

Part I

Executive Member: Councillor S Boulton

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 21 JUNE 2018

REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION, PLANNING
AND GOVERNANCE

6/2018/0195/FULL

94 HARMER GREEN LANE DIGSWELL WELWYN AL6 0EP

INSTALLATION OF 67 X STAND ALONE SOLAR PV PANELS WITHIN THE
GROUNDS OF DWELLING.

APPLICANT: Mr and Mrs Kemplar

AGENT: Clague Architects

(Welwyn East)

1 Site Description

- 1.1 The application site is in the Green Belt. It comprises a piece of land within a meadow which belongs to the owners of No 94 Harmer Green Lane and is adjacent to the grounds of that property. A new house is under construction at No 94 (Planning application reference number 6/2015/1588/FULL).
- 1.2 The meadow is accessed through a gate on its eastern boundary to the landscaped grounds belonging to No 94 and by a gate from the public footpath that runs along the boundary of the field to the south of the meadow. The north of the meadow is bounded by the rear gardens of No's 90 and 92 Harmer Green Lane. To the west the meadow is edged by a thick copse of trees. The meadow is currently partly planted as a wild flower meadow which reverts to earth in the winter.
- 1.3 The application site runs east to west for 56m and is 18m deep. It is set in a slight dip in the landscape approximately 19m from the rear garden boundaries of 90/92 Harmer Green Lane.

2 The Proposal

- 2.1 Full planning permission is sought for the installation of 67 freestanding photovoltaic panels in two rows; one approximately 40m long and the other 32m long. Each row would be 1.7m deep and together the two rows would be approximately 5m deep.
- 2.2 The solar panels would be mounted on posts and angled to face the sun in a southerly direction at an angle of 30 degrees from the horizontal. The highest point would be 1.4m above ground level. Within the application site area it is

proposed to plant an evergreen native hedge to a height of 1.5m in an arch around the north side of the solar panels.

- 2.3 The panels would be connected by an underground cable to the new house at No 94 and is intended to provide domestic power for the house.

3 Reason for Committee Consideration

- 3.1 This application is presented to the Development Management Committee because it has been called in by Councillor Cragg for the following reason:

“I wish to call-in [this application] because I have concerns about the scale of the proposed development and its impact on the visual amenities of neighbouring occupiers and the green belt.”

4 Relevant Planning History

- 4.1 Application Number: 6/2015/1588/FULL Decision: Granted Decision Date: 14 December 2015

Proposal: Erection of new dwelling and associated landscaping works following demolition of existing dwelling

- 4.2 Application Number: 6/2016/0050/COND Decision: Granted Decision Date: 11 March 2016

Proposal: Approval of details reserved by condition 2 (materials), condition 3 (landscaping), condition 4 (planting), condition 5 (tree work) and condition 6 (ecological survey) on planning permission 6/2015/1588/FULL

- 4.3 Application Number: 6/2016/1383/VAR Decision: Granted Decision Date: 29 September 2016

Proposal: Variation of condition 1 (drawings) on planning permission 6/2015/1588/FULL (for the formation of a single storey basement below part of the proposed dwelling).

- 4.4 Application Number: 6/2017/1151/HOUSE Decision: Withdrawn
Decision Date: 13 July 2017

Proposal: Erection of storage building in garden.

- 4.5 Application Number: 6/2017/1832/COND Decision: Granted Decision Date: 29 August 2017

Proposal: Submission of details pursuant to condition 2 (materials samples) on planning permission 6/2015/1588/FULL, dated 14/12/2015

5 Planning Policy

- 5.1 National Planning Policy Framework (paragraphs 79 to 92 (Green Belt) and 93 to 108 (climate change))

5.2 Welwyn Hatfield District Plan 2005 Policies GBSP1, R4, D2 and RA10

5.3 Supplementary Design Guidance, February 2005

5.4 Draft Local Plan (Submitted May 2017)

6 Site Designation

6.1 The site lies within the Green Belt and Landscape Character Area (Tewin) as designated in the Welwyn Hatfield District Plan 2005.

