

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 31 JANUARY 2019  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING  
AND GOVERNANCE)

6/2018/2199/FULL

94 HARMER GREEN LANE DIGSWELL WELWYN AL6 0EP

INSTALLATION OF STAND ALONE SOLAR PV PANELS, ASSOCIATED PLANTING  
AND GROUND WORKS

APPLICANT: Mr M Kempster

(Welwyn East)

**1 Site Description**

- 1.1 The application site is in the Green Belt. It comprises a trapezoid of land measuring 55m long and 44m wide covering an area of approximately 1,800sqm within a meadow which belongs to the owners of No 94 Harmer Green Lane and lies to the west side of the landscaped grounds of that property. The new house under construction at No 94 was granted planning permission in 2015 (reference number 6/2015/1588/FULL).
- 1.2 The meadow is currently partly planted as a wild flower meadow which reverts to earth/grass in the winter and also contains a mature tree. It is accessed through a gate on its eastern boundary from the landscaped grounds belonging to No 94. There is also a gate onto the public footpath that runs along the southern boundary of the meadow. The north of the meadow is marked by the hedge on the boundary with 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.
- 1.3 The application site is semi-circular and is set in a slight dip in the landscape approximately 19m from the rear garden boundaries of No's 90 and 92 Harmer Green Lane. At the time of the Officer site visit in December 2018 the land had been further excavated into a slight depression. These excavation works also require planning permission as they are in association with the proposed photovoltaic panels.

**2 The Proposal**

- 2.1 The applicant seeks planning permission to excavate a hollow to house 67 photovoltaic panels. A similar development was proposed earlier in 2018 for the erection of 67 stand-alone pv panels in straight line on the surface of the meadow (Ref No 6/2018/0195/FULL) was refused for the reasons of inappropriateness and harm to the Green Belt and adverse impact on the Landscape Character Area.
- 2.2 The current proposal seeks to address the reason for refusal. The design has been driven by the technological requirements of a scheme to provide energy for

the house. The panels would be connected to the house at No 94 Harmer Green Lane by underground cable. They would provide a 20KWP (kilowatt peak) supply for the house to run a borehole pump, ground source heat pump and for general domestic use.

### 2.3 The amendments from the previous application include

- Excavation of a horseshoe shaped hollow (approx. 22m by 20m) 1 to 1.5m deep
- Sides bunded approximately 1m above surrounding land to achieve a depth of approximately 2.5m
- Flat base 15m x 15m to house 67 photovoltaic panels in five rows
- Panels would be black, set on frames on posts in the ground, top edge of panels approximately 1.3m high, angled at 20 degrees to face south
- Plant 6 new trees to south of panels

NB all measurements are approximate.

## **3 Reason for Committee Consideration**

3.1 This application is presented to the Development Management Committee because Councillor Trigg and Councillor Cragg have called it in.

3.2 Councillor Trigg has called it in for the following reason:

*"I support environmentally friendly schemes and I believe this revised scheme will not harm the green belt."*

3.3 Councillor Cragg has called it in for the following reason:

*"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: 6/2016/1383/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).

4.3 Application Number: 6/2017/1151/HOUSE

Decision: Withdrawn

Decision Date: 13 July 2017

Proposal: Erection of storage building in garden.

- 4.4 Application Number: 6/2018/0195/FULL  
Decision: Refused  
Decision Date: 25 June 2018  
Proposal: Installation of 67 x stand-alone solar pv panels within the grounds of dwelling.
- 4.5 Application Number: 6/2018/2577/VAR  
Decision: Granted  
Decision Date: 17 December 2018  
Proposal: Variation of condition 1 (approved drawings) on planning permission 6/2015/1588/FULL

## **5 Relevant Planning Policy**

- 5.1 National Planning Policy Framework 2018 (NPPF)
- 5.2 Welwyn Hatfield District Plan 2005 (Local Plan)
- 5.3 Draft Local Plan Proposed Submission 2016 (Emerging Local Plan 2016)
- 5.4 Supplementary Design Guidance 2005 (SDG)
- 5.5 Supplementary Planning Guidance, Parking Standards 2004 (SPG)
- 5.6 Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)

## **6 Site Designation**

- 6.1 The site lies within the Metropolitan Green Belt, the Tewin Landscape Character Area as designated in the Welwyn Hatfield District Plan 2005. On the opposite side of Harmer Green Lane is Wildlife site WS32 (Barnes Green).

