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## Appeal Decision

Site visit made on 1 October 2025

**by H Miles BA (hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th October 2025

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**Appeal Ref: APP/A2280/W/25/3367776**

**47 Chattenden Lane, Chattenden, Rochester, Medway ME3 8LE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr A Andreou against the decision of Medway Council.
  - The application Ref is MC/24/2073.
  - The development proposed is construction of single storey side extension and part single / part 2 storey rear extension including change of use of side piece of land.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. There is another appeal for similar development on a nearby site (53 Chattenden Lane). I have determined these appeals on their individual merits. Nonetheless, as there are clear parallels between the two cases, some of the language used is common to both of these decision letters. Additionally, for the avoidance of doubt, the fact that the change of use of the side piece of land has been carried out has had no bearing on this decision.

### Main Issue

3. The main issue is the effect of the appeal scheme on the provision of open space in the area with particular regard to the change of use of the land.

### Reasons

4. Chattenden Green is an open area of grass which is accessible to the public. It is bordered by residential boundary fencing, a residential garage and vehicle access, and Chattenden Lane. I understand that previously it was part of a military barracks with no public access and there was a playground, basketball hoop and planting and a hedge along the shared boundary, although these have been removed. It is now open grassed land. It is privately owned and managed by a residents' company and representations state that there has been antisocial behaviour on this land and dog fouling.
5. This land is in use as publicly accessible open space and, notwithstanding its ownership, it provides a valuable recreational and visual function for nearby residents and visitors to this area.

6. 47 Chattenden Lane shares a boundary with the park. The appeal scheme includes fencing off an area of land adjacent to the boundary that was previously public open space and its change of use to a private domestic garden.
7. The development therefore results in the loss of public access to this open space. I have taken into account the size of the space and that the overall recreational use of the remaining space has not altered, however the amount of space available has reduced. The smaller remaining space, is therefore a poorer provision than previously existed and harmfully erodes the scale of the openness of this space.
8. I understand that there are future plans for Chattenden Green to be planted and to be public wild garden space involving the local school and community, and that the appellant is involved in this work. This is intended to reduce anti social behaviour on this land. This would be funded by the residents' company and the reduction in the size of the land to be managed would reduce the costs of improvements as well as ongoing maintenance. However, I have little information regarding the works proposed, and the change of use appears to have been carried out without these improvement works coming forward, nor is there any mechanism to tie this appeal scheme to these proposed works. As such, based on the submitted evidence, I am not satisfied that the domestic use of part of the open space is required for this to take place, or that the recreation facility can best be retained and enhanced through this development.
9. No alternative replacement open space provision is proposed. There are other open spaces nearby, in walking distance, including some with play equipment and sports facilities. However, the evidence before me does not demonstrate that these amount to an excess of provision for this area.
10. The Framework states that existing open space should not be built on except in specific circumstances. Paragraph 103 also sets out the importance of access to a network of high quality open spaces and requires that planning policies should accommodate what open space provision is needed, determined on the basis of robust and up to date local assessments. Policy L3 of the Medway Local Plan (LP), which dates from 2003, seeks to protect open space. The supporting text sets out the need for open space, including that there is a shortage of play areas and playing fields and accordingly seeks to protect all open space from development. During the course of this application the more recent Emerging Medway Local Plan 2041 has been published for consultation. This also seeks to protect all publicly accessible open space. Albeit, taking into account its stage of preparation, I am not satisfied that this is likely to be adopted in the form proposed, and therefore I afford limited weight to these policies. However, existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Although Policy L3 is not limited to land being built on, its protection of open space is based on a local assessment of need and it is broadly in accordance with the Framework.
11. Policy L3 sets out specific exceptions as to where the loss of open space would be permitted. Taking into account the development under consideration, and for the reasons set out above, the appeal scheme does not satisfy any of these exceptions.
12. Public open spaces, including casual play space and amenity open space provide opportunities for recreation, play and contribute to health and wellbeing. Once lost,

open space is likely to be lost to the community forever. Consequently, the harm in this regard is serious.

13. Therefore, the development has a harmful effect on the provision of open space in this area. As such, it is contrary to Policy L3 of the LP and Policy HOO8 of the Hoo St Werburgh and Chattenden Neighbourhood Plan 2023-2040. In addition to the aims set out above this requires that development should have no significant adverse effect on the open and green character, amenity, accessibility and value of green spaces, amongst other things.

### **Other Matters**

14. The proposed extension would provide facilities for disabled occupants in the extended garden and new rooms, as well as an enlarged open plan kitchen/dining room and utility room. This would be an important benefit to these occupiers. Albeit, considering the extent of the works proposed as well as the footprint of the proposed extension, there is little evidence to suggest that the change of use of the public open space would be needed to provide the rooms required and that the works proposed are the minimum required to meet these needs.
15. The development involved the removal of a tree to create a safer boundary line and includes the renewal of the fencing, which is in keeping with other boundary treatment in this area. However, the harmful change of use would not appear to be required for this to take place. There is no landscaping scheme submitted, and any biodiversity benefit associated with domestic lawn and planting attracts limited weight in these circumstances. There are also important benefits associated with the maintenance of the open space as set out above. However, given the lack of detail before me, overall, I afford moderate weight to these benefits. The Council have not raised any objection to the extension proposed. Nevertheless, the absence of harm in these regards would be a neutral factor.
16. In addition to the appeals at nos 53 and 47, at my site visit it appeared that similar works have occurred elsewhere and my attention is also drawn to no. 41. The appeals are not tied to one another and I am required to consider each on its own merits. Other than those appeals before me, I have no detail as to whether planning permission has been granted, or the particular circumstances of these cases. I have no evidence that similar works will occur at no 55, or any associated benefit to the layout of Chattenden Green. Nor am I provided with details of other areas of public open space which are being developed in this area and therefore I cannot conclude that the circumstances of these sites are comparable. As such, these matters do not alter my conclusions.
17. The appellants have purchased this piece of land, and it appears that during this process they were not advised that planning permission would be required to use the land as part of their domestic garden. This is an unfortunate situation, however I am required to determine the appeal submitted, including this change of use, on its planning merits. While I have noted the appellant's concerns regarding the Council's handling of the planning application, that does not alter my assessment of the appeal scheme.
18. Overall, the benefits of the development are afforded moderate weight. Nevertheless, these moderate benefits would not outweigh the serious unacceptable harm to the provision of open space.

### *Equalities*

19. In considering this appeal I have also had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. I am also mindful of the Human Rights Act 1998 and Article 3(1) of the United Nations Convention on the Rights of the Child and the implications of my decision on the best interests of the child or children.
20. The development would provide improved facilities for people who are disabled. However, there is little before me to suggest that the appeal proposal would be the only way to meet the particular needs of the appellant's family. Consequently, I am not able to conclude that the best interests of the child or children, or those who have protected characteristics could not be achieved by less harmful means or measures. I have also concluded that the appeal scheme results in unacceptable harm to the provision of open space. I am satisfied that these legitimate aims can only be adequately safeguarded by the refusal of permission for the development. Therefore, following careful consideration of the particular matters, dismissing the appeal for these reasons would be a proportionate and justified outcome.

### **Conclusion**

21. The appeal scheme conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

*H Miles*

INSPECTOR