7 Representations Received

7.1 The application was advertised by means of site notice, press notice and neighbour notification letters. Five representations have been received from neighbours in Harmer Green Lane. Their comments may be summarised as:

- The Proposal is not domestic in scale
- Scale exceeds needs of a dwelling
- NPPF states that many elements of renewable energy projects are inappropriate in the Green Belt
- No very special circumstances to outweigh harm to green belt
- Does not provide a wider benefit
- Would be visible from the footpath
- Would not enhance the visual appreciation of the green belt
- Adverse visual impact on adjacent residential properties
- Solar panels on domestic roof would be reasonable
- If permitted, should not be lit or have security cameras because of nuisance/intrusion to neighbours

8 Consultations Received

8.1 No response has been received from the following consultees. Comments were due by 8 March 2018

- Herts and Middlesex Bat Group
- Herts and Middlesex Wildlife Trust
- Hertfordshire County Council – Rights of Way
- The Ramblers Association

8.2 **Hertfordshire Biological Records Centre (HBRC)** - The Hertfordshire Environmental Records Centre does not have any habitat or species data for the application site. As the site is currently grassland, it will need to be managed to keep the grass short around the solar panels. Sympathetic conservation grassland management (which can include appropriate grazing levels or an appropriate cutting regime), should ideally be implemented and/or continued. I am pleased to see that native planting and the sowing of a

wildflower meadow has been in place in and around the application site to provide net gain for biodiversity and increase the opportunities for wildlife in the vicinity.

Cadent Gas - do not object to this proposal. Please note the presence of high pressure gas pipelines in close proximity to the proposal [along the western boundary of the meadow]. No buildings or structures can be sited within 12m of the pipelines.

9 Town / Parish Council Representations

9.1 Welwyn Parish Council submitted the following response:

“Welwyn Parish Council would like to see a condition of approval to ensure that the hedge detailed in application is planted.”

10 Analysis

10.1 The main planning issues to be considered in the determination of this application are:

- 1. Whether the development is inappropriate in the Green Belt and, if so, whether very special circumstances exist which outweigh the harm to the Green Belt (NPPF, GBSP1, GBSP2).**
- 2. Principle of Development (NPPF, R4, SP10)**
- 3. Features high quality design which incorporates the design principles of the plan and Supplementary Design Guidance (GBSP1, GBSP2, D1, SP9) Respects and relates to the character and context of the area, as a minimum maintaining and where possible enhancing or improving the character of the existing area (D2, RA10)**
- 4. Maintains the amenities and living conditions of neighbouring occupiers (NPPF, D2, SDG)**
- 5. Other planning matters**
 - (i) Biodiversity**

1. Green Belt Considerations

10.2 The Government attaches great importance to the Green Belt. The fundamental aim of Green Belt Policy as set out in the National Planning Policy Guidance 2012 (NPPF), is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. In the Green Belt, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

10.3 The main issues, in terms of Green Belt Policy, are whether the proposed development would be inappropriate in the Green Belt. This depends on the following:

- (i) The type of development proposed and whether it is inappropriate development;**

- (ii) the impact on the purpose of including land within the Green Belt;
- (iii) the impact on the openness of the Green Belt;
- (iv) if it is considered inappropriate, are there any Very Special Circumstances that outweigh the harm to the Green Belt and any other harm.