## **7 Representations Received**

- 7.1 The application was advertised by means of site notice and neighbour notification letters. Five representations have been received from the occupiers of neighbouring properties at No's 82, 88, 90 and 92 Harmer Green Lane and No1 Vera Lane. Their comments may be summarised as:
- The land is a meadow not a domestic garden
  - The development would be inappropriate development in the Green Belt
  - The development would last for 30 years and used for the house and therefore a permanent use and structure (regardless of its reversibility)
  - It would encroach on the Green Belt and diminish its openness
  - It would cause significant harm to the Green Belt
  - It is not justified by very special circumstances that outweigh the harm – the benefits to the community of producing energy for one house are not significant

- It would cause harm by having an adverse visual impact on neighbouring properties – the screening would be seasonal
- It is potentially visible to walkers using the nearby footpath, particularly in autumn/winter months
- Panels should be located closer to the built form of the house to limit urban sprawl
- It is likely to be a pre-cursor to further development in the meadow
- Proposal does not satisfactorily address the previous reasons for refusal
- Object to the engineering and earthworks that have been undertaken in the meadow
- If the development is allowed, no lighting or cctv should be allowed.

## **8 Consultations Received**

8.1 Welwyn Parish Council – No Comment.

8.2 Welwyn Hatfield Borough Council Landscape Department – The proposal would have a significant impact on the landscape and greatly affect the character of the Green Belt in this area. The site can be seen from public viewpoints and from neighbouring properties. The proposal is inappropriate due to its detrimental impact on the character of the landscape.

## **9 Background**

9.1 A similar development was proposed earlier in 2018 for the erection of 67 stand-alone photovoltaic panels in two straight lines on the surface of the meadow (Ref No 6/2018/0195/FULL) was refused for the reasons of inappropriateness and harm to the Green Belt and adverse impact on the Landscape Character Area:

*'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.'*

*'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.'*

9.2 That application was not appealed.

## 10 Analysis

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

1. **Principle of Development within the Green Belt**
2. **Renewable Energy Sources**
3. **Quality of design and impact on the character and appearance of the area**
4. **Impact on the living conditions of neighbouring occupiers and future occupiers**
5. **Impact of Development upon Biodiversity**

### 1. **Principle of Development within the Green Belt**

#### Whether the proposed development constitutes inappropriate development

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 be run on 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 with other sources probably being required over peak usage times in winter and a surplus being produced in summer months.

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 assert that the proposed development can be considered an exception to the presumption against development as set out in paragraphs 143-144 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 2018) 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. The proposed use of the land would be linked to the residential use of the adjacent land but separated by a hedge and fence and not included in the garden curtilage. In addition, its use for energy generation would result in a material change to the nature of use of the land.
- 10.9 The definition of development set out in Paragraph 55 of the Town and Country Planning Act 1990 (as amended) includes the carrying out of engineering and other operations in, on, over and under land or the making of any material change in the use of any buildings or other land." The excavation of land (the depression and the bunding) within the application site in association with the installation of solar panels does not fall within any of the exceptions to the definition of development as set out in clause (2) of Paragraph 55. Nor does it fall within any definition of permitted development (PD) set out in the Town and Country Planning (General Permitted Development Order) 2015 (as amended). The PD rights extend to only one such panel within the curtilage of a building, domestic or otherwise) under Part 14 of Schedule 2 of the order. Consequently, the excavation works fall within the definition of development requiring planning permission. However, engineering works are considered an exception to the presumption against inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land

within the Green Belt. This is assessed below under Openness of the Green Belt. Given the undulating nature of the land, the accentuation of a natural dip in the land on its own is not considered to significantly affect the openness of the Green Belt or the purposes of including land in it and is, therefore, not inappropriate in the Green Belt.

