

Planning Statement

Austin's Acres (formerly known as Marlings), Dean Lane, Meopham, Kent, DA13 0BS

Application to remove conditions 7 to 11 of planning permission 19990800 to reinstate Permitted Development Rights



By: GRAHAM SIMPKIN PLANNING

For: Sebastian Ferrari

Project reference: PR4680

29 April 2026

office@gsplanning.uk



Contents

1	Introduction	3
2	Site Context.....	4
3	Relevant History	5
4	Proposed Development.....	7
5	Planning Policy.....	8
6	Planning Assessment.....	10
7	Conclusions.....	15

1 Introduction

- 1.1 This Planning Statement has been submitted in support of an application for the following development at Austin's Acres (formerly known as Marlings), Dean Lane, Meopham, Kent, DA13 0BS (hereafter referred to as 'the Site'):

Application to remove conditions 7 to 11 of planning permission 19990800 to reinstate Permitted Development Rights

- 1.2 The proposed development affects the following Land Registry title(s):

Title Number	Description	Owner
K720194	<u>MARLINGS DEAN LANE, MEOPHAM, GRAVESEND DA13 0BS</u>	The Applicant.

- 1.3 The application is accompanied by the following plans and documents:

- 4680.ON – Planning Statement.
- Appendix 1 Trinity House and The Kebles Appeal Decision 3358714
- Appendix 2 Starwood Appeal Decision 3370656

2 Site Context

- 2.1 The Site comprises a large, detached dwelling that is situated on the north side of Dean Lane within a 2.2 ha parcel of land amongst other residential properties that vary in design and size.
- 2.2 The principal elevation presents a single-storey dwelling constructed from red facing brickwork, with the majority of the roof being a shallow-pitched, and a section being flat-roofed, all of which is covered with brown tile. The windows are white UPVC, and the guttering and downpipes are black plastic. The garage at the Site matches the materials of the dwelling.
- 2.3 The dwelling is well concealed by a mature, 70 m long, U-shaped hedge that lines the entire principal elevation of the dwelling, parking area and garage, providing a level of privacy from the surrounding area.
- 2.4 Internally, the dwelling comprises three bedrooms, a living room, an office, a kitchen and a playroom.
- 2.5 The surrounding garden is extensive and encompasses the dwelling in its entirety. To the rear of the dwelling, the garden slopes steeply upwards, whilst in front of the dwelling, the garden slopes down towards Dean Lane.
- 2.6 There is also a 90 m access track from Dean Lane that grants access to the house via a metal 5-bar gate, which is adjacent to the highway.
- 2.7 In a wider context, the Site forms part of a residential street where the dwellings are isolated by the large parcels of land they are situated on. There is little to no amenity within walking distance of the Site.
- 2.8 This Site is the subject of the following planning constraints and characteristics:
- Metropolitan Green Belt.
 - National Landscape.
 - Local Wildlife Site (Strawberry Hill, Pasture & Woodland).
 - Harvel Wooded Downs Landscape Character Area.

3 Relevant History

3.1 The following record is understood to be relevant to the Site and this application:

Erection of a detached three-bedroom replacement bungalow with detached garage at the side and the laying out of associated driveway and manoeuvring area.

Ref. No: 19990800 | Status: Application Permitted. This application is the subject of this planning application. The application was subject to the following conditions that are relevant to this application:

7. Notwithstanding the provisions of Article 3 of and Class A Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, or any Class in any Order revoking and re-enacting that Order, no enlargement, improvement or other alteration of the dwellinghouse shall be carried out, without the prior permission, in writing, of the District Planning Authority.

8. Notwithstanding the provisions of Article 3 of and Class B Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, or any Class in any Order revoking and re-enacting that Order, no enlargement of the dwellinghouse consisting of an addition or alterations to its roof shall be carried out, without prior permission, in writing, of the District Planning Authority.

9. No outbuildings or garages, other than those identified on the approved plans, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, shall be constructed on the site, without the prior permission, in writing, of the District Planning Authority.

10. No hardstanding or other engineering works, other than those identified on the approved plans, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, shall be carried out on the site without the prior permission, in writing, of the District Planning Authority.

