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## Appeal Decision

Site visit made on 17 February 2020

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>TH</sup> February 2020**

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**Appeal Ref: APP/C1950/W/19/3225810**

**94 Harmer Green Lane, Digswell, Welwyn Hertfordshire AL6 0EP**

- 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 Mark Kempster against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2018/2199/FULL, dated 14 September 2018, was refused by notice dated 31 January 2019.
  - The development proposed is the installation of standalone Solar PV panels, associated planting and groundworks.
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### Decision

1. The appeal is allowed and planning permission is granted for the installation of standalone Solar PV panels, associated planting and groundworks at 94 Harmer Green Lane, Digswell, Welwyn Hertfordshire AL6 0EP in accordance with the terms of the application, Ref 6/2018/2199/FULL, dated 14 September 2018, subject to the conditions set out in Annex A.

### Background and Main Issues

2. The site is located within the Green Belt as defined by Policy GBSP1 of the *Welwyn Hatfield District Plan (adopted April 2005)* (WHDP). The *National Planning Policy Framework* (the Framework) (paragraphs 145 and 146) set out the forms of developments that are not inappropriate in the Green Belt. The appeal scheme consists of engineering works to excavate an existing hollow in the landscape and create a bund around the site and the erection of 67 solar panels. The engineering works have already taken place. The Council have indicated that they consider the engineering works would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. As such, in accordance with paragraph 146 of the Framework, they consider this part of the proposal would not be inappropriate development. Nevertheless, it is agreed by both parties that the erection of the solar panels would be inappropriate development. From what I have seen and read, I would agree with this conclusion.
3. Therefore, the main issues in the appeal are:
  - the effect of the proposal on the openness of, and purposes of including land within, the Green Belt;
  - the effect of the proposal on the character and appearance of the area;

- the effect of the proposal on the living conditions of nearby residents with particular regard to outlook; and
- if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

## **Reasons**

### *Openness and Purposes*

4. Openness is an essential characteristic of the Green Belt. It can be considered to be the absence of building and development. The appeal site forms part of a meadow belonging to No 94. It is currently devoid of any buildings or structures. As outlined above, it is agreed that the engineering works do not harm the openness of, or the purposes of including land within, the Green Belt. Nevertheless, the installation of 67 solar panels in 5 rows, covering an area of approximately 300 m<sup>2</sup> and having a height of around 1.2m would reduce the openness.
5. Moreover, in introducing man-made structures into what is currently an open field, the appeal scheme would represent encroachment of development into the countryside. This would be contrary to one of the purposes of including land within the Green Belt, as set out in paragraph 134 of the Framework.
6. Therefore, in addition to the harm arising from the fact that the development would be inappropriate, there is a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt.

### *Character and appearance*

7. The appeal site is located to the rear of the gardens of large detached houses set in substantial plots. It sits within a natural hollow in the land, although the rest of the meadow is relatively flat. A new beech hedge runs north-south immediately to the east of the site along what appears to be the boundary between a more formal grassed area and the meadow.
8. The proposed solar array would consist of 4 rows of 15 panels and 1 row of 7 panels which would be aligned roughly in an east-west direction. The panels would be 1.2m at the highest point and would be mounted on black frames. They would be connected by an underground cable to the host property. 6 new trees are proposed to be planted to the south of the array and the regraded land is to be sown with wild flowers and grasses to match the wider meadow.
9. Both parties have identified that the appeal site is located within the 'Tewin, Dawley and Lockley Estate Farmland' Landscape Character Area. This area is defined as having a strong pattern of woodland and arable farmland on a strongly undulating canvas that is partly fringed by urban development.
10. The countryside surrounding the appeal site is representative of the character area, consisting of medium sized undulating fields and woodlands that slope down towards the Mimram Valley. Human activity in what is a quite intimate landscape is limited giving the area a tranquil character. The area is not covered by any national or local landscape designations.

11. Despite its limited size, the straight lines of the rows of panels and the horizontal emphasis of the scheme, to the extent that it would be perceived, would appear out of place in this rural landscape. However, the new planting proposed would reflect the landscape character of the area and, together with the regrading of the land, would help to diminish the effect of the uniform rows.
12. Bearing in mind the degree of containment and enclosure of the site and the proposed landscaping, I consider that the proposal would only have a slight adverse impact on the landscape character of the area.
13. Visibility of the site from the public realm is limited to views from the public footpath to the south. However, due to the topography these are limited to a very short stretch, and as intervening vegetation matures the views of the panels would be minimal. From the two adjacent houses some views may be possible from the upper floor windows but even so these will be interrupted by mature trees within the gardens and along the boundary. In addition, the development would only occupy a small amount of the wider panorama. As a result, the visual impact of the proposal would be minimal and very localised.
14. No 96 has solar panels on its south facing roof plane, but there is no intervisibility between these and the site. I have not been made aware of any other existing or consented solar developments in the area and saw none on my site visit. As such, no harmful cumulative effect in the wider area would result from the proposal.
15. Overall, the proposal would have a harmful impact on the character and appearance of the area. The proposal would therefore conflict with Policies D1, D2 and RA10 of the WHDP which seek a high standard of design, and that in rural areas developments should contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character. However, the harm to the character and appearance of the area would at worst be slight and very localised. In addition, the harmful impact would be both temporary and reversible. I consider that these material considerations outweigh the limited conflict with the development plan in respect of this matter.

