
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: 16 October 2025

Appeal Ref: APP/A2280/W/25/3368758

53 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 and Mrs Adrian and Tracey Kollnberger against the decision of Medway Council.
 - The application Ref is MC/25/0595.
 - The development proposed is change of use of amenity land to residential garden 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 (47 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 development has been carried out has had no bearing on this decision.

Main Issue

3. The main issue is the effect of the proposed development on the provision of open space in the area.

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 to this, 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. 53 Chattenden Lane shares a boundary with the park. The appeal scheme is for fencing off of 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. 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 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. I also understand that the owners have no intention to build on this piece of land and covenants are in place to require this. 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 modest weight to these benefits.
15. 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.
16. 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.
17. Overall, the benefits of the development proposed are afforded modest weight. Nevertheless, these modest benefits would not outweigh the serious unacceptable harm to the provision of open space.

Conclusion

18. 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