11. The garage hereby permitted shall be used only for the parking of a private motor car or cars and no development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking or re-enacting that order, shall be carried out on the site in such a manner or in such a position as to preclude vehicular access into the garage.

3.2 The reason given for conditions 7-10 was:

In order that any such proposal may be the subject of a separate planning application, which the District Planning Authority would wish to determine on its merits, having regard to this prominent open hillside site and the inclusion of the site within an Area of Outstanding Natural Beauty and the Metropolitan Green Belt.

3.3 The reason given for condition 11 was:

The development without adequate provision for the parking of private motor cars is likely to result in parking inconvenient to other road users and detrimental to amenity.

4 Proposed Variation

- 4.1 This application seeks to remove conditions 7 to 11 of planning permission 19990800 to allow for the reinstating of Permitted Development (PD) Rights at the Site.

5 Planning Policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Court of Appeal has clarified that for a decision maker, this means establishing whether a proposal is in accordance with the development plan as a whole. The question of compliance with one policy should not dictate the outcome of a proposal in the absence of considering compliance with all other relevant policies. Decision makers are therefore tasked with identifying and understanding all relevant policies and material considerations in order to reach a properly informed planning judgment on a proposal, and to avoid an irrational or vulnerable decision that may be subject to criticism in a public law challenge.
- 5.2 Paragraph 2 of the National Planning Policy Framework ('the Framework') reiterates what is said in Section 38(6), whilst paragraph 12 of the Framework is clear that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 5.3 Paragraph 39 of the Framework encourages local planning authorities to approach decisions on proposed development in a positive and creative way. It also encourages working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, adding that decision-makers should seek to approve applications for sustainable development where possible.
- 5.4 Annex 1 of the Framework confirms that for the purposes of decision-taking, the policies in the plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. It adds that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, with greater weight being given to those policies that are closer to the policies in the Framework.

Development Plan

- 5.5 It is understood that the Development Plan for Gravesham, within which the Site is located, comprises the following documents:

- Core Strategy (2014) (CS).
- Gravesham Local Plan First Review (1994) – Saved Policies (LPFR).

5.6 In the CS, the following policies are considered most relevant in connection with the proposed development:

5.7

- CS01 – Sustainable development.
- CS02 – Scale & distribution of development.
- CS12 – Green infrastructure.
- CS13 – Green space, sport and recreation.
- CS19 – Development & design principles.

5.8 In the LPFR, the following policies are considered most relevant in connection with the proposed development:

- Policy C13 – Extensions to dwellings in the countryside.

Other Material Considerations

The Framework

5.9 In summary, the following paragraphs are considered most relevant as additional material considerations in connection with the proposed development:

- 7 – Achieving sustainable development.
- 11 – Presumption in favour of sustainable development.
- 55 – Conditions restricting permitted development rights.
- 57 – Use of conditions.
- 124 – Effective use of land.
- 125 – Multiple benefits of land.
- 129 – Making efficient use of land.
- 131 – Achieving well-designed places.
- 142 – Protecting Green Belt Land.
- 143 – 5 purposes of the Green Belt.
- 154 – Exemptions to development in the Green Belt.
- 187 – Conserving and enhancing the natural environment.

Further Material Considerations

- Householder Extensions/Alterations Design Guide (2021).
- Nationally Described Space Standard (2015) (NDSS).

- Landscape Character Assessment (2009).
- Gravesham Design Guide (2024).

6 Planning Assessment

Key Issues

6.1 The following are considered to be the key issues in the assessment of this application:

1. Principle of the removal of the conditions
2. Impact on the Green Belt
3. National Landscape
4. Impact on residential amenity

1. Principle of the removal of the conditions

6.2 The first matter to consider in the determination of this particular application is whether the proposed changes can be dealt with by way of an application under Section 73 (S73) of the Town and Country Planning Act 1990 (as amended) or whether a fresh application is required.

