

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 20/01408/OUT	<u>Parish:</u>	Alberbury With Cardeston
<u>Proposal:</u> Outline application for the erection of two detached dwellings with all matters reserved (amended description).		
<u>Site Address:</u> Milestone Garden Ornaments Alberbury Shrewsbury Shropshire SY5 9AD		
<u>Applicant:</u> Milestone Garden Ornaments		
<u>Case Officer:</u> Shannon Franklin	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 336385 - 314057



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks outline planning permission for the erection of two open market dwellings with all matters reserved.
- 1.2 The submission of the application follows the receipt of pre-application advice (Referenced: PREAPP/19/00529) which concluded as follows:

‘...the site is previously developed land, whereby its redevelopment can be supported subject to a sensitive form, layout and appearance - notwithstanding the current layout and form, which is not acceptable.’

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies to the south of Alberbury in a small cluster of linear development, some 530m south-east of the main settlement core. The application site is roughly triangular in shape occupying a fork in a road section, straddled by two highway sections on its north-eastern and south-western boundaries. Alberbury is a small rural settlement situated approximately 9 miles west of Shrewsbury.
- 2.2 The site is bounded to the west by a neighbouring residential dwelling, known as Yew Tree Cottage and to the east by agricultural land. To the north-east side the site is bounded by the B4393 and to the south-west the site is bounded by Rowton Avenue. The sites boundaries are formed of hedging, fencing, a block wall and in places is open to the highway a result of recent boundary removal.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected to the proposal and therefore as Officers are recommending for approval of the scheme the application was considered at the appropriate agenda setting meeting. The Chair and Vice Chair of the northern committee, together with the Principal Officer determined that a committee decision would be appropriate in this instance as they considered the brown field site and location are material considerations to warrant consideration at Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.1 Alberbury and Cardeston Parish Council – 14.04.2020 – Objects

The Parish Council opposes this application as it has an Open Countryside Planning status in the Local Place Plan and the Village Plan, and no open market

housing is supported.

We would however be keen to see this site, which appears to be an eyesore, tidied up in some way; perhaps if an alternative scheme with affordable housing was presented then we could support this.

4.1.2 **SC SUDS – 22.04.2020 – No Objection**

Informatives recommended.

4.1.4 **SC Highways – 17.04.2020 – Further Information Required**

The proposed development seeks outline planning consent with access as a determined matter and all other matters reserved, for the erection of two detached dwellings following demolition of existing buildings.

As access is a determined matter full details are required to be submitted. In order for the proposed development to be appropriately assessed, from a highways and transport perspective, the following information is required to be submitted, by the applicant:

Full details of the proposed accesses including a scale plan indicating layout, construction and visibility splays commensurate with the local conditions and highway safety.

The plan should also demonstrate adequate parking and turning facilities for both dwellings to enable vehicles to exit onto the public highway in a forward manner.

Any future planning application should provide any and all details necessary to assist with the appropriate determination from a Highways and Transport perspective. As well as, demonstrate that the proposed vehicular accesses, associated visibility splays, parking and turning facilities are commensurate with the prevailing local highway conditions, in accordance with 'Manual for Streets 1 & 2'.

4.1.5 **SC Affordable Housing – 15.04.2020 – No Objection**

The proposed development falls below the threshold by which the Local Authority is able to require a contribution towards affordable housing.

4.1.6 **SC Regulatory Services – 20.04.2020 – No Objection**

A report by Groundfirst; Phase I Contaminated Land Report, Milestone Garden Ornaments, Alberbury, nr Shrewsbury, Shropshire SY5 9AD; Report No. 4134R1 FINAL, 1st March 2020 has been submitted in support of this planning application.

The report confirms that plausible contaminant linkages are present and that a Phase 2 site investigation is necessary to clarify the significance of any ground contamination.

Conditions recommended.

4.2 - Public Comments

4.2.1 The application has been advertised via a site notice and the Council's website. Additionally, the residents of five neighbouring properties were individually notified by way of publication of this application. At the time of writing this report, five representations had been received in support of scheme.

4.2.2 These comments in support of the scheme site the following reasons:

- The current site is a eyesore and the scheme will improve its appearance.
- Dwellings are more in-keeping with the area than the existing industrial type use.
- More dwelling will help local residents get the speed limits in the area reduced.