- 10.10 The proposed development for change of use and installation of 67 solar panels, does not fall under the exceptions to inappropriate development in the Green Belt as set out in paragraph 145 or 146 of the NPPF as 'limited infilling or development of previously developed sites'. The National Planning Policy Framework (NPPF), in paragraph 147, 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.”*

The proposed development is, therefore, considered to be inappropriate in the Green Belt and, by definition, is harmful to the Green Belt.

- 10.11 Notwithstanding the status of the meadow in relation to the garden, the development and/or use 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 134 of the NPPF. The relevant one in this case is “to assist in safeguarding the countryside from encroachment”.
- 10.13 Given the undulating nature of the land, the accentuation of a natural dip in the land, on its own, is not considered to significantly affect the purposes of including land in the Green Belt. 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. However, 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 behind existing scattered and generously spaced residential properties within the Green Belt. The land is undulating, grassed and wooded and slopes away from the rear of the residential properties in Harmer Green Road down towards the south and west to the Mimram River Valley. The proposal would 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 Para 133 of the NPPF states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. There is no definition of openness in the NPPF but, in the context of the Green Belt, it is

generally held to refer to freedom from, or the absence of, development. The physical presence of any above ground development would to some extent diminish the openness of the Green Belt regardless of whether or not it can be seen.

- 10.15 The excavated depression and bunding, on their own would have a less than significantly adverse impact on the openness of the Green Belt. However, they are intrinsically associated with the installation of solar panels and need to be considered together with them. The proposed panels and bunding would cover an area of approximately 500sqm (25m by 20m). The proposed Solar Panels would be positioned in four lines covering a roughly oval area of approximately 300sqm (15m by 20m). The panels would be fixed in place on poles inserted into the ground. They would be connected to the host dwelling by underground cabling and be unlikely to be moved easily. They can be considered permanent in terms of their expected lifetime of 30 years. 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.

#### Impact on character and appearance and the visual amenity of the Green Belt

- 10.16 The NPPF emphasises that good design is a key aspect of sustainable development, creating better places to live and helping to make development acceptable to communities. Paragraph 130 of the NPPF recommends refusal of development that fails to improve the character and quality of an area.
- 10.17 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. Policy SP9 of the Emerging Plan echoes this approach. Further design guidance in the Supplementary Design Guidance 2005 requires developments to be assessed regard to the bulk, scale and design of the proposal and how it harmonises with the surrounding area. It also states that it is important, in rural hamlets within the Green Belt, that development reflects the rural nature of the area 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. This approach is echoed by Policy SADM16 of the Emerging Local Plan.
- 10.18 The area around the application site is characterised 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 except the footpath to the rear of the application property, which opens into the adjacent south sloping field and runs along the boundary. There are views over the hedge into the property at No 94 from various points along this footpath.
- 10.19 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. In their context they do not affect the character of the area.

