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# Appeal Decision

Site visit made on 28 January 2013

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 March 2013**

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**Appeal Ref: APP/B2355/A/12/2183291**

**Thorn House Farm, Pinch Clough Road, Rossendale BB4 9RT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Andrew Mullineau against the decision of Rossendale Borough Council.
  - The application Ref 2012/0316, dated 25 June 2012, was refused by notice dated 21 August 2012.
  - The development proposed is 1 no. wind turbine.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for partial costs has been made by the Appellant against the Borough Council. This application is the subject of a separate Decision.

## Reasons

3. The main issues are the effect of the proposed wind turbine on; first, the character and appearance of the landscape within which it would be located; second, the living conditions of nearby residents; and third, whether any harm that would be caused is outweighed by other material considerations.

The first issue - the character and appearance of the countryside

4. Thorn House Farm is in an elevated position outside and above Whitwell Bottom, which is a linear settlement in a steep sided valley. The dwelling is on the edge of an undulating upland area that is subdivided by dry stone walls and which is crossed by numerous footpaths. One of these footpaths, a bridleway in fact and part of the Pennine Bridleway National Trail, passes close to the dwelling and another footpath runs alongside the stone wall at the edge of a field to the west of the dwelling. The proposed wind turbine would be located in this field about 100 metres to the east of Thorn House Farm. The mast of the turbine would be about 18 metres high and each of the twin blades would be 9 metres long.

5. In a 'Landscape Capacity Study for Wind Energy Developments in the South Pennines 2010', a report commissioned by a number of local authorities including Rossendale, the appeal site lies in the 'enclosed uplands' which are categorised as of moderate to low sensitivity to wind energy developments. But the area of enclosed upland, which coincides with the historic Forest of Rossendale, is extensive and it is necessary to consider the specific circumstances of the vicinity within which the proposed wind turbine would be located. In this regard it is the

landscape that is visible from the location of the turbine that is important and from where this landscape can be appreciated.

6. Visible from the location of the proposed turbine is a wind farm of tall turbines on the horizon to the south-west, but this is too far away to have an impact on the landscape around Thorn House Farm. To the east is a small wind turbine on higher ground, and visible, on the opposite side of the valley, is a tall telecommunications mast, and there are telegraph poles supporting power lines in the area. The landscape is not therefore devoid of man made vertical structures. But from the vicinity of Thorn House Farm the small turbine is a considerable distance away and is inconspicuous, and the mast and telegraph poles are static features that do not draw attention to themselves.

7. The bridleway, known as the Mary Townley Loop and given that it is part of a National Trail, is likely to be well used. The footpath that passes to the east of Thorn House Farm is likely to be less well used but it is, nevertheless, a public right of way, and users of the footpath and the bridleway can appreciate expansive views across the upland landscape in all directions. The proposed wind turbine would be about 70 metres from the bridleway and about 35 metres from the footpath. The proposed wind turbine is smaller than that which was the subject of a previous application, which was dismissed at appeal. Nevertheless, in views east from the bridleway the wind turbine would be a prominent and intrusive feature.

8. It is the proximity of the turbine to the footpath that is of greatest concern. Small turbines such as that proposed have fast spinning blades and, with a top blade height of about 27 metres and given that it would be as close as about 35 metres, the turbine would be seriously intrusive in views from part of the footpath. The turbine, when in operation, would be threatening for users of the footpath as they cross the field to the east of Thorn House Farm. In close views from within the landscape the proposed turbine would be a dominant and intrusive feature that would undermine appreciation of, and would significantly harm the character and appearance of, the upland landscape. The proposal thus conflicts with, in particular, policies 19 and 20 of Rossendale Borough Council's Core Strategy (CS).

The second issue – the living conditions of nearby residents.

9. About 250 metres to the north-east of the location of the proposed wind turbine is Lower Slack Farm, a residential property. The dwelling has a rear garden on its south side and its rear elevation faces slightly west of south. There would therefore be oblique views of the wind turbine from habitable room windows in the dwelling. More importantly, the dwelling has a conservatory on its rear elevation and from here, and from the rear garden immediately adjacent to the conservatory, which would be the most used part of the garden during summer months, there would be direct views of the proposed turbine.

10. Lower Slack Farm is on slightly higher ground than the site of the proposed turbine and there are expansive views from the garden area particularly to the south and west. The wind turbine, given its proximity, location and fast spinning blades, would be intrusive in these views. It is the spinning blades that would draw attention to the turbine and, unlike users of the footpath and bridleway who can move on through the landscape, the turbine would be a permanent intrusive feature that the residents of Lower Slack Farm could not ignore. Contrary to the view of the previous Inspector, the proposed turbine, for this reason, would have a significant adverse effect on the living conditions of residents of Lower Slack Farm.

11. 'The Assessment and Rating of Noise from Wind Farms – ETSU-R-97' (ETSU) is the recognised source of guidance on the assessment of noise from on-shore wind turbine developments. ETSU states, having considered the application of conditions to limit noise relative to background noise in general situations, states that "For single turbines...a simplified noise condition may be suitable. If the noise is limited to a  $L_{A90,10min}$  of 35dB(A) up to wind speeds of 10 m/s at 10 m height, then this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary".

12. Background noise surveys have not been carried out at nearby noise sensitive properties. However, taking into account ETSU guidance for single turbines, a condition could be attached to a planning permission for the proposed wind turbine that would adequately protect nearby residents from the potentially harmful effect of noise created by the single turbine when in operation. Such a condition has been imposed by the Council, as noted by the Appellant, on planning permissions for other similar single wind turbines in the Borough. Imposition of a suitable condition would also alleviate concerns regarding shadow flicker.

13. The proposed wind turbine would be a visually intrusive feature in the outlook from Lower Slack Farm and would have a significant adverse effect on the living conditions of nearby residents. The proposal thus conflicts with CS policy 20.

The third issue – other material considerations

14. National policy on renewable energy is set out in the National Planning Policy Framework (NPPF). In paragraph 93 it is stated that 'Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure'. In paragraph 98 it is recognised that 'even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions'.

15. The proposed wind turbine would produce energy for use at Thorn House Farm and would contribute to the viability of a beef finishing unit that the Appellant intends to establish on his land. The renewable energy credentials of the proposed scheme, the possible local employment that would be created on the land, and all other matters mentioned in support of the appeal, have been taken into account but they do not, either individually or collectively, outweigh the significant harm that the turbine would cause to the character and appearance of the landscape and to the living conditions of nearby residents.

Other matters

16. There are no ecological, highway safety or other safety matters that would justify, or contribute to, a conclusion that planning permission should be refused.

17. The Appellant has referred to other appeal decisions on proposed wind turbines. However, the companion guide to Planning Policy Statement 22 (PPS22), which remains government guidance on wind turbines even though PPS22 has been cancelled, states that landscape and visual effects should be assessed on a case by case basis. This guidance accords with the established planning principle that a development proposal should be determined on its individual merits.

*John Braithwaite*

Inspector