

**Erection of an outbuilding consisting of a games / play room,  
bedroom, office, garden storage and shower room**

**Report Item No  
A3**

**7 Garden Crescent, Castle Donington, Derby, DE74 2PL**

**Application Reference  
24/00203/FUL**

**Grid Reference (E) 444942  
Grid Reference (N) 327289**

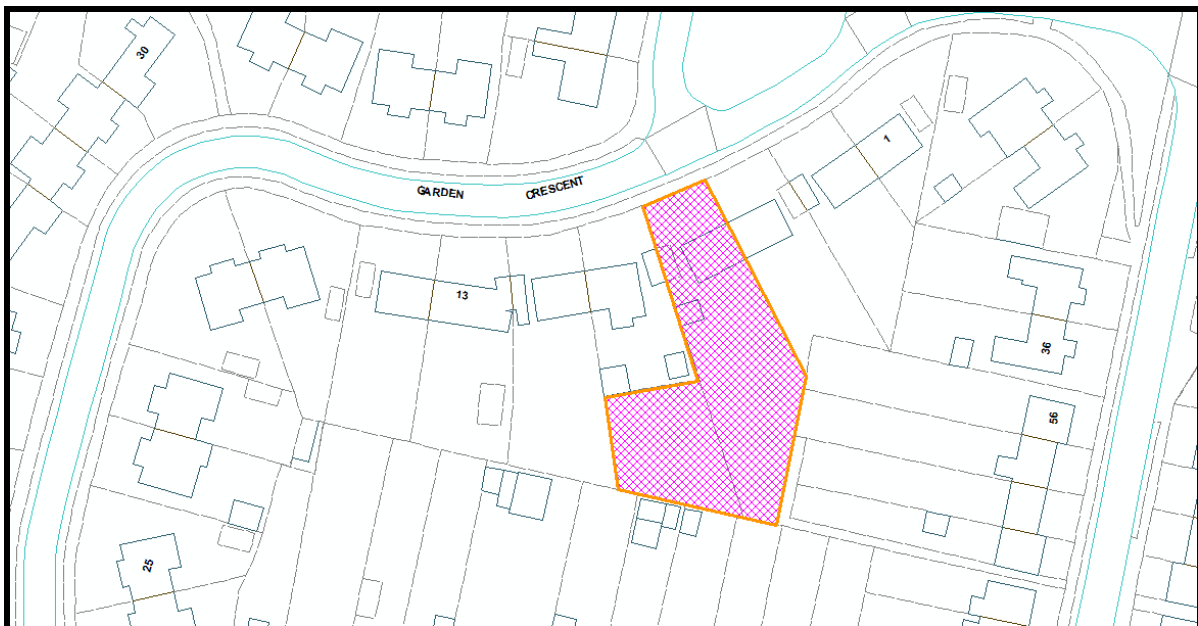
**Date Registered:  
12 February 2024  
Consultation Expiry:  
26 March 2024  
Determination Date:  
8 April 2024**

**Applicant:  
Ms Deborah Pickering**

**Case Officer:  
Sarah Booth**

**Recommendation:  
PERