

# PLANNING APPLICATION NUMBER:P07/2020/E2

Type of approval sought	Full Planning Permission
Ward	Amblecote
Applicant	Euron Ltd.
Location:	<b>112, HIGH STREET, AMBLECOTE, STOURBRIDGE, WEST MIDLANDS</b>
Proposal	<b>EXTENSION OF TIME OF PREVIOUSLY APPROVED APPLICATION FOR ERECTION OF 1 NO. BLOCK OF 24 ONE AND TWO BEDROOM APARTMENTS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## SITE AND SURROUNDINGS

1. This 0.2 hectare site formerly accommodated a substantial three-storey house and associated outbuildings set within extensive grounds. The house was vacant for a number of years prior to its demolition – the site has now been cleared of all of buildings.
2. The site lies on a main arterial route. The surrounding area is typified by a wide variety of house types, and the wider area includes a variety of uses. Immediately adjacent the site to the south is a pair of semi-detached 3 storey Victorian villas, followed by a terrace of identical properties. Beyond these further to the south is a terrace of four small modern houses. To the north of the site is a small detached house with a blank gable wall which forms part of the boundary, whilst to the west (rear) of the site are bungalows on Hollybush Lane. On the opposite side of the High Street is the Corbett Hospital complex, including nurses accommodation (in a large detached dwelling) and a day nursery, and large detached houses set back from the highway. All of these buildings are at an elevated level above the High Street, whilst the application site and adjacent buildings are at highway level.

## PROPOSAL

3. Planning application P07/2020 was submitted in October 2007 for a 2 and 3 storey apartment block at the site, providing 24no. apartments (16 no. 2-bed and 8no. 1-bed) at a density of 120 dwellings per hectare. The application was refused in May 2008 for the reasons set out in the History section below. A subsequent appeal was allowed in January 2009. The approved development has not been implemented.
4. In June 2011 application P07/2020/E1 was submitted for an extension of time for the implementation of the original permission. Before a decision was made an appeal was submitted against the failure of the Local Planning Authority to give notice of its decision within the prescribed 13 week period. The application was subsequently reported to the Development Control Committee in January 2012, the purpose of the report being to advise Members of the recommendation that Officers would have made had that appeal not been lodged and to seek approval to defend the appeal in accordance with that recommendation ( the recommendation being that the application would have been refused due to the lack of a contribution towards affordable housing and public realm improvements ). Members resolved to allow the appeal to be defended for the reason set out in the History section below (that the proposal would not provide the required level of Affordable Housing and other relevant planning obligations).
5. Under the terms of the relevant planning legislation only one extension to a planning permission is possible. With the lodging of the appeal for application P07/2020/E1 no extension of the permission currently exists (a hearing is due to take place in May). This application is identical to P07/2020/E1, except that the applicant is not proposing to provide any affordable housing for viability reasons (the previous proposal included the provision of three affordable units).

## HISTORY

6.

APPLICATION	PROPOSAL	DECISION	DATE
P05/2373	Demolition of Existing Buildings and Erection of 5no. Detached Houses and Garages.	Refused and allowed at appeal.	
P05/2373/E1	Demolition of Existing Buildings and Erection of 5no. Detached Houses and Garages ( Extension of Time of Previously Approved Application )	Approved Subject to Conditions	12/11
P07/2020	Erection of 1no. Block of 24 One and Two Bedroom Apartments	Refused and allowed at appeal.	05/08
P07/2020/E1	Extension of Time of Previously Approved Application	Appeal to be heard in May 2012	

7. Application P05/2373 for the erection of five houses at the site was originally allowed on appeal in 2006. An extension of time application was given permission in December 2011.

8. Application P07/2020 was refused for the following reasons:

*1. The proposed development, by reason of its scale, design and massing, would have a detrimental impact on the character of the area and an adverse impact on the amenities of neighbouring properties on High Street and Hollybush Lane by reason of loss of privacy, outlook and noise disturbance. The proposal is therefore contrary to Policies DD1 and DD4 of the UDP.*

9. A subsequent appeal was allowed, the Inspector being of the opinion that the proposal would not unacceptably harm the character of the area or the living conditions of occupiers of surrounding properties.

10. Application P07/2020/E1 referred to in paragraph 4 above was accompanied by a viability assessment which was considered by the Head of Property and Valuations who advised that in their opinion the development would make a sufficient level of profit to allow for the provision of 6 units of affordable accommodation rather than the 3 units being offered by the applicant.
  
11. As a result it was recommended that had the Council been able to determine the application it would have been refused on the following grounds:  
*'The lack of a completed undertaking to make a contribution towards affordable housing and public realm improvement works and the provision of a management and monitoring fee would result in the development having an unacceptable impact upon local infrastructure with no compensation or enhancement to mitigate against those impacts, thereby resulting in harm to the wider community contrary to the provisions of Policies DEL1 and HOU3 of the adopted Core Strategy and the adopted Planning Obligations SPD'.*

## PUBLIC CONSULTATION

12. A ward councillor has objected to this extension of time application on the following grounds:
  - The proposed buildings would be out of character with the area;
  - The development will exacerbate existing traffic congestion problems along the High Street;
  - The building would have an overbearing impact on the bungalows at the rear of the site on Hollybush Lane;
  - The site is located on a sharp bend, leading to difficulties attempting to access and egress onto the High Street;
  - Noise disturbance at nearby properties and loss of light and privacy.
  
