full details thereof, including acoustic emissions data, have first been submitted to and approved in writing by the Local Planning Authority. Once installed such plant or equipment shall not be altered.

25. The development shall be carried out in accordance with the detailed landscaping scheme approved by the Council on 18 June 2021 pursuant to application reference 19/03779/COND10
26. The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved by the Local Planning Authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.
27. The development shall be carried out in accordance with the ecological enhancement details approved by the Council on 18 June 2021 pursuant to application reference 19/03779/COND10
28. Details of all proposed external materials and finishes, including samples when requested by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.
29. A sample panel of the proposed masonry shall be erected on the site and shall illustrate the colour, texture, bedding and bonding of masonry and mortar finish to be used. The sample panel shall be approved in writing by the Local Planning Authority before any masonry works commence and shall be retained for verification purposes until the completion of such works.
30. Large scale details, including materials and finishes, at a minimum of 1:20 scale of the items listed below shall be approved in writing by the Local Planning Authority before that part of the development commences:
 - a) Windows and doors
 - b) Window reveals
 - c) Metal detail to windows
 - d) Ground floor glazing
 - e) Commercial unit shop front
 - f) Detail and cross section of window bays
 - g) Canopy
 - h) Louvers
 - i) Parapet
 - j) Service entrance doorsThereafter, the works shall be carried out in accordance with the approved details.
31. The development shall be carried out in accordance with the service yard signage details approved by the Council on 11 August 2021 pursuant to application reference 19/03779/COND7
32. No customer shall be permitted to be on the premises of any commercial use adopted within the building outside the following times: 0700 hours to 2330

hours Monday to Saturday and 0800 hours to 2300 hours on Sundays and Public Holidays.

33. No amplified sound or live music shall be played within the commercial use(s) hereby permitted at above background levels, nor shall loudspeakers be fixed externally nor directed to broadcast sound outside the building at any time. The specification, location and mountings of any loudspeakers affixed internally to the building shall be subject to written approval by the Local Planning Authority prior to installation.
34. Movement, sorting or removal of waste materials, recyclables or their containers in the open air shall be carried out only between the hours of 0700 to 2300 Mondays to Saturdays and between the hours of 0900 to 2300 on Sundays and Public Holidays.
35. Commercial deliveries to and collections from the building shall be carried out only between the hours of 0700 to 2300 on Mondays to Saturdays and between the hours of 0900 to 2300 on Sundays and Public Holidays.
36. No doors/windows shall, when open, project over the adjoining highway.
37. No part of the building shall be constructed above ground level until full scale samples of both the proposed UPVC and aluminium window frames have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.
38. Notwithstanding the details shown on the approved plans the UPVC windows at the 5th storey and below on elevations 1, 2, and 4 are not approved. No part of the building shall be constructed above the 2nd storey (excluding basement) until details of the window frames to be utilised on elevations 1, 2 and 4 (as shown on the 'Elevation Key' included on the approved plans) at the 3rd, 4th and 5th storey levels have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