Type of Development

- 10.4 The proposal is for the installation of 67 solar panels for domestic purposes. The supporting information submitted for this application describes the panels as being 20kWp the amount required to supply the house with its own electricity. Other renewable systems are to provide a borehole water supply and a ground source heat pump for hot water and heating. These other systems will rely on the solar panels for electric power. The solar panels are likely to produce more electricity in summer months due to longer daylight hours and greater angle of the sun. Over winter months the output would be lower. The calculations of need for the house are based on an estimate of annual usage.
- 10.5 The applicants have argued that the application site is within land classified as “previously developed land” as defined in the NPPF. Planning case law has established that domestic gardens in the green belt are considered to be previously developed land. They, consequently, assert that the proposed development can be considered an exception to the presumption against development as set out in paragraph 89 of the NPPF.
- 10.6 The property of 94 Harmer Green Lane is considered to be one unit of occupation but comprises two or more separate areas that are occupied for different purposes. Comments received from neighbouring occupiers detail that the land was originally part of the wider estate of the house now subdivided into two at No’s 90 and 92 Harmer Green Lane. No 94 was the lodge house to the larger property. The meadow in which the application site sits was originally part of the grounds of the dwelling at No 92 Harmer Green Lane. Since the change in ownership it has been used for grazing and for grass cropping and latterly as a wildflower meadow.
- 10.7 The applicant has argued in their supporting letter that the land is residential and part of the garden. In his report for planning application 6/2015/1588/FULL the Officer concluded “it does appear that the land is residential although it has clearly not been used in the usual sense as ‘garden’ ”. Planning application Reference No 1983//0234 was for a two storey and single storey side extension. Application reference No 1982/0388 was for a two storey rear extension. The Council’s detailed records for these applications do not include a Site Location Plan and the area of land included in these applications as residential curtilage is not considered to be conclusively established through these applications.

10.8 While the meadow has been used for ancillary uses to the adjoining dwellings, the land has an open nature and contains no permanent structures. In rural areas, land under the ownership of a residence is often used for substantially different and unrelated purposes. Notwithstanding that the land is under the same ownership as the dwelling at 94 Harmer Green Lane, it is considered that the land does not fall within the definition of “previously developed land” (as described in the Glossary of the NPPF 2012) in that it is not part of the residential curtilage of the property and not used as a private residential “garden” for planning purposes. In addition, it is separated by a fence, from the land to the northeast, which is positioned behind (to the south of) the dwelling of 94 Harmer Green Lane and has recently been landscaped.

10.9 As such, the proposed development does not fall under the exception set out in paragraph 89 of the NPPF as ‘limited infilling or development of previously developed sites’.

10.10 The National Planning Policy Framework (NPPF), in paragraph 91, states that

“When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed.”

10.11 The proposed development, therefore, is considered to be inappropriate in the Green Belt and, by definition, is harmful to the Green Belt. Notwithstanding the status of the meadow in relation to the garden, the development of previously developed land must not have a greater impact on the openness of the Green Belt or on the purposes of including land within the green belt than the existing (already authorised) development on the land. It is necessary, therefore, to consider whether the development adversely impacts on the purposes of including the land in the Green Belt and its openness in order to determine whether there is further harm to the Green Belt resulting from the proposed development.

Purposes of including land within the green belt

10.12 There are five principle purposes of including land within the Green Belt. These are set out in paragraph 80 of the NPPF. The relevant one in this case is “to assist in safeguarding the countryside from encroachment”.

10.13 The installation of solar panels to provide domestic heating in the meadow would introduce a form of structure related to the residential use of adjacent land. The application site and the meadow are undeveloped, containing no outbuildings or paraphernalia of a domestic nature. The proposed development would introduce residential equipment onto what is currently open land and thereby introduce an urban structure into the countryside resulting in the encroachment of an incongruous built form upon the countryside. This would add to the harm to the Green Belt.

Openness of the Green Belt.