6.3 Lord Justice Lewison in a recent court judgment in the Court of Appeal between John Leslie Finney and Welsh Ministers, Carmarthenshire County Council, stated that "On receipt of such an application, section 73 (2) says that the planning authority must 'consider only the question of conditions'. It must not, therefore, consider the description of the development to which the conditions are attached. The natural inference from that imperative is that the planning authority cannot use section 73 to change the description of the development. It is notable, however, that if the planning authority considers that the conditions should not be altered, it may not grant permission with an altered description, but subject to the same conditions. On the contrary, it is required by section 73 (2) (b) to refuse the application. That requirement emphasises the underlying philosophy of section 73 (2) that it is only the conditions that matter."

6.4 The above judgement has been further endorsed recently in the case of *Armstrong v Secretary of State for Levelling-Up, Housing and Communities & Anor* [2023] EWHC 142 where the High Court stated that "section 73 is clearly intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission".

- 6.5 Based on the above judgements, it is clear that permission for an S73 application shall only be granted for the same development, and any variation or removal shall only relate to the conditions imposed on the original permission.
- 6.6 The removal of conditions that are the subject of this application does not depart from the description of the previously approved development. The specific removal of the conditions would not necessitate a change to the description of the previously approved development. Consequently, the removals only relate to conditions imposed on the original permission and relate to the same development. As such, GBC is in a position to be able to legally grant the proposed changes under an S73 application, as they do not necessitate any alterations to the description of a development.
- 6.7 If GBC is of a different opinion, the Applicant would welcome a discussion regarding what element(s) justify such a position with a view to removing or amending the nature of any changes to the conditions.
- 6.8 Overall, the proposed variation of condition is considered to fall into the parameters of an S73 application.
- 6.9 In addition to the above, paragraph 57 of the Framework makes clear that planning conditions should only be applied where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. The remainder of this section of the Planning Statement seeks to set out why this is not considered to be the case.

2. Impact on the Green Belt

- 6.10 Part of the reason given for conditions 7-10 relates to the fact that the Site is within the Green Belt and all seek to remove various domestic permitted development rights. Paragraph 55 of the Framework states that "planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so."
- 6.11 As it stands, with the conditions in place, planning permission is required for even minor or routine domestic alterations that would otherwise not require prior permission. This represents a significant and ongoing burden on the occupiers of the dwelling. Such a blanket restriction is not proportionate, and the conditions do not distinguish between forms of development that may have varying impacts, nor does it target specific concerns. Instead, it prevents all future development, irrespective of scale, siting or design.

- 6.12 The views of the Applicant are supported by appeal decision 3358714 (**Appendix 1**). In paragraph 8, the Inspector makes the following clear:

The GPDO does not treat the Green Belt as one of the defined areas within which permitted development rights should not apply. As such, the Government's fundamental Green Belt aims of preventing urban sprawl by keeping land permanently open do not extend to preventing permitted development within a domestic curtilage. Accordingly, there is no basis in national policy for an assumption that the exercise of permitted development rights would, in principle, be harmful to the Green Belt.

- 6.13 The Inspector proceeds to make clear in paragraphs 9 and 10 that the use of the condition to remove the rights would only be justified if there is a clear, identifiable risk of harm to Green Belt openness. It is then highlighted that the dwellings form part of a linear development of dwellings along Crouch Lane that have been extended or altered to varying degrees (inclusive of outbuildings) that are visible from publicly accessible areas, akin to the subject part of Dean Lane, with large dwellings situated on extensive plots of land nearby that have also been altered to varying degrees (e.g. Four Acres and Azilla, which are adjacent, and Genie Acres, which is opposite).
- 6.14 The reasons for conditions 7-10 refer to it being a "prominent open hillside site". However, the Applicant contests this (albeit circumstances on and off-site may have changed since application 19990800 was approved). As it is now, the Site – and specifically the bungalow – is well screened from the public highway, courtesy of both on-site and off-site dense landscaping. The gap in the Site's frontage along Dean Lane is limited to its single vehicular access. Dean Lane itself is subject to a 60mph speed limit, and there are no public rights of way nearby that would allow for clear views of the Site. Therefore, notwithstanding the fact that the property may be built on a slight hill whilst also being located in the Green Belt, these are not considered to act as a 'clear justification' for retaining these four conditions. In any case, visibility is not analogous to harm.
- 6.15 In addition, an Inspector recently ruled in a Gravesham appeal decision included as **Appendix 2** that a condition removing permitted development rights from a new dwelling was not necessary to make the proposal acceptable in planning terms and conflicted with the Framework (see paragraph 35).
- 6.16 The Applicant therefore considers that these four conditions are neither necessary nor reasonable, and thus fail at least two of the six requirements of conditions as set out in paragraph 57 of the Framework.

