



Delegated Report

Planning Application

Planning Application No: 20230150

Location: Land To The East Of Dean Lane Harvel Gravesend

Description: Application for a determination as to whether prior approval is required for the erection of a birds of prey tower for agricultural purposes.

Applicant: Steve Chapell, MDCV UK

Application form;
Planning Statement;
Photos showing location of towers;
Drawing No.LEWR/0223/01 Rev A – Proposed Wildlife Tower
Location Plan;
Location Plan 1:250;
Location Plan of all towers;

Relevant Planning History

Reference	Description	Decision	Decision Date
20230131	Application for a determination as to whether prior approval is required for the erection of a birds of prey tower for agricultural purposes	Pending Consideration	N/A
20230129	Application for a determination as to whether prior approval is required for the erection of a birds of prey tower for agricultural purposes	Pending Consideration	N/A
20230152	Application for a determination as to whether prior approval is required for the erection of a birds of prey tower for agricultural purposes	Prior Approval Not Required	15.03.2023
20230151	Application for a determination as to whether prior approval is required for the erection of a birds of prey tower for agricultural purposes	Prior Approval Not Required	15.03.2023

Consultee Comments

KCC Biodiversity Officer

We do not often deal with applications 'for a determination as to whether prior approval is required'. It is my understanding that you would want to know if there is any material consideration, from an ecology perspective, regarding the proposals. Please correct me if this is not accurate.

Having actually visited the site and the particular locations where the towers are proposed to

be situated, it is my view that no ecological information is required. These towers are relatively small-scale in nature and are not likely to negatively impact protected species/biodiversity interest in their construction. Indeed, once erected, these structures should be beneficial for protected wildlife/biodiversity.

Natural England

No objection

Dickens' Country Protection Society

Noting the appearance and location of this structure, in the Society's view this should be subject to planning consent. The proposed use in connection with agriculture is not explained and the environmental impact may need to be assessed.

Parish Council & Ward Cllrs

No comments received

Planning Policies

The application is made under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2 Part 6. The test as to whether prior approval is required falls under the criteria in this part. The development plan policies are not relevant.

The site is subject to a historic Article 4 Direction but this does not apply to this application (Legal confirmed on 23 March 2023 this is the case).

This application is made under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2 Part 6 and the tests are whether or not prior approval is required as to the siting, design and external appearance of the buildings and in the first instance whether the buildings as proposed are in any event permitted development or whether planning permission is required.

The site is within the Green Belt, but Green Belt policy in the NPPF (2021) indicates that that one of the exceptions to inappropriate development is if new buildings are for agriculture and forestry.

The application relates to a holding of 525 hectares of land which is used for grape crops which is an agricultural use. The holding including lands in Medway and the holding is managed as one unit.

The first test is whether the buildings would fall within the provisions of Article 3 of and Part 6 of schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, as amended.

Reasonably necessary for the purposes of agriculture within that unit.

The purpose of the tower (one of several proposed around the estate) is to provide habitat for and so attract birds of prey and bats who are predators for pests that can impact grape crops. It is stated that this provides an environmentally friendly pest control mechanism and that without such features, grape crop production is being adversely affected (significant losses occur from birds, mammals and insects eating or pecking at the crops). It is also stated that it would provide ecological benefits by improving habitat (it would include habitat for invertebrates), economic benefit by improving grape crop yield and social benefits as an ecological learning tool. The farm is organic and so cannot use chemicals. Alternatives such as bird scarers are said to be increasingly less effective as while birds may go to flight, they then return, and netting has other implications including a visual impact. Pest control is a recognised part of agricultural activity and some examples of the use of birds of prey to try and control pests at vineyards has been found in the USA and New Zealand, with research into the use of bats in European vineyards also having been referred to by the application agent. On balance, it is considered that the proposal is 'reasonably necessary

for the purposes of agriculture' within the unit as, although unusual, it can be considered to be part of the works/activities for pest control for a vineyard.

The applicants advise that the proposal falls within Class A of Part 6 of the GPDO as being a development on a unit of 5 hectares or more and would fall within Class A as being (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.

Development not permitted

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;

It would not be on a separate parcel of land less than 1 hectare in area.

(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;

No history of any development under Classes Q or S of Part 3 within the last 10 years has been found for this agricultural unit.

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

It does not.

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

Its purpose and design are for pest control to support grape harvest, an agricultural process undertaken on the agricultural unit (it would also benefit other wildlife).

(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 1,000 square metres, calculated as described in paragraph D.1(2)(a) of this Part;

This would not be exceeded.

(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;

The development would exceed 3m in height but would be over 3km from any aerodrome.

(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;

The development would be approximately 5.5m high and so would not exceed 12m.

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

The development would be much further than this from any public road (the application form was incorrectly completed in this respect, although the supporting statement is correct).

(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;

Within the common definition of livestock the development does not appear to fall within this paragraph and in any case appears to be over 400m from the curtilage of the nearest protected building.

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

The development is not connected with fish farming.

or

*(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.*

The proposal is not for part (k) development therefore these subsections are not relevant.

Conditions

A.2—*(1) Development is permitted by Class A subject to the following conditions—*

(a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part or for the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine;

This does not apply.

(b) where the development involves—

*(i) the extraction of any mineral from the land (including removal from any disused railway embankment); or
(ii) the removal of any mineral from a mineral-working deposit,
the mineral is not moved off the unit;*

The development does not involve minerals.

(c) waste materials are not brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the provision of a hard surface and any materials so brought are incorporated forthwith into the building or works in question. It is not proposed to bring waste materials in.

(2) Subject to sub-paragraph (3), development consisting of—

(a) the erection, extension or alteration of a building; This is the case.

(b) the formation or alteration of a private way;

(c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares); or

*(d) the placing or assembly of a tank in any waters,
is permitted by Class A subject to the following conditions—*

(i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building (this is the purpose of the current application), the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;

The rest of the conditions refer to the procedures to be followed for an application and its outcome and so have not been replicated here.

Siting

The proposed tower/building would be sited at in a field to the east of trees with some buildings further to the south. The Local Plan shows this whole area as being within the Green Belt, the Kent Downs Area of Outstanding Natural Beauty (AONB) and Landscape Character Area.



New buildings for agricultural purposes are not inappropriate in the green belt and in this location is it not considered that the proposal would harm the overriding open rural character or natural beauty of the landscape. In these circumstances no objections are raised to the proposed siting, it would be set away from the woodland but within the open landscape would be generally seen against the backdrop of the much taller trees in this area.

Design and External Appearance of the building

The proposed tower is well designed to fit in with the landscape, using clay tiles, wood, red brick and flint. It is considered that the design and materials would sit well within this setting and would not be harmful.

Conclusions and Reasons for Decision

The development is considered to be permitted development and the developer has applied for a determination as to whether prior approval will be required as to the siting, design and external appearance of the building. The proposed development has a traditional style of design and materials, and the siting is considered acceptable, in a ploughed area away from the protected woodland but against its backdrop from open, more distant views.

Recommendation

Prior Approval Not required.

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Mr Richard Hart	Team Leader:	Miss Faye Hobbs
Signed:	<i>R Hart</i>	Signed:	
Dated:	23rd March 2023	Dated:	23 March 2023