5.0 THE MAIN ISSUES

- 5.1
- **Principle of development**
 - **Details of the proposal**
 - **Amenity impact**
 - **Visual impact and landscaping**

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application is assessed under the policies and criteria outlined in the National Planning Policy Framework, the Shropshire Core Strategy and the Council's Site Allocations and Management of Development – Development Plan Document (SAMDev).

6.1.2 Due to the size of Alberbury, its lack of most services and facilities and inherently rural and open landscape setting and character, the settlement has not been identified for additional growth within the Local Development Plan and is therefore considered as being within the open countryside - for planning policy purposes. As such, policy CS5 which exercises strict control over development within the countryside is applicable.

6.1.3 The application site itself has been used for industrial purposes for the past decades, with a range of buildings to the north-west of the site, with the remainder of the site used for outdoor storage and yard areas. Due to the site's former use, it is considered as 'previously developed land' in accordance with the National Planning Policy Framework (NPPF).

6.1.4 At paragraph 84 the NPPF states as follows:

'The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.'

- 6.1.5 Within the supporting text to Policy CS10: Managed Release of Housing Land, it is expressly stated that *'The development of brownfield sites is prioritised where available and deliverable in sustainable locations. The policy includes an overall target of 60% of development on previously developed sites.'* This stance is reiterated in the sub text of Policy MD7b: General Management of Development in the Countryside which recognises that the appropriate use of previously developed land, where there is not conflict with other policies of the development plan, can represent sustainable development.
- 6.1.6 Officers have provided pre-application advice at the site which confirmed that subject to a scheme of sensitive form, layout and appearance being brought forward, the principle of development for residential development on the site, which is considered to be previously developed land, is acceptable. The pre-application advice confirms that the site could accommodate a maximum of 2no. detached dwellings. It should be noted that earlier pre-application advice relating to a change of use from retail to residential was issued in 2016 which advised that additional justification would need to be provided and that the site may be appropriate for an exception site (affordable) dwelling.
- 6.1.7 As per the latest pre-application advice provided on site, Officers do not consider that the site lies within the "boundary of Alberbury" - of which Alberbury lies undefined and therefore requires a judgement as to the settlement extents. The site does however lie within an outlying cluster of development and would not extend beyond the edge of development on the northern site of the B4393, nor encroach further eastward into open countryside. The settlement core of Alberbury has no notable facilities - whilst there is a church, there are no other services or facilities that would meet the day-to-day needs of its residents, instead Ford, to the east, would provide these needs, but remains relatively inaccessible by sustainable modes of transport.
- 6.1.8 With regards to the design of the proposal Policies CS6, CS17 and MD2 are also considered to apply to the consideration of this application. Policy CS6 seeks to ensure developments are sympathetic to the size, mass, character and appearance of the original property and surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment but places the context of the site at the forefront of consideration.

- 6.1.9 Officers therefore consider that, whilst the site is situated within open countryside, its previous use means that it constitutes previously developed land in accordance with the NPPF and therefore the sensitive redevelopment of the site, is a material consideration along with consideration of other applicable policies of the development plan.

6.2 Details of Proposal

- 6.2.1 The proposal is submitted in outline form only and other than the affected site area and the principle of development for two dwellings, all other matters are intended to be dealt with by way of reserved matters. Initially the applicant intended for access to be a matter considered at outline stage however during the course of the determination it was decided that access would also be a matter for later consideration.
- 6.2.2 The additional information supplied with the application does however suggest that the 2no. dwellings proposed would take the form of detached properties with detached garages. The indicative site plan suggest the site will be accessed from the northern edge from the B4393 with a single access point provided leading to the two plots; one occupying the western half of the site and one the east. In line with the pre-application advice provided, either a single access point or the use of the two existing access points may be appropriate for gaining access to the site however full details will need to be submitted at reserved matters stage demonstrating that sufficient visibility can be achieved and the proposed access arrangement is appropriate for the local highway conditions.
- 6.2.3 The indicative plans suggest that the dwellings would be located roughly along the centre line of the site with gardens to the southern side and parking and turning areas to the north. In terms of this indicative design and layout the proposal is appropriately located within the plot. Whilst all matters are reserved for consideration at a later stage, Officers acknowledge that within the locality the built form and style is varying, with no predominant design or character. Therefore, subject to the resultant scheme remains sympathetic to the character and setting of the landscape and existing built Environment, the site is capable of accommodating a development of varying design styles, subject to massing, proportions and scale.
- 6.2.4 As emphasised at pre-application stage, based on the assessment of the indicative site layout and the site and surrounding characteristics, given its position at the edge of the village it would be appropriate for the eastern dwelling to have a reduced height.