3. National Landscape

- 6.17 Although the LPA suggest in the delegated report for 19990800 that the reason for the removal of PD rights is to ensure that any future proposal would be subject to a planning application, given its inclusion in the National Landscape (NL), the respective PD Rights limit development in the NL already to ensure its preservation.
- 6.18 Examples of this are evident in Class A, which limits the alterations to a dwelling in article 2 (3) land, more specifically, the NL in this case, to less than a dwelling that is not within a NL. The removal of the PD Rights unreasonably overcompensates to protect the NL, which in turn is already protected by the PD Rights themselves.
- 6.19 Additionally, Class E restricts where outbuildings can be situated in the National Landscape, which automatically further limits the Applicant's options should the conditions be removed from the permission.
- 6.20 Moreover, the dwelling is in excess of 57 m from the highway, and is entirely screened by a mature hedgerow that lines the principal elevation of the dwelling, whilst further mature, dense planting lines the Site's boundary that is shared with Dean Lane, which collectively prevent it from being seen from the public realm.
- 6.21 Finally, the existing single-storey nature of the dwelling would prevent any two-storey extensions from being implemented, by virtue of the limitation relating to the height of extensions, suggesting that the lack of visibility of the dwelling would not be compromised. Regardless, as noted above, visibility is not analogous to harm.

4. Impact on residential amenity and highway safety

- 6.22 The reason for condition 11 refers to concerns that, without it, it could lead to inconvenient parking, detrimental to other road users, as well as harm to residential amenity.
- 6.23 It is not entirely clear as to why the LPA thought this would be the case. Firstly, the approved plans show that the access road from Dean Lane is about 100 metres long and is only a single track width. It is therefore highly unlikely that the removal of condition 11 will lead to residents or guests choosing to park their vehicles on the public highway, given the distance from the dwelling. Furthermore, the highway itself is a single track, so parking along it will potentially result in the highway being blocked.

- 6.24 It is equally difficult to understand why condition 11 is needed to ensure that the amenities of neighbouring occupants are not harmed. Deleting the condition would not enable the residents to start using the garage in an alternative way that departs from the lawful dwellinghouse use of the garage and the entire Site.
- 6.25 Overall, should condition 11 be removed, it is considered that the living conditions of neighbouring dwellings will be protected, whilst the living conditions of existing and future occupiers could potentially be enhanced.

7 Conclusions

- 7.1 By following current national planning guidance in the form of the Framework, it is clear that permitted development rights should not automatically be removed to protect areas such as the Green Belt or National Landscapes.
- 7.2 The LPA may claim that its hillside location is the 'clear justification' needed to retain conditions 7-10, but the Applicant strongly refutes this, given the on and off site circumstances that exist today, including the extent and density of existing screening, the limited views into the site from any publicly accessible areas, the speed limit of the highway, and the set back nature of the dwelling itself (60 metres), which will mean that most 'permitted development' would be limited to being beyond this distance from the highway.
- 7.3 The Applicant's approach to this application is in line with Planning Inspectors as evidenced in **Appendices 1 and 2**, which clearly state that the implementation of a condition to remove PD rights simply because the dwelling is situated in the Green Belt is not reasonable or necessary. Similar arguments are made regarding the Site being in a National Landscape, with the addition of the fact that the GPDO places greater limits on permitted development rights in such circumstances. Finally, there are no grounds for condition 11 as its deletion clearly does not lead to highway safety or amenity issues.
- 7.4 In turn, the subject conditions fail to meet the necessary tests in order to be implemented, and it is requested that they be removed accordingly.