

PLANNING STATEMENT

Site: Land to the south of Upper Staple Hills Wood (grid reference: TQ677653).

Client: MDCV UK.

Prepared by: DHA Planning Ltd (reference: JAC/DRB/17381).

Date: February 2023.

1.1 Introduction

- 1.1.1 This Planning Statement has been prepared on behalf of MDCV UK (hereafter 'our client') in relation to a Prior Notification Application ('PNA') made under the Town and Country Planning (General Permitted Development) (England) Order 2015 (AS AMENDED), for the:

'erection of a birds of prey tower for agricultural purposes'.

- 1.1.2 This statement provides an overview of the application site, sets out the detail of the agricultural operation spanning the estate, and provides an agricultural justification for the tower.

- 1.1.3 In accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 (AS AMENDED), information is provided in line with Schedule 2 Part 6 Class A.

- 1.1.4 The following documents are submitted alongside this statement:

Title	Reference	Author
This Covering Letter.	JAC/DRB/17381	DHA Planning.
Site Location Plan (all towers).	-	MDCV UK.
Tower – Location Photos (all towers).	-	MDCV UK.
T3- Site Location Plan (1:250).	-	MDCV UK.
T3- Site Location Plan (1:2500).	-	MDCV UK.
Proposed Wildlife Tower.	LEWT/0223/01	T. Ellis.

1.2 Site Context

- 1.2.1 The site lies to the east of Bucklands Road, abutting a parcel of woodland known as Upper Staple Wood and is situated within the administrative boundary of Gravesham Borough Council ('Gravesham BC' or 'the Council').
- 1.2.2 The site is part of the Metropolitan Green Belt and within the Kent Downs Area of Outstanding Natural Beauty, and forms part of a wider estate owned by our client

which comprises over 525.5 hectares of land. The Site Location Plan (all towers) clearly shows the extent of the land which our client owns.

- 1.2.3 We note that Paragraph D.1 of Part 6 of the GDPO defines agricultural land as:

'land which, before development permitted by this part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business and excludes any Dwellinghouses or gardens'.

- 1.2.4 In this respect, our client uses the land for the growing of grape crops which is an agricultural use.

- 1.2.5 It is important to note that a byway (code: 0161/NS221/1) runs to the south of the site, although it is temporarily closes, and the Halling to Trottiscliffe Escarpment SSSI lies to the west.

1.3 Planning History

- 1.3.1 According to the Gravesham BC planning portal, the site comprises no planning history.

1.4 This Prior Notification Application

- 1.4.1 As mentioned, our clients land comprises some 525.5 hectares and is mainly used as arable land for the production of grape crops. This proposal is to provide habitat for birds of prey, owls and kestrels, as well as bats to provide an environmentally friendly pest control mechanism. Without such features, grape crop production is being adversely affected.

- 1.4.2 This PNA is therefore submitted for the erection of a birds of prey tower which will be used to attract birds of prey and bats; all of whom are predators for pests that can impact grape crops. This demonstrates the agricultural use of the proposal.

- 1.4.3 Our client also seeks the erection of 5no. additional birds of prey towers, which are subject to ongoing application across the estate.

- 1.4.4 The design of the tower is rural and slight in character, comprising features to encourage bird nesting and habitat for invertebrates. It is therefore considered that the proposal comprises; ecological benefits in terms of improving habitat, economic benefits in terms of improving grape crop yield, and social benefits by producing a well-designed tower which can be appreciated and learned about (i.e. how the tower benefits the local ecological network and the economic benefits of the tower through improvements to grape harvest).

- 1.4.5 To confirm the proposal does not:

- involve the extraction/ removal of minerals;
- sit within 400 metres of the curtilage of a protected building;
- require waste materials to be brought onto the land; or
- comprise the keeping of livestock such as sheep, cows and/ or pigs.

1.5 Confirmation that the proposals comply with the GDPO

1.5.1 Schedule 2, Part 6, Class A of the General Permitted Development Order (GDPO) 2015 (AS AMENDED) outlines what constitutes Permitted Development and what does not for agricultural development on units of 5 hectares or more. It is considered Permitted Development if:

'A. *The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of -*

(a) *works for the erection, extension or alteration of a building; or*

(b) *any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit'.*

1.5.2 As the proposed development is for the erection of a birds of prey tower on an area of land that is greater than 5 hectares which will be used to attract kestrels, owls and bats; all of whom are predators for pests that can impact grape crops; it is considered that there is an agricultural need for the proposal and therefore, the proposed development meets the criteria for Permitted Development.

