



Appeal Decision

Site visit made on 10 September 2025

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Appeal Reference APP/R0660/D/25/3369645

Midways, Back Lane, Ashley, Altrincham WA15 0QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Berry against the decision of Cheshire East Council.
 - The application reference is 24/5100/HOUS.
 - The development proposed is: Demolition of the existing garage block and the construction of a new detached two storey building on site, with associated hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing garage block and the construction of a new detached two storey building on site, with associated hard and soft landscaping at Midways, Back Lane, Ashley, Altrincham WA15 0QH in accordance with the terms of the application, reference 24/5100/HOUS, subject to the conditions set out in the accompanying Schedule.

Preliminary matter

2. The application reference in the heading and decision above is taken from the Council's decision notice and the appeal statement submitted on behalf of the appellants. I believe this reference to be correct. Section C of the householder planning appeal form included a reference starting with the number 25.

Main issues

3. Flowing from the single reason for refusal, the main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt; and
 - if the development would be inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. Midways is an exceptionally fine country house set in extensive landscaped grounds which complement the bucolic setting of the property in the countryside set away from the main cluster of buildings that make up the village of Ashley to the west. The proposal is to demolish an outbuilding (garages and stores) which is well
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set back behind the house in the rear garden and erect a replacement outbuilding to be used for purposes ancillary to Midways. The site falls within the Green Belt.

5. The development plan includes the Cheshire East Local Plan Strategy (LPS) 2017 and the Site Allocations and Development Policies Document (SADPD) 2022.
6. LPS Policy PG 3 seeks to apply national planning policy, as it existed in 2017, to proposals in the Green Belt. The current National Planning Policy Framework (the Framework) says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate unless one of the specified exceptions applies.
7. One exception, at paragraph 154 d) of the Framework (repeated at LPS Policy PG 3 part 3 iv), is “the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.” Another exception at paragraph 154 g) of the Framework is “limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.” This must supersede the differently worded version of this exception that appears at LPS Policy PG 3 part 3 vi).
8. In relation to the former exception, the Council accepts that the replacement outbuilding would be in the same use as the existing outbuilding.
9. Neither the Framework nor the development plan define “materially larger” or contain numerical limits on any increases in size that may be permitted. It would be a question of fact and judgement in each case. SADPD Policy RUR 13 applies with equal measure in the countryside and the Green Belt. It outlines the matters that will be taken into account when deciding whether a replacement building is materially larger. These include height, bulk, form, siting, design, floor space and footprint. It notes that increases in overall building height and development extending notably beyond the existing footprint in particular have the potential to be materially larger. The policy’s supporting information confirms that determining what is “materially larger” will depend upon the circumstances of each case.
10. Various physical dimensions of the existing single storey and proposed two storey outbuildings have been provided by the parties. Whilst the appellants did not offer a floor space measurement, I am not convinced that this dimension is the most relevant since it would be obviously and readily skewed by the simple inclusion of a floor in the roof space of the proposed outbuilding.
11. An assessment of built volume would pick up whether this floor space increase (estimated by the Council to be 79.24%) has any serious implications for size.
12. Moreover, the Council’s floor space figures exclude the ground floor canopy of the existing building as it does not include “*habitable*” floor space. This approach is odd as none of the existing building has what might be termed habitable floor space.
13. The sides of the canopy are not enclosed but its tiled roof is a notable structure that offers storage space below for outdoor furniture. The floor space percentage increase would be reduced by about 26% if this canopy area was included.

14. There is agreement between the parties that the proposal would lead to an increase in built volume of just 26.59%. As a matter of fact and degree, I am not convinced that this, in itself, clearly points to an outbuilding that would be larger than the existing in a significant way.
15. Of importance in my judgement is how the proposed outbuilding would occupy a smaller footprint than the existing outbuilding, a reduction of 15.23% or 12.61% based on the appellants' and the Council's dimensions respectively. The existing outbuilding is a long structure that sprawls across the site finishing with a wide, irregular-shaped eastern side wall that presents itself as a cramped continuation of the boundary wall to the adjacent field. The replacement outbuilding, on the other hand, would be based on a T-shaped design that would give it a far more compact built form. Each of the main blocks in the design would have narrower gable ends and not approach the elongated nature of the existing building. The proposed siting would see the outbuilding set away from the boundary wall to the adjacent field and not repeat the congested built arrangement of the existing outbuilding.
16. That the ridge over the proposed outbuilding would be about 2.1m higher is largely a product of the wide and shallow-pitched roof over the existing outbuilding. Outwardly, the two storey replacement outbuilding would appear as a single storey building with rooms in the roof space. The main bulk of a building is typically set by the level of the eaves and here the Council recorded that the proposed eaves level would be slightly less than the existing eaves height.
17. When assessed objectively and viewed in the round, I identify that the proposed building would be larger than the building to be replaced but not in a significant way or considerably so.
18. I noted the 2 unimplemented planning permissions for replacement outbuildings at Midways granted in 2006 (ref. 06/0310P) and 2007 (ref. 06/3012P). These 2 decisions carry very little weight. They came about under a different development plan background. It would appear that the then Macclesfield Borough Local Plan allowed for the construction of domestic buildings within the curtilage of existing houses in the Green Belt as an exception to the normal 30% extension allowance, provided that the proposal did not adversely affect the character and appearance of the countryside. That would have required judgement on a rather different exercise.
19. I note that there is a second strand to SADPD Policy RUR 13 concerning replacement buildings in the Green Belt. However, the Council, correctly in my view, raised no objections on design or landscape grounds and consequently did not allege that the replacement building would "...unduly harm the rural character of the countryside, by virtue of prominence, scale, bulk or visual intrusion."
20. Drawing all the above together, I find that the detached two storey replacement building proposed would be in the same use as, and not materially larger than, the building it replaces. On this basis, the proposal would not constitute inappropriate development in the Green Belt. It would accord with the Framework, LPS Policies MP 1 and PG 3 and SADPD Policy RUR 13. It is not necessary for me to consider the exception at paragraph 154(g) of the Framework in the light of this finding.
21. The Court of Appeal in *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404* endorsed the