- 10.14 With regards to openness, this can be assessed with regard to the physical presence of development and the visual openness at the site. The Proposed Solar Panels would be positioned in two lines covering a roughly oval area of approximately 951sqm (57m wide by 20m deep). The panels would be fixed in place and actually cover an area of approximately 200sqm. They would be connected to the host dwelling by underground cabling and be unlikely to be moved easily. They can be considered permanent. The development would, therefore, be introducing new features of considerable scale and physical permanence and would adversely impact upon the openness of the site in terms of physical presence.
- 10.15 The panels (as shown on the amended site plan) would be positioned with one end of the oval abutting the hedge on the eastern side of the meadow. They would be positioned approximately 18m from the rear boundary of the garden of No 90 Harmer Green Lane and 105m from the boundary with the public footpath to the south. The panels would be 1.4m high and a hedge to a height of 1.5m would be planted along the northern edge of the panels. They would sit on the lowest land in the meadow.
- 10.16 The boundary with the gardens of No's 90 and 92 Harmer Green Lane is marked with an evergreen, but not densely leafed, hedge and the meadow can be glimpsed through the stems of the hedge from the garden and over the top of the hedge from inside the house. It is, therefore, likely that the panels would be visible too. The proposal to plant a 1.5m high hedge would provide some screening once established but given their height (1.4m) and the low angle of incline (32 degrees) they would potentially be visible from land higher than the land they are positioned on i.e. from the gardens of No 90 and 92 Harmer Green Lane.
- 10.17 The boundary with the footpath in the field to the south is marked with a hedge (approximately 2m high) and there is a five bar gate in the eastern corner of the meadow on the footpath, which is kept closed. The position of the panels on the lowest land would not be easily seen from the footpath over 100m away. However, they are likely to be visible from within the meadow, particularly in winter months when the wildflowers have died down.
- 10.18 While the applicants have made efforts to reduce the visual impact of the proposal, the panels are likely to be visible to some extent and their harm to the visual sense of openness would arise from their shape and the scale of the area covered in panels and their incongruous appearance in the context of an open and undeveloped setting. This would add to the harm to the Green Belt.

Previously Developed Land

- 10.19 If it is found that the land is residential and considered to be previously developed land and to fall under the exceptions to the presumption against development in paragraph 89 of the NPPF, the proposal would still be considered to cause harm to the openness and purposes of the green belt as identified above. It would, therefore, be harmful to the green belt.

Very Special Circumstances

- 10.20 The applicant has not presented a case for very special circumstances to outweigh the harm to the Green Belt.

Greenbelt Conclusion

- 10.21 The proposed development of 67 freestanding solar panels is not considered to fall within the definition of an exception as set out in paragraph 89 of the NPPF as 'limited infilling or development of previously developed sites'. It is, therefore, considered to be inappropriate in the Green Belt and, by definition, harmful to the Green Belt. Additional harm would be caused by the resulting encroachment of an incongruous built form into the countryside. The solar panels would also cause harm to the visual openness by virtue of the scale of the area covered in panels and their incongruous appearance in an open and undeveloped setting and visibility from the public footpath along the south boundary of the applicant's land.
- 10.22 The proposal is, therefore, considered to be contrary to the Green Belt Policies of the NPPF and Policies GBSP1 and GBSP2 of the Welwyn Hatfield District Plan 2005.

2. Principle of the Development

- 10.23 Policy R4 of the Welwyn Hatfield District Plan 2005 supports the development of renewable energy sources subject to the following:
- (i) visual impact
 - (ii) levels of traffic
 - (iii) Atmospheric pollution
 - (iv) Impact on features of ecological, landscape or conservation importance
 - (v) impact on adjoining properties
 - (vi) levels of noise generated

By their nature, photovoltaic panels do not give rise to large volumes of traffic, atmospheric pollution or noise. The main considerations are, therefore, visual impact, impact on adjoining properties and impact on ecological and landscape features. These issues are considered in the sections below.

Policy SP10 of the Draft Local Plan (submitted May 2017) reiterates that proposals to use renewable and low carbon energy infrastructure will be supported provided they are in appropriate locations and consistent with other policies. The site's position in the Green Belt has been considered above and is considered inappropriate.