- 10.20 The current proposal for 67 panels would be located in a meadow that is part of this wider landscape. The applicants have submitted a Design and Access Statement, which sets out the approach used in selecting the site for the proposed panels. The proposed layout and shape of the solar panel development is functional. The east end of the rows would be positioned near to the hedge running along the east boundary of the meadow. The panels (as shown on the amended site plan) would be positioned with the open end of the horseshoe abutting the hedge. The panels would be positioned approximately 18m from the rear boundary of the garden of No 90 Harmer Green Lane and 110m from the boundary with the public footpath to the south. The panels would be coloured black and approximately 1.4m high. They would be set down approximately 1-1.5m in the excavated depression and surrounded by a bund that would sit 1m taller than the original level of the meadow.
- 10.21 The boundary with the gardens of No's 88, 90 and 92 Harmer Green Lane is marked with a 2m mixed hedge and the excavated area of meadow can be seen 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, particularly from the upper windows of no's 90 and 92. The applicant has proposed a beech hedge to screen the view of the panels from the neighbours' properties. The hedge would provide some screening once established but given the height of the panels (1.4m) and the low angle of incline (20 to 30 degrees) they would still potentially be visible from land higher than the land they are positioned on i.e. from the gardens of No's 90 and 92 Harmer Green Lane. In addition, the proposed hedge would not be within the application site and its provision could not be adequately secured by a condition being imposed on planning permission. There is already a hedge and it is not clear from the submitted information whether the proposed one would be taller than the existing hedge or not. A proposed hedge would be visible across the field from the footpath to the south in the winter months and would introduce a formal garden element to the open field which would appear as a domestic feature.
- 10.22 The boundary with the footpath 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. To the south, six new native trees are proposed (species not given). The six proposed new trees may provide some screening but the canopies would be above the level of the panels. The panels are likely to be visible from within the meadow and may be from the footpath, particularly in winter months when the wildflowers have died down.
- 10.23 While the applicants have made efforts to reduce the visual impact of the proposal, the panels are likely to be visible for at least part of the year to surrounding residents and possibly to people using the footpath. At least some of the panels may be visible across the field from the footpath to the south at times of the year when the wildflower meadow is not at its full height (i.e. September to April) and from the rear amenity areas and windows of the houses at No's 88 to 92 Harmer Green Lane. The proposal would introduce hard and unsympathetic materials, urban dimensions and forms that are unsuitable in the setting and would therefore be contrary to policies D1 and D2 and the SDG 2005.
- 10.24 The shape and materials of the panels, the scale of the area covered by them and their incongruous character would result in harm to the visual sense of openness in the context of an open and undeveloped setting. This would add to

the harm to the Green Belt and would have an adverse effect of some significance on the character of the site and the surrounding landscape. The adverse effect on the appearance would be more localised. Accordingly, the proposed development would introduce urban forms and formal garden elements and would 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, Emerging Local Plan Policy SP9 and Supplementary Design Guidance 2005.

#### Conclusion on Appropriateness

- 10.25 The proposed development would, by its nature, be inappropriate in the Green Belt and result in harm. In addition, it would conflict with one purpose of including land within the Green Belt; that of preventing encroachment into the countryside. The development would introduce new features of considerable scale and physical permanence and would adversely impact upon the openness of the site in terms of physical presence adding to the harm to the Green Belt. In terms of a visual sense of openness, harm would arise from the shape and materials of the panels, the scale of the area covered by them and their incongruous character in the context with a consequent significant adverse effect on the character of the site and the surrounding landscape, and a localised adverse effect on the appearance of the area.

#### Previously Developed Land

- 10.26 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 145 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

- 10.27 The NPPF advises, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 147 allows that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
- 10.28 In the submitted Design and Access Statement, the applicant has cited the production of renewable energy as a wider environmental benefit that qualifies as very special circumstances that clearly outweigh the harm to the Green Belt. They have identified two examples of other properties, one in Tring and one in Hyde, Bedfordshire, where ground mounted solar photovoltaic panels have been allowed in the Green Belt on the grounds that the generation of electricity from sustainable sources provided a wide environmental benefit that outweighed the harm by inappropriateness and other harms in the Green Belt.
- 10.29 However, there is a high number of cases where planning appeals for ground mounted photovoltaic panels have been dismissed on the grounds that the harms outweigh the wider environmental benefit. In a case in North Hertfordshire (Three Houses Lane, Codicote, Ref No 14/02360/1) the Secretary of state refused permission for a solar farm. Substantial weight was attached to the harm

which arose because the scheme would be inappropriate development in the Green Belt, would conflict with one of the five purposes of including land in the Green belt (preventing encroachment into the countryside) and would erode the openness and harm the Green Belt. When balanced against the wider environmental benefits, and even though these were considered to weigh significantly in favour of the application, those benefits were not significant enough to outweigh the harms. The Secretary of State concluded that very special circumstances to justify the development did not exist.

