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## Appeal Decision

Site visit made on 21 January 2025

by **O S Woodward MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 March 2026

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**Appeal Ref: APP/A2470/W/25/3359246**

**6 Station Road, Whissendine, OAKHAM LE15 7HG**

- 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 Andrew Allen against the decision of Rutland County Council.
  - The application Ref is 2024/1240/FUL.
  - The development proposed is change of use of agricultural land to garden land.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Because the appeal relates to works that would affect the setting of a listed building, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. A revised National Planning Policy Framework Consultation was released on 16 December 2025. The document is a consultation which is open until March 2026. It is therefore likely to be subject to change before it is adopted and it carries very limited weight at this time. I have not, therefore, sought any responses from the main parties in this regard.

### Main Issues

4. The main issues are:
  - whether or not the appeal site is an appropriate location for development of this type, having regard to local planning policy and guidance;
  - the effect of the proposed development on the character and appearance of the area, including whether or not the proposal preserves the Grade I listed building 'Church of St Andrew'<sup>1</sup> or any features of special architectural or historic interest which it possesses in terms of how the building is experienced in its setting; and,
  - the effect of the proposal on biodiversity, with particular regard to Biodiversity Net Gain (BNG).

### Reasons

#### *Principle*

5. The appeal site relates to agricultural land adjacent to a house at 6 Station Road. The property was originally restricted for agricultural occupancy, but this was

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<sup>1</sup> List entry number 1295308

removed in 2024<sup>2</sup>. It is proposed to change the use of part of the directly adjacent agricultural field to be subsumed into the existing garden to the house at No 6. Irrespective of the loss of the agricultural occupancy restriction, the proposed change of use of the appeal site land from agricultural to a domestic garden would be inappropriate in this countryside location, in-principle. Whilst the proposed larger garden would be directly related to the use and enjoyment of the house, it currently has a large garden to the front. A larger garden area is not therefore required to create suitable living conditions for the occupants of the house.

6. The proposal would therefore conflict with Policy CS4 of the Core Strategy 2011 (the CS), because the proposed domestication of a small piece of a field constitutes development in the countryside which does not have an essential need to be located there. There would also be a conflict with Policies SP6 and SP23 of the Site Allocations and Policies Development Plan Document 2014 (the DPD). Policy SP6 requires that the extension to the curtilage of dwellings in the countryside only be permitted if, amongst other factors, it is necessary to provide adequate living conditions. Policy SP23 cross-refers to Policy SP6.

*Character and appearance, including listed building*

Existing

7. The house associated with the appeal site has existing gardens to the front and rear, predominantly to the front. The dwelling is in the process of being extended to the front and rear<sup>3</sup>. To the rear, and particularly after construction of the rear extension, there is only a small and thin area of garden. To the northern side boundary there is a very narrow space which can only function as a side access route and has no meaningful useability. The house feels cramped within its plot because of this lack of space to the rear and side gardens. This is particularly noticeable from the agricultural land on a Public Right of Way (PRoW) footpath which leads from Station Road just to the north of the appeal site and then cuts down diagonally across the field towards the western end of the grounds of the nearby church.
8. The current boundaries between the garden of the house and the field are a low lightweight fence and tall ornamental planting along part of the boundary to the west, with the rest of this boundary being open with no physical demarcation of the edge of the property and beginning of the field. To the northern boundary are a low level wooden fence and a barbed wire fence.
9. The house is on the edge of a village called Whissendine, which sits predominantly to the south. Directly to the south is the garden of the adjacent residential property, which extends further rearwards than either the current or proposed garden area for the property the subject of the appeal. To the north is open countryside. Immediately to the east is a dwelling on the opposite side of the road but there is countryside beyond.
10. Despite the village and its buildings, the house is also strongly visually associated with a medium sized field which wraps around the property to the west and north. Its functional relationship to the field has been significantly reduced, however. Firstly, by the loss of its agricultural occupancy in 2024. Secondly, because there

<sup>2</sup> Planning permission Ref 2024/0365/FUL

<sup>3</sup> Planning permission Ref 2024/0173/FUL

is landscaping within the garden which prevents use of a vehicular gate to access the field. Thirdly, because a former cattle pen to the southern end of the appeal site on land which is currently agricultural in character, has been partially demolished.

11. To the south west is the Grade I listed church and associated graveyard. The graveyard has a partial relationship to the surrounding countryside but there is a hedgerow which provides some visual screening, and a clear demarcation between the two areas. The appeal site is in the setting of the church and graveyard, but with part of the agricultural field intervening. The church is also surrounded by the village of Whissendine to the south, east and west. It is a building which is intimately connected both visually and as a result of its function to the village and the residential buildings.
12. The primary significance of the church is from its innate architectural quality, its historic significance as a religious building, and as an example of a church from the late Middle Ages that has been restored in the 19<sup>th</sup>-Century. The primary contribution to the significance of the church from its setting is from its graveyard. It also derives some positive association with the immediately surrounding village, because the church is a cultural and religious hub to the community. The contribution to the significance of the church from the surrounding agricultural land is very limited, partly because of the existing visual screening, and partly because of the existing domestication even to the north and north east of the church grounds, both from the house adjacent to and associated with the appeal site and from the large garden to the house immediately to the south.