view that where development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.

22. Moreover, as I have found that the proposed development would not constitute inappropriate development within the Green Belt, there is no requirement for very special circumstances to justify the development to be demonstrated.

Conditions

23. The Council has recommended a total of 10 conditions in its questionnaire. I have considered these against the advice on conditions in the Framework and the Planning Practice Guidance.
24. I have imposed the standard time limit condition and ensured that the development is carried out in accordance with the approved plans, both for the avoidance of doubt and in the interests of proper planning. A condition to secure the use of the external materials that were specified in the application is necessary to protect the character and appearance of the locality.
25. I find that it is necessary and reasonable for a condition restricting the proposed building to ancillary usage. This will reflect the purposes stated by the appellants. The use of the building for other purposes might raise wholly different considerations in planning terms.
26. Having noted the existence of trees on the site protected by a Tree Preservation Order, studied the arboriculture statement submitted with application and read the consultation response from the Council's Forestry Officer, I consider that tree protection works should be secured to protect the landscape. Both the Council's suggested conditions in this regard are therefore imposed. To safeguard biodiversity, a condition is necessary so that works are carried out at times that do not interfere with any nesting birds.
27. Appropriate measures to minimize potential contamination risks should be the subject of conditions as put forward by the Council's Contaminated Land Team.
28. The log burner flue stack will be controlled under the building regulations. The environmental health department also has separate powers with regard to air pollution. These factors, added to the considerable distance between the site of the proposed building and the nearest neighbouring residential properties, leads me to the view that a condition to control the log burner flue height would be superfluous.

Conclusion

29. For the reasons given above and having had regard to all other matters raised and the absence of objections from local residents and the Parish Council, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans as numbered/titled: 2049 PL 001 Rev No. B Location Plan; 2049 PL 201 Rev No. C Proposed Site Plan; 2049 PL 202 Rev No. A Proposed Ground Floor Plan; 2049 PL 203 Rev No. A Proposed First Floor Plan; and 2049 PL 204 Rev No. B Proposed Elevations.
- 3) The materials specified in the application shall be used for the exterior of the development hereby permitted and no additional or alternative materials shall be used unless first agreed in writing by the local planning authority.
- 4) The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the existing dwelling house known as Midways, Back Lane, Ashley, Altrincham WA15 0QH.
- 5) Development shall be carried out in full accordance with the tree protection and special construction measures identified in the Arboriculture Impact Assessment And Method Statement by MPTrees October 2024, and the Tree Protection Plan (Drawing No. MPT328.02.24) contained therein, with all measures to be implemented under arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations.
- 6) No development shall take place beyond scheduled tree protection measures and tree works until details of an engineer-designed, no-dig hard surface construction for the building foundation and slab have been submitted to and approved in writing by the local planning authority. These details shall also include existing and proposed spot levels and the proposed details of the materials for the final wearing surface. Development shall be carried out in accordance with the approved details.
- 7) No removal of any vegetation or demolition work or the erection of the building hereby permitted shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a related report shall be submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- 8) Any soil or soil forming materials to be brought to the site for use in soft landscaping shall be tested for contamination and suitability for use in line with the current version of 'Developing Land within Cheshire East Council – A Guide to Submitting Planning Applications, Land Contamination'. Prior to the development hereby permitted being brought into use, such evidence and verification information shall be submitted to and approved in writing by the local planning authority.
- 9) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and confirmation of this shall be reported to the local planning authority. Prior to any

further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a written scheme that has been previously submitted to and agreed in writing by the local planning authority.

End of schedule