



Appeal Decision

Site visit made on 18 March 2025

by A Phillips MPlan BA CertHE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2025

Appeal Ref: APP/U5930/W/24/3352691

14 Shaw Square, Walthamstow E17 5JB

- 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 Mrs Sara Nesari against the decision of Waltham Forest London Borough Council.
 - The application Ref is 241062.
 - The development proposed is described as: Erection of a new house on land adjacent to 14 Shaw Square, London, E17 5JB with associated refuse and recycle bins, and cycle storage following demolition of rear shed and two storey part single storey rear extension of the existing dwelling, changes to fenestration, single storey rear extension for host property, remove existing flush kerb and reinstate footpath.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the appeal proposal would make adequate provision of external amenity space for 14 Shaw Square,
 - Whether it would be sustainable development, specifically regarding energy use and climate change resilience; and,
 - Whether it would secure necessary contributions, specifically regarding transport modes.

Reasons

External amenity space

3. The subdivision of the property will lead to the new house having approximately 70.7sqm of garden space. 14 Shaw Square will have a private rear garden of approximately 28.6sqm, with a front garden space of potentially 10sqm.
4. Policy 56 of Waltham Forest Local Plan Part 1 2024 (Local Plan) requires a minimum of 50sqm of private external amenity space for each dwelling, which follows Policy D6 of The London Plan March 2021 (London Plan) that allows each borough to set a higher standard in Development Plans than the 6 metres sought as a minimum in Policy D6 for two bedroom homes.

5. The appellant states that there are nearby parks, though no details of where and type of parks have been provided. In addition, the 10sqm of space at the front of the property would not be private, as required by Policy 56 as detailed above.
6. The proposal would provide insufficient private amenity space that would harm current and future residents of 14 Shaw Square quality of life. On this basis the proposal conflicts with the identified aims of Policies 56 of the Local Plan and D6 of the London Plan.

Sustainability

7. The Council has stated that the gross internal area of the proposed dwelling is 82.15sqm. Policies 85 of Waltham Forest Local Plan Part 1 2024 requires all development of more than one dwelling or over 100sqm to provide energy assessments, given that the proposal does not meet this requirement this policy is not considered to apply. Policy 87 of the Local Plan does apply as it refers to 'one or more homes' and refers to compliance with Policy 85. Therefore, there is some conflict in when each policy is relevant.
8. There is a lack of detail, apart from soft landscaping, in how the proposal would meet Policy 87 of the Local Plan. If discounting those elements listed under Policy 85, the proposal would still have to submit a Sustainability Statement. The application should have sought to achieve for instance Home Quality Mark, Passivhaus or equivalent that would have a direct impact on the carbon emissions.
9. The appeal proposal has failed to demonstrate that the proposed development would achieve acceptable levels of sustainability particularly regarding energy use and climate change resilience. It therefore conflicts with the identified aims of Policy 87 of the Local Plan.

S106 Agreement

10. No S106 Agreement (signed or drafted) has been submitted as part of this appeal. Apart from the £1,000 towards sustainable transport modes the appellant has agreed to all the requested contributions.
11. The Council in the Delegated Report states that cycle storage could be secured via a condition and has not identified any harm, or explanation, that would require the £1,000 contribution necessary to make the development acceptable in planning terms or how it directly relates to the development. With the lack of information provided it can also not be known if the contribution is fair and reasonable. On this basis this contribution does not meet the three tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
12. With no identified harm by the Council to sustainable methods of transport, the proposal complies in this regard with Policies 60, 61, 62 and 94 of the Local Plan, as well as Policies T3 and T4 of the London Plan, which seek to improve sustainable transport either by on site improvements or off site contributions.
13. While the remainder of the contributions requested by the Council have been agreed by the appellant there is no signed S106 submitted as part of this appeal. With the harm identified above under 'External amenity space' and 'Sustainability', the provision of a S106 would not have altered this appeal being dismissed.

Conclusion

14. The appeal proposal would create one house, supporting the government's objective of significantly boosting the supply of homes. However, the existing house would be left with insufficient private amenity space to meet the needs of occupiers, and it has not been shown that the proposal would meet the required standard for sustainable development. Furthermore, no mechanism has been provided to secure the necessary contributions.
15. The proposed development therefore conflicts with the development plan and there are no material considerations to indicate that the decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

A Phillips

INSPECTOR