#### Proposed

13. In addition to creating the garden land, it is proposed to plant a native hedge along the new boundary, as well as two small areas of trees. The works would domesticate a currently agricultural area including the remnants of a cattle pen. This would cause some intrinsic harm to character and appearance. However, the area that would be altered is small. Importantly, the enlarged garden would significantly reduce the currently cramped appearance of the house to the rear and side, improving its visual relationship and transition from the house and garden to the field. It would provide breathing space between the house and the field. In addition, there is an existing, large garden associated with the house to the south which has already established a degree of domesticity in the area.
14. The proposed use of a hedgerow is typical and suitable for the edge of a field. There are small areas of trees to the east, and a heavily treed hedgerow to the west. The proposed two small areas of trees would therefore be in-keeping with the character and appearance of the area.
15. The harm caused by the loss of agricultural land would be set against the improvements to the house and garden when considered together, and the transition from the house to the field. The overall effect on the character and appearance of the area would therefore be neutral.
16. The works would be prominent, being visible from the PRoW and from the church grounds. Because the overall effect of the proposal would be neutral, the effect on the users of the PRoW and on the setting of the church would also be neutral. In addition, the agricultural setting to the church is only a very limited contributor to its significance, as set out above. There would not, therefore, be any harm to the

architectural or historic interest of the church in terms of how it is experienced in its setting.

### Overall

17. For the reasons set out above, the proposed development would not harm the character and appearance of the area. It would also preserve the special architectural or historic interest of the Grade I listed building, in terms of how it is experienced in its setting.
18. The proposal therefore complies with Policies CS19 and CS21 of the CS, which require high quality design that reflects the landscape character. It also complies with Policy SP15 of the DPD, which requires high quality design and landscaping that reflects the character of the area. The proposal complies with Policies WH4 and WH5 of the Whissendine Neighbourhood Plan 2024, which require high quality design including the provision of hedges and trees for development on the edge of the countryside and that development at least maintains the setting of the church. Lastly, it complies with the provisions of s66 of the Act.

### *Biodiversity*

19. It is proposed to create a new native hedgerow and to plant ten new trees within the proposal. The appellant's BNG Calculation shows a 16.35% increase in habitat units, and 0.27 hedgerow units on a baseline of zero. The Council is content that the proposals are reasonable and appropriate and I see no reason to disagree. The BNG proposals are on-site. The initial provision of the relevant works could, therefore, be secured by condition. However, the Council has a statutory duty to monitor compliance with the BNG proposals for 30 years, and payment is required towards the monitoring. Securing the monitoring of the proposed BNG works is therefore required by a s106 Planning Agreement, because a condition would not be enforceable.
20. In this regard, a draft s106 Planning Agreement (the draft s106) has been submitted by the appellant. The draft s106 clauses would secure the BNG works as proposed and provide a monitoring fee contribution to the Council. However, the draft s106 is not executed or dated, as well as missing other important information such as the title for the land. It therefore carries no weight and I do not consider it further. Therefore, whilst the initial provision of the proposed works to secure an appropriate degree of BNG could be secured by condition, the ongoing monitoring of the works to ensure compliance is maintained for the full 30 years has not been secured. The proposal therefore fails meet the national requirement for a 10% BNG and would have an unacceptable effect on biodiversity, with particular regard to BNG.

### **Planning Balance**

21. The provision and ongoing compliance with a 10% BNG has not been secured. Securing adequate improvement to biodiversity is an important consideration, as set out in national planning legislation. I therefore place significant weight on this failure. There is an in-principle conflict with the spatial strategy of the Council from the domestication of land in the countryside. Because of the small area to be domesticated and that it sits directly adjacent to, and would be subsumed into, an existing garden, I place very limited weight on this factor.

22. The overall effect on the character and appearance of the area would be neutral, considering the balance of the domestication of agricultural land against the improvements to the house and garden as considered together. The effect on the significance of the listed building would also, therefore, be neutral. These factors therefore weigh neutrally in the planning balance.
23. The proposal would have benefits from the increased garden size. However, the house already benefits from a suitably large garden to the front, and the overall benefits from this are limited, as is the weight which I attach to it.
24. Overall, the harm from the in-principle conflict with the spatial strategy and in-particular from the failure to adequately secure BNG clearly outweigh the limited benefits of the proposal, and it fails to comply with the Development Plan when considered as a whole.

### **Conclusion**

25. For the reasons given above, the appeal should be dismissed.

*O S Woodward*  
INSPECTOR