13. Notification letters were sent to 35 neighbouring properties. One letter of objection has been received from the occupant of a property on High Street, raising the following concerns:

- Additional volume of traffic on the High Street;
- The proposed access point to the site is in a location which would be hazardous to highway safety;

## OTHER CONSULTATION

14. Head of Environmental Health and Trading Standards: no objection subject to the imposition of a condition relating to noise protection to the dwellings from road traffic noise.
15. Group Engineer (Development):
  - a pedestrian refuge on the High Street should be provided by the developer to ensure that adequate visibility splays can be provided from the site access;
  - the proposed bell-mouth junction onto High Street is excessively wide and should be replaced by a footway crossing;
  - the development should provide 39 car parking spaces and 42 cycle parking spaces, in accordance with the Draft Parking Standards SPD.

## RELEVANT PLANNING POLICY

16. National Policy
  - The National Planning Policy Framework (March 2012)

### Black Country Core Strategy

- Policy DEL1 (Infrastructure Provision);
- Policy HOU2 (Housing Density, Type and Accessibility);
- Policy HOU3 (Delivering Affordable Housing);

### Saved 2005 UDP Policies

- Policy DD1 (Urban Design);
- Policy DD4 (Development in Residential Areas);

### Supplementary Planning Documents

- Draft Parking Standards SPD;
- Planning Obligations SPD;
- Glass Quarter SPD

## ASSESSMENT

17. Planning permission was granted for this development at appeal in 2009 and this application is purely for an extension of time for the implementation of that permission. There are no proposed changes between this scheme and the one previously approved. However it is necessary to assess the application against any changes in policy that have occurred since that application was approved. The main change in policy relates to the adoption of the National Planning Policy Framework (NPPF), the Black Country Core Strategy and the adopted Supplementary Planning Obligations SPD.
18. The NPPF sets out the Government's planning policies and how these are expected to be applied, and is a material consideration in planning decisions. At the heart of the NPPF is a presumption in favour of sustainable development; in respect of the decision making process the NPPF requires that development proposals that accord with the development plan should be approved without delay.
19. The NPPF sets out a number of core land-use planning principles which should underpin the decision-taking process. Of relevance to the assessment of this application is that planning should proactively drive and support the delivery of homes that the country needs, always seek to secure high quality design and a good standard of amenity for occupants of buildings, and encourage the effective use of land by reusing land that has been previously developed (brownfield land). Housing applications should be considered in the context of the presumption in favour of sustainable development.

20. Policy HOU2 of the Core Strategy advises that the density and type of new housing on sites will be informed by the level of accessibility by sustainable transport to residential services. All developments should aim to achieve a minimum density of 35 dwellings per hectare and that higher density developments (above 60 dph) should generally be located in the areas with best access to public transport and services, such as strategic centres and town centres. In this case the development has a density of 120 dwellings per hectare, which would not normally be acceptable in a location which is defined in the New Housing Development SPD as being 'edge of centre'.
21. In assessing the appeal against the refusal of application P07/2020 the Inspector considered that the development would not be contrary to Policies DD1 and DD4 of the UDP, both of which have been 'saved' and therefore still form part of the Development Plan. Policy DD4 requires that new developments should not have any adverse effect on the character of the area, whilst Policy DD1 requires that developments should make a positive contribution to the existing character. These Policies remain relevant to the assessment of this application, and given that there is no change to the form of development proposed it remains the case that the development would not be detrimental to the character of the area, notwithstanding its relatively high density in terms of Policy HOU2 of the Core Strategy.
22. In his consideration of the original appeal, the Inspector was also of the opinion that the proposal would not have any unacceptably harmful effect on the living conditions of the occupiers of surrounding residential properties by reason of any unacceptable loss of privacy and outlook and noise disturbance. The proposal would therefore comply with Policy DD4 of the UDP which requires that new developments should not have any adverse effect on residential amenity.
23. With regard to the comments of the Group Engineer (Development) a pedestrian refuge on the High Street to the front of the site can be requested by condition. Similarly the required changes to the site access width can be also be sought by condition. The development provides 32 parking spaces, which is considered to be

an appropriate amount given that the site is in a relatively sustainable location and is well served by public transport.