3. High Quality Design and Impact on Character of Area

- 10.23 Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 require a high quality of design and for all developments to be in keeping with the character and context of the local area. Further design guidance in the Supplementary Design Guidance 2005 states that it is important in rural hamlets within the Green Belt that development reflects the rural nature of the settlement and does not introduce urban dimensions and forms that are unsuitable. Policy RA10 requires developments to conserve, maintain and enhance the landscape character of the area in which they are located.
- 10.24 In the area around the application site the character is typified by rural estates and agricultural land. The site is within Landscape Character Area No 42 (Tewin, Dawley and Lockley Estate Farmland). The area is a south-facing undulating rural slope of mixed arable farm and woodland. There are south facing views over the Mimram Valley with a regular pattern of medium-sized fields and woodlands bounding views to the north, east and west. The Local footpaths are unsurfaced and narrow. The neighbouring property at No 96 Harmer Green Lane has solar panels on south facing planes of the roofs over the buildings within its domestic curtilage. These are limited in number and restricted to locations within the existing built form on that site.
- 10.25 The proposed solar panels would be located in a meadow that is part of this wider landscape. The proposed layout and shape of the solar panel development is functional. The panels would be fairly low (1.4m high) and the east end of the rows would be positioned in a natural dip in the meadow. The west ends would rise up on the gradual incline of the land. At least some of the panels would be likely to be visible across the field from the footpath to the south at times of the year when the wildflower meadow was not at its full height (i.e. September to April).
- 10.26 The applicant has proposed a hedge to screen the view of the panels from the neighbours' properties. This hedge would be 1.5m high and evergreen. It would be visible across the field from the footpath to the south in the winter months. It would introduce a formal garden element to the open field and would appear as a domestic feature.
- 10.27 The proposed development would introduce urban and formal garden elements and, therefore, not conserve, maintain or enhance the open and rural landscape character of the area. It would, therefore, be contrary to Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.

4. Impact on Neighbouring Occupiers

- 10.28 Policy D1 of the Welwyn Hatfield District Plan 2005 and paragraph 17 of the NPPF aim to improve and enhance the quality of the existing environment and to preserve the amenities and living conditions of neighbouring occupiers. The Supplementary Design Guidance 2005 (SDG) sets out the Council's guidelines with regard to residential amenity and this is assessed in terms of overbearing impact, loss of light, maintenance of privacy and prevention of overlooking.

- 10.29 The properties most likely to be affected by the proposed development are No's 88, 90 and 92 Harmer Green Lane, the gardens of which back onto the meadow.
- 10.30 The proposed panels would be positioned on land behind the houses, being set approximately 18m from the rear boundary of the garden of No 92, 22m from the rear boundary with No 92 and 20m from the rear of No 88. They would be approximately 1.4m high and set on lower land and would be unlikely to result in an overbearing impact on the neighbouring gardens or a loss of day or sunlight. The panels would not introduce an increase in overlooking or loss of privacy to the gardens or internal spaces of No's 88, 90 and 92 Harmer Green Lane.
- 10.31 In terms of visual impact, the panels would be partially screened to from the view from the rear gardens by the existing rear garden boundary hedges of those properties - 2 to 3m high evergreen medium density hedge. The panels would be 1.4m high and the proposed additional screening hedge would be 1.5m high. Being positioned on lower land than the gardens the panels would be visible over the new hedge and to some extent through the existing hedge from the garden. From this aspect they would result in a slight visual impact on the neighbours' enjoyment of their gardens compared to the existing situation. The panels would be approximately 70m from the rear windows of the upper floors of the neighbouring houses. Given the changes in land levels and number and size of the proposed panels they would be visible over both hedges although partly screened by deciduous trees among the boundary hedge. Their impact would be softened in summer months but they would be seen more clearly in winter months in contrast to the bare earth in the meadow. However, they would be some distance from the houses and the impact would not be sufficient enough to impact significantly on the amenities of the occupants of these neighbouring houses.
- 10.32 Neighbours have commented that external lighting and security cameras should not be permitted around the panels. These elements were not included in the submitted application and would require separate planning permission.
- 10.32 In summary the impact of the proposed development on the living conditions of neighbouring occupiers would be primarily visual and of a less than significant nature. The proposal is therefore not considered to be contrary to Policy D1 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance 2005 in this respect.