10.30 There are no additional Very Special Circumstances present in this case. In this case it is considered that the very special circumstances do not outweigh the harm to the Green Belt by inappropriateness, impact on openness and purposes of the Green Belt and character of the area and are not sufficient to justify allowing the proposal. Consequently, the proposal is considered to be contrary to Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005 and the NPPF and Policy SADM34 of the emerging Plan.

## **2. Renewable Energy resources**

10.31 The NPPF, in paragraph 154, requires Local Planning Authorities to approve an application for renewable and low carbon development if its impact are or can be made acceptable. 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

While Policy R4 is silent on the Green Belt considerations of renewable energy proposals, more weight can be given to the provisions of the NPPF when determining this application. This has been done in Section 1 above.

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

10.33 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 found to be inappropriate. It is, therefore, considered to be contrary to Policy SP10.

### **3. Impact on living conditions and the residential amenity of adjoining neighbours**

- 10.34 Policy D1 of the Welwyn Hatfield District Plan 2005 and paragraph 127 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. Policy SADM11 of the Emerging Local Plan requires proposals to protect a good standard of amenity for buildings and external open spaces and reflects the approach of Policy D1 and the SDG.
- 10.35 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.
- 10.36 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. However, the recent earthworks and the proposed panels will have some effect on the outlook from the residential properties at No's 88 to 92 Harmer Green Lane. The adequacy and robustness of visual screening is not necessarily secured by the proposal. In this respect, the development is considered to conflict with Policy D1 of the Welwyn Hatfield District Plan 2005.

### **4. Impact of Development upon the Wildlife Site**

- 10.37 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.
- 10.38 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.
- 10.39 Policy R11 of the District Plan requires developments to protect and enhance the biodiversity of a site. Hertfordshire Biological Records Centre was consulted on the previous application and had not objected to the proposal but commented that the grass and meadow vegetation would need to be kept short around the solar panels. The use of native planting and wildflower meadow sowing was welcomed 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 145 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 and the presence of the scale of development would adversely affect the openness of the Green Belt. The solar panels would also cause harm to the character and to some extent to the appearance of the area. These harms to the Green Belt are significant and are not outweighed by the wider environmental benefit of producing renewable energy on the scale proposed. There are no other very special circumstances and the proposal is, therefore, considered to be contrary to the Green Belt Policies of the NPPF and the District Plan.
- 11.2 The proposed development would introduce urban forms 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. The proposal would not provide adequate robust visual screening and, in this respect, the development is considered to conflict with Policy D1 of the Welwyn Hatfield District Plan 2005.
- 11.4 It is not considered 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 in 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 impact on views of the site would contribute to additional harm to the openness of the Green Belt. The proposed development would introduce urban structures and, thereby, fail to conserve, maintain or enhance the open and rural landscape character of the area and cause additional harm to the Green Belt. The harms to the Green Belt are not outweighed by very special circumstances and the proposal is, therefore, contrary to the Green Belt Policies of the National Planning Policy Framework and Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.
  2. The proposed would adversely impact the visual amenities of neighbouring occupiers and fail to provide adequate visual screening to those properties

contrary to Policies of the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance 2005.

#### REFUSED DRAWING NUMBERS

3.

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
22823A-02	P11	Proposed Site Plan	24 September 2018
22823A-03	P1	Proposed Site Plan, Sections, Location Plan	24 September 2018

#### POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

(June Pagdin)

Date 2.Jan.2019

Expiry Date: 27/11/2018