### Planning Obligations

24. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
25. The obligations potentially triggered according to the Planning Obligations SPD are economic and community development, affordable housing, transport infrastructure improvements, air quality improvements, library improvements, open space and play area improvements, public realm improvements, public art and nature conservation improvements.
26. In addition to applying Policy DEL1 and the SPD, in identifying the required planning obligations on this application the following three tests as set out in the CIL Regulations (April 2010), in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
  - (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development;
  - (c) fairly and reasonably related in scale and kind to the development.
27. Following consideration of the above tests the following contributions are required for this application:



• Public Realm ( off-site )	£11,484.48
• Affordable Housing ( on-site )	6 dwellings
• Public Art	1% of development cost
• Monitoring Charge	£1000
• <b><u>Total Monies</u></b>	<b>£ 12,484.48</b>

28. The Planning Obligations SPD requires the provision of public art for developments of 10 dwellings or more. Should permission be granted a suitable condition could be imposed to ensure that art feature(s) are incorporated into the development.
29. In respect of the request for planning obligations, the applicant has produced two financial appraisals. The first shows that with the provision of affordable housing the development would result in a loss of approximately £500,000. The other shows that the development would have a net deficit of approximately £190,000 if no affordable housing were to be sought.
30. In the applicant's opinion the appraisal demonstrates that the scheme is unviable with the provision of the required obligations and that even without the contributions the scheme is unviable, albeit by a lesser margin. The applicant has advised that this application has been made to keep the existing permission alive so that when the property market eventually recovers the developers will be in a position to implement the approved scheme.
31. Whilst the viability report associated with the previous application was considered by the Head of Property and Valuations the report submitted with this application has been considered by the District Valuer.
32. The District Valuer has undertaken a detailed appraisal of the information submitted and initially advised that the proposal would not be viable with the provision of the planning obligations listed above when compared to the alternative use value for the site.

24. Officers then asked the District Valuer to re-run the appraisal including the provision of three units of affordable housing and no other planning obligations and the conclusion was that the scheme would still not be viable.
25. The Planning Obligations SPD recognises that exceptional circumstances may arise on some sites which result in genuine financial viability concerns. The Council's objective in viability negotiations is to secure the maximum value of planning obligations in order to deliver the required amount of supporting infrastructure, whilst working with developers to enable developments to come forward.
26. The District Valuer has confirmed that in this case the applicant has satisfactorily demonstrated that the viability of the scheme would be significantly harmed by the provision of affordable housing and the financial contributions to Public Realm improvements and Public Art and as such, in the interests of helping an otherwise sustainable form of development to come forward in accordance with the requirements of the NPPF, it is considered appropriate to not request the provision of any planning obligations in this instance.

#### New Homes Bonus

35. Clause (124) of the Localism Act states that local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A "local finance consideration" means a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown. This may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
36. The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock.

37. The Bonus will sit alongside the existing planning system and provides local authorities with monies equal to the national average for the council tax band on each additional property and paid for the following six years as a non-ring fenced grant. In addition, to ensure that affordable homes are sufficiently prioritised within supply, there will be a simple and transparent enhancement of a flat rate £350 per annum for each additional affordable home.
38. Whilst the clause makes it clear that local finance matters are relevant to planning considerations and can be taken into account, it does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be “bought”. Under this system the proposal would provide a significant sum of money, however the planning merits of the proposal are acceptable in any event and Members are advised not to accord this any significant weight in the assessment of the development

## CONCLUSION

39. The proposal constitutes a sustainable form of development on brownfield land which would have no adverse impact on the character of the area, residential amenity or highway safety. As such the proposal complies with the aims of the National Planning Policy Framework, and Saved Policies DD1 and DD4 of the UDP.

## RECOMMENDATION

40. It is recommended that the application be approved subject to the following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Development shall not begin until a scheme for protecting the proposed dwellings from noise from road traffic on the A491 has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority.
3. No part of the development hereby permitted shall begin until details of a pedestrian refuge to be installed on High Street have been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed in accordance with the approved details before any part of the development is occupied.
4. Notwithstanding any details shown on the approved drawings, no part of the development hereby permitted shall begin until a drawing showing the provision of a footway crossing access ( instead of a bellmouth junction ) has been submitted to and approved in writing by the local planning authority. No part of the development shall be occupied until the access has been provided in accordance with the approved details.
5. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development.
6. No development shall commence until details of the proposed boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include a 2 metre high fence of a minimum density of 10kg per square metre to be erected on the site's western boundary. The works shall be carried out as approved before completion or occupation of the development whichever is sooner.
7. Development shall not begin until details of the type, texture and colour of materials to be used in the external elevations of the building and the surfacing and marking of access driveways and parking areas have been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.
8. No part of the building hereby permitted shall be occupied before the parking spaces and associated access and maneuvering areas have been surfaced and marked in accordance with the details approved in pursuance of Condition 7. The spaces shall thereafter be retained and shall be used for no other purpose than those specified.
9. Development shall not begin until details of site, floor and slab levels related to those of adjoining land and highways, have been submitted to and approved by the local planning authority. The development shall thereafter take place in accordance with the approved details.
10. Development shall not commence until details of a public art feature to be incorporated within either the front boundary treatment or the front elevation of the

approved building have been submitted to and approved in writing by the local planning authority.

11. A scheme produced in partnership with the Council shall address, as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the council's Planning Obligations Supplementary Planning Document. The scheme shall be submitted to and approved by the Local Planning Authority prior to commencement of development.
12. The development hereby permitted shall be carried out in accordance with the following approved plans submitted for planning application P07/2020: P001, P002, P003.