6.3 Amenity Impact

- 6.3.1 Since the current proposal is for outline consent no precise details are supplied at present. Details of scale, siting and detailing would need to be submitted at Reserved Matters stage and carefully considered so as to minimise the impact on the existing dwelling; known as Yew Tree Cottage including through means of overlooking and overshadowing. Providing requirements of scale, siting and

orientation can be satisfied at Reserved Matters stage in principle the size of the plot is deemed to be sufficient to accommodate two detached dwellings without adverse impact on any surrounding residential properties.

- 6.3.2 The application is accompanied by a Ground Contamination Report which confirms that plausible contaminant linkages are present and that a Phase 2 site investigation is necessary to clarify the significance of any ground contamination. As such the Regulatory Services consultee have confirmed that a condition is necessary requiring additional information in relation to contaminated land, which could affect future occupants.

6.4 Visual impact and landscaping

- 6.4.1 The site currently occupies an industrial use, the appearance of which is at odds with the rural characteristics of this area of countryside. As such an appropriately detailed and scaled scheme represents an opportunity to improve the appearance of the site and its surroundings.
- 6.4.2 Whilst full details of the scale and appearance are not known at present, Officers would suggest that a reduced scale to the eastern dwelling would be appropriate as this will assist in clearly defining the end of the village/cluster of residential development thereby emphasising the development edge. It would also be appropriate to use or retain those boundary treatments most commonly found within the rural area such as timber post and rail fencing and native species hedge and tree planting.
- 6.4.3 Details of the full landscaping proposals would be required to be submitted for consideration at reserved matters stage.

7.0 CONCLUSION

- 7.1 The site is considered to represent previously developed land in the open countryside upon which a sensitively detailed and proportioned scheme for 2no. dwellings could be supported. Therefore whilst the application is for outline permission only, with all matters reserved, a full assessment cannot be undertaken. The proposed development given the site's 'brownfield status' is considered to be appropriately located development and although finely balanced is considered to be in accordance with the relevant policies of the National Planning Policy Framework, the Shropshire Core Strategy and the Site Allocations and Management of Development document.
- 7.2 The proposal is therefore on balance considered to accord with the relevant policy framework set down within the NPPF, Core Strategy Policies CS5, CS6, CS10 and CS17 and SAMDev Policies MD2 and MD7b and is recommended for approval.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ② As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

- National Planning Policy Framework

Core Strategy and Saved Policies:

- CS5 - Countryside and Greenbelt
- CS6 - Sustainable Design and Development Principles
- CS10 - Managed Release of housing Land
- CS17 - Environmental Networks
- MD2 - Sustainable Design
- MD12 - Natural Environment
- MD7B - General Management of Development in the Countryside

RELEVANT PLANNING HISTORY:

PREAPP/16/00076 Change of use from retail to residential PREUDV 8th March 2016

PREAPP/19/00529 Erection of 3no. open market dwellings each with their own access

PREAMD 14th January 2020

20/01408/OUT Outline application for the erection of two detached dwellings with all matters reserved (amended description). PDE

SA/89/1186 Erection of 6 No. Class B1 light industrial units (total 610m sq) with 14 car parking spaces. PERCON 20th December 1989

SA/88/0270 Rebuilding part of office accommodation at rear of existing works. PERCON 5th May 1988

SA/97/0238 Erection of a 2.3m high block wall to rear boundary. PERCON 12th May 1997

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items

containing exempt or confidential information)

Cabinet Member (Portfolio Holder)
Councillor Gwilym Butler

Local Member

Cllr Ed Potter

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. This permission does not purport to grant consent for the layout shown on the deposited plan titled 'Revised Sketch Layout Plan - Revision A' received on 20th May 2020 and submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

6. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development hereby approved is occupied.

Reason: To ensure a satisfactory means of access to the highway.

7. No development shall take place until details for the parking and turning of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

8. Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agencys Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy 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.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further 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 (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

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