5. Other Planning Matters

(i) Biodiversity

- 10.33 The existing site and development is such that there is not a reasonable likelihood of European Protected Species (EPS) being present on site nor would an EPS offence be likely to occur, as defined within the Conservation Regulations. It is therefore not necessary to consider the Conservation Regulations 2010 or (Amendment) Regulations 2012, National Planning

Policy Framework (paragraphs 118-119), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

- 10.34 The presence of protected species is a material consideration, in accordance with the National Planning Policy Framework (paragraphs 118-119), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations 2010 as well as Circular 06/05.
- 10.35 Hertfordshire Biological Records Centre has not objected to the proposal but commented that the grass and meadow vegetation would need to be kept short around the solar panels and welcomes the use of native planting and wildflower meadow sowing as a net gain for wildlife in the vicinity. The proposed panels would not present a hazard to wildlife or a significant loss of habitat compared to the overall size of the meadow. The proposal would not, therefore, be contrary to Policy R11 of the Welwyn Hatfield District Plan 2005.

11 Conclusion

- 11.1 The proposed development of 67 freestanding solar panels is not considered to fall within the definition of an exception as set out in paragraph 89 of the NPPF as 'limited infilling or development of previously developed sites'. It is, therefore, considered to be inappropriate in the Green Belt and, by definition, harmful to the Green Belt. Additional harm would be caused by the resulting encroachment of an incongruous built form into the countryside. The solar panels would also cause harm to the visual openness by virtue of the scale of the area covered in panels and their incongruous appearance in an open and undeveloped setting and visibility from the public footpath along the south boundary of the applicant's land. The harms to the Green Belt are not outweighed by any very special circumstances and the proposal is, therefore, considered to be contrary to the Green Belt Policies of the NPPF and Policies GBSP1 and GBSP2 of the Welwyn Hatfield District Plan 2005.
- 11.2 The proposed development would introduce urban and formal garden elements and, therefore, not conserve, maintain or enhance the open and rural landscape character of the area. It would, therefore, be contrary to Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.
- 11.3 The impact of the proposed development on the living conditions of neighbouring occupiers would be primarily visual and of a less than significant nature. It is not considered to be contrary to Policy D1 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance 2005 in this respect or to present a hazard to wildlife or a significant loss of habitat compared to the overall size of the meadow. The proposal would not, therefore, be contrary to Policy R11 of the Welwyn Hatfield District Plan 2005.

12 Recommendation

- 12.1 It is recommended that planning permission be refused for the following reasons:

1. The proposed development by nature of its positioning, its scale, mass, bulk and appearance is considered to be inappropriate in the Green Belt and, by definition, harmful to the Green Belt. Additional harm would be caused to the purposes of including the land in the Green Belt by the resulting encroachment of an incongruous built form into the countryside. The presence of this urbanising form of development in the Green Belt in this open and undeveloped setting and its visibility from the public footpath along the south boundary of the applicant's land would contribute to additional harm to the openness of the Green Belt. The harms to the Green Belt are not outweighed by any very special circumstances and the proposal is, therefore, contrary to the Green Belt Policies of the NPPF and Policies GBSP1 and GBSP2 of the Welwyn Hatfield District Plan 2005.
2. The proposed development would introduce urban structures and formal garden elements and, thereby, fail to conserve, maintain or enhance the open and rural landscape character of the area. It would, therefore, be contrary to Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.

Summary of reasons for refusal of permission

The decision has been made taking into account material planning considerations and where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework (see Officer's report which can be inspected at these offices).

Refused Drawing Numbers

1.

Plan Number	Revision Number	Details	Received Date
22823A-02	P5	Block Plan	22 January 2018
22823A-01	P5	Site Location Plan, Block Plan	8 February 2018
S4.1 SP GA 1P 1020	01	1 Portrait General Assembly 1 of 2	22 January 2018
S4. 1 SP GA 1P10 20	01	1 Portrait General Assembly 2 of 2	22 January 2018
22823A-02	P7	Site Plan Solar Panels	8 February 2018
22823A	P8	Proposed Site Plan	9 May 2018

June Pagdin, (Planning)
Date: 6 June 2018



 <p>WELWYN HATFIELD</p> <p>Council Offices, The Campus Welwyn Garden City, Herts, AL8 5AE</p>	Title: 94 Harmer Green Lane Digswell Welwyn		Scale: DNS	
			Date: 2018	
	Project: DMC Committee	Drawing Number: 6/2018/0195/FULL	Drawn: Ida Moesner	
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