### *Living Conditions*

16. The solar array would be located a minimum of around 18m from the rear boundaries of the nearest dwellings, with the houses being set back some distance from this. A hedge of approximately 2m in height is located along this boundary and there are a number of mature trees within the gardens. The rear elevations of these houses have a number of windows, but the location of the array within a hollow and the intervening vegetation would restrict views from all but windows on the upper floors. Whilst the panels may be visible from some of these windows, the distance between them and the site means they would not have an overbearing impact. Moreover, as highlighted above, the panels would only form a small part in the wider panorama.
17. As a result, whilst there may be some change to views from some of the windows in these properties, the proposal would not have an unacceptable impact on the outlook from them.

18. Consequently, I consider that the proposal would not have a detrimental impact on the living conditions of nearby residents with particular regard to outlook. Accordingly, there would be no conflict with Policies D1 of the WHDP which requires a high quality of design or the advice in the Supplementary Design Guidance 2005. Nor would it be contrary to the Framework which seeks to ensure that developments provide a high standard of amenity for existing and future users.

#### *Other Considerations*

19. The proposed scheme is designed to generate 20KW peak supply to the host property. This has been calculated to be the energy required to run the borehole pump and the ground water pump as well as general domestic usage. This would reduce carbon emissions by 6 tonnes per annum.
20. The provision of renewable and low carbon energy is central to the economic, social and environmental dimensions of sustainable development set out in the Framework. There is strong national policy support for the development of renewable energy sources, including solar power, to ensure the country has a secure energy supply, and to reduce greenhouse gas emissions. Although the scheme is modest in size, paragraph 154 of the Framework confirms that even 'small-scale projects provide a valuable contribution to cutting greenhouse gas emissions'. Moreover, it is not necessary for the appellant to demonstrate the overall need for the proposal.
21. The policy support for renewable energy given in the Framework is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the renewable energy benefit of the proposal must be accorded substantial weight.

#### *Other matters*

22. Third parties have suggested that the proposal could lead to various other developments on land owned by the appellant. I am dealing with the appeal on the basis that it involves the development of a solar array. The acceptability, or otherwise, of any future schemes would be considered by the Council at the time and does not constitute a reason for refusing this application which stands to be determined on its own merits.
23. It has also been suggested that the panels would be better located on the roof of the house or elsewhere in its grounds. The Design and Access statement submitted by the appellant sets out reasoning for why other potential locations were considered unsatisfactory, and why this site represented the best option. In the absence of any substantive evidence to the contrary I see no reason to dispute the conclusions that this represents the optimal site for the panels.

#### **Planning Balance, Conclusions and Conditions**

24. The proposal would be inappropriate development in the Green Belt, which, by definition, is harmful, and to this must be added further moderate harm arising from the loss of openness, and from being contrary to the purposes of including land within the Green Belt. Paragraph 144 of the Framework indicates that any harm to the Green Belt should be given substantial weight.
25. In addition, there would be slight harm to the character and appearance of the area, but I have concluded that the harm arising from this would be

- outweighed by other material consideration, including the fact that it is temporary and reversible.
26. Paragraph 147 of the Framework accepts that very special circumstances will need to be demonstrated if renewable energy projects are to proceed in the Green Belt. It states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Although modest in scale, the appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, and this attracts substantial weight.
27. National policy advises that renewable energy projects should be located where impacts are, or can be made, acceptable. I consider that the location of the array within a hollow, together with the existing and proposed landscaping means that this would be the case here.
28. Therefore, in my judgement, the environmental benefits of the proposal and the fact that the impacts can be made acceptable, are sufficient to outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do exist and the scheme would not conflict with Policy GBSP1 of the WHDP or the Framework.
29. For the reasons set out above, I conclude the appeal should be allowed.
30. As some works have already commenced on the appeal site the standard implementation condition is not appropriate, and I have altered the wording of some of the other suggested conditions to reflect this. However, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of the character and appearance of the area conditions are required to ensure the landscaping of the site. It is reasonable and necessary to limit the period of the permission, and to require that the site is decommissioned when energy generation ceases.

*Alison Partington*

INSPECTOR

## **Annex A**

### **Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Plan showing Solar PV Panels Location Drawing No. 22823A-02 Rev P11; and Proposed Site Plan Sections Drawing No. 22823A-03 Rev P11
- 2) The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and retained as such thereafter.
- 3) The Solar PV Panels hereby permitted shall not be erected until details, on a suitably scaled plan, of the soft landscape works have been submitted to, and approved in writing by, the local planning authority. The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.
- 4) All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the erection of the panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.
- 5) This permission shall expire within 30 years from the date when electricity is first exported from the solar array to the host dwelling (the 'First Export Date'). Written notification of the First Export Date shall be given to the local planning authority no later than 14 days after this event.
- 6) Within 3 months of the solar array ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local planning authority prior to these works being carried out.