1.5.3 Consideration must now be given to Schedule 2, Part 6, Class A.1 of the GDPO to address why it is considered that there are no reasons for the proposed development to not be considered as anything but Lawful Permitted Development.

1.5.4 The following text subparagraphs (a) - (k) of Class A.1, Part 6 of Schedule 2 of the GDPO describes development that is not Permitted by Class A. This is referenced followed by an explanation to each subparagraph outlining why the application in discussion does not meet the criterion.

'A.1 *Development is not permitted by Class A if -*

(a) *the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area'.*

1.5.5 As noted above, the development will be carried out on a wider parcel of land equating to 525.55 hectares.

(b) *it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins';*

1.5.6 Paragraph X of Part 3 of Schedule 2 defines established agricultural unit as 'agricultural land occupied as a unit for the purposes of agriculture'. It is noted that no development under Class Q or S of Part 3 (Change of Use) of Schedule 2 has been carried out by the applicant within a period of 10 years, nor will any development of that nature take place before the proposed development begins. The client's website - <https://www.mdcvuk.com/> - provides evidence confirming that the site and proposal are part of an Agricultural Trade / Business.

'(c) it would consist of, or include, the erection, extension or alteration of a dwelling';

- 1.5.7 The proposal does not consist of or indeed include the erection, extension or alteration of a dwelling.

'(d) it would involve the provision of a building, structure or works not designed for agricultural purposes';

- 1.5.8 The erection birds of prey tower will only be used to support grape harvest; a key agricultural process undertaken by the client across their estate.

'(e) the ground area which would be covered by -

(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

(ii) any building erected or extended or altered by virtue of Class A, would exceed 465 square metres, calculated as described in paragraph D.1(2)(a) of this Part'.

- 1.5.9 The agricultural tower will not be used for accommodating livestock (domesticated animals raised in an agricultural setting to provide labour and produce diversified products for consumption such as meat, eggs, milk, fur, leather, and wool) or any plant or machinery arising from engineering operations.

- 1.5.10 We note that the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 amends Class A of Part 6 of Schedule 2, substituting the previously permitted 465m² figure to now allow buildings up to 1,000m². The proposal meets this criteria.

'(f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres';

- 1.5.11 The towers height at eaves level will be approximately 5.5m, however the structure will not be within 3km of an aerodrome. The overleaf figure shows a 3km radius from the application site in relation to nearby aerodromes to demonstrate this.



Figure 1: 3KM radius around application site and nearest aerodromes.

- '(g) *the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres*;
- 1.5.12 The eaves height of the birds of prey tower will be approximately 5.5m and is therefore considered to be acceptable.
- '(h) *any part of the development would be within 25 metres of a metalled part of a trunk road or classified road*;
- 1.5.13 The proposed birds of prey tower will be at least 180m from the nearest road, Buckland Road
- '(i) *it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building*;
- 1.5.14 The proposed birds of prey tower will only be used to support grape harvest; a key agricultural process undertaken by the client across their estate. The proposed tower will not be used to accommodate the uses under (i) and therefore this provision does not bite.
- '(j) *it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or*

1.5.12 The eaves height of the birds of prey tower will be approximately 5.5m and is therefore considered to be acceptable.

- (h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road’;

1.5.13 The proposed birds of prey tower will be at least 180m from the nearest road, Buckland Road

- '(i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building';

1.5.14 The proposed birds of prey tower will only be used to support grape harvest; a key agricultural process undertaken by the client across their estate. The proposed tower will not be used to accommodate the uses under (i) and therefore this provision does not bite.

- (j) 'it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming; or'

1.5.15 At no point has or will the land at the client's estate be used in connection with fish farming.

'(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building'.

1.5.16 This Prior Notification is not for the storage of fuel or waste from a biomass boiler or an anaerobic digestion system, therefore it is considered that subparagraphs (i) and (ii) do not apply to this application.

1.6 Conclusion

1.6.1 We reiterate that Green Belt, AONB and landscape character are not a reason for refusing applications that are made under Schedule 2, Part 6, Class A of the GDPO. The application must solely be determined by the criteria of The Order, and anything else is deemed as unreasonable.

1.6.2 We put on record that if the Council refuse the application based on the above, an Appeal will be submitted should the Council act unreasonably in their decision-making process.

1.6.3 It is therefore respectfully requested that Gravesham BC acknowledge that Prior Approval is not required and that the application conforms with the aforementioned Permitted Development Order.

1.6.4 Any queries please do contact john.collins@dhaplanning.co.uk

Yours Sincerely,

J. Collins

John Collins
Planning Director
DHA Planning Ltd.