



Appeal Decision

Site visit made on 11 June 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/T2405/D/24/3340601

60 Blaby Road, Enderby, Leicestershire, LE19 4AP

- 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 Daniel Grieves against the decision of Blaby District Council.
 - The application Ref is 23/1038/HH.
 - The development proposed is outdoor swim spa with canopy.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development is described as 'retrospective' in the application and appeal forms. However, this is not a description of development and I have removed it from the description set out in the banner heading.
3. The application form states that the development was completed in September 2021. I saw during my site visit that an outdoor swim spa and canopy had been erected to the front of 60 Blaby Road. This appears to accord with the plans before me. I have therefore considered the appeal on the basis that the development has already taken place, as did the Council.
4. The appellant and his family wish to retain the swim spa because it has an association with a family member who has died. Therefore, in determining this appeal, I have had due regard to Articles 1 and 8 of the First Protocol of the Convention on Human Rights. Article 1 sets out the entitlement for an individual to have peaceful enjoyment of their possessions. In addition, Article 8 enshrines the right to respect for a private and family life, their home and their correspondence.

Main Issues

5. The main issue is the effect of the outdoor swim spa with canopy on the character and appearance of 60 Blaby Road and the surrounding area.

Reasons

6. The appeal site is a detached property located on a residential road within the settlement of Enderby. Blaby Road consists of a mix of semi-detached and detached properties characterised by open frontages resulting in a spacious quality to the area. The appeal property has a large open frontage with a boundary hedge and is set back considerably from the highway. The location of

the development is set forward of the existing front elevation and is situated on the driveway in front of a window that serves a habitable room.

7. The development is large and prominent within the street scene. The swim spa and canopy are dark grey in colour and assimilate with the colour of the driveway. The swim spa has been constructed at a lower level than the surrounding land, it is set back from the road and close to the boundary hedge all of which mitigates its visual impact. Nevertheless, the design of the development is incongruous, remains prominent in relation to 60 Blaby Road and draws the eye within the street scene resulting in a visual barrier and loss of the characteristic open design of the area. Consequently, the development results in harm to the character of 60 Blaby Road and the surrounding area.
8. Additionally, the canopy due to its size exacerbates the incongruous nature of the development. The canopy adds to the harm identified above and results in a feeling of compact development contrary to the open character of the frontages on Blaby Road. However, even if the canopy was not in situ, the swim spa is an incongruous addition to the open frontage of 60 Blaby Road and results in harm to the character and appearance of the property as well as the surrounding area. Thus, granting planning permission for the swim spa with a planning condition requiring the removal of the canopy would not address the harm which I have found.
9. The appellant has drawn my attention to the size constraints of the rear garden and argues that the front of the appeal site is the only feasible location for the outdoor swim spa with canopy. The constraints of the rear garden are not justification for the development and do not outweigh the harm I have identified above.
10. The appellant also argues that the development is similar in size to a motorhome and consequently results in limited harm to the character and appearance of the surrounding area. A motorhome is not unusual in a residential street whereas a swim spa and canopy are not usually a part of the street scene. Therefore, the addition of the swim spa would result in an incongruous and consequently harmful feature within Blaby Road and the surrounding area.
11. Additionally, the appellant has stated they would be receptive to a personal planning permission or a temporary planning permission for a period of ten years. I do not consider either option to be appropriate due to the significant harm the development has upon the character and appearance of 60 Blaby Road and the surrounding area. Such an impact would prevail for either an unspecified duration on the basis of a personal condition or up to ten years. Thus, the harm would not be significantly reduced by virtue of its temporary nature.
12. The appellant also argues that the policies used to refuse planning permission (CS2 of the Blaby District Local Plan (Core Strategy) DPD 2013 and DM1 of the Blaby District Local Plan (Delivery) DPD 2019) are not relevant due to the policies not specifically mentioning swim spas or canopies. The policies state that a development should be *'...appropriate in its context and should take any opportunities available to improve the character and quality of an area...'* (CS2). Also, that a development should *'...be in keeping with the character and appearance of the area'* (DM1). Therefore, these policies are appropriate when

assessing the effect of the development upon the character and appearance of 60 Blaby Road and the surrounding area.

13. In conclusion, the outdoor swim spa with canopy would harm the character and appearance of 60 Blaby Road and the surrounding area. The development is contrary to policy CS2 of the Blaby District Local Plan (Core Strategy) DPD 2013 and policy DM1 of the Blaby District Local Plan (Delivery) DPD 2019. These policies seek to ensure developments are of a high level of design that assimilate with the character of a property and the surrounding area.

Other Matters

14. I have carefully considered the reasons why the appellant has applied for planning permission for the outdoor swim spa and canopy and the effect a refusal of planning permission would have upon the appellant and their family. I have had due regard for the appellants rights under Article 1 and 8 of the First Protocol of the Convention on Human Rights. However, considering the harm identified above and set against the aim of achieving well-designed places, dismissing the appeal is a necessary and proportionate response in this case.
15. The appellant has drawn my attention to the conduct of the Council during the application process. This is a matter between the parties and not determinative to the outcome of the appeal.

Conclusion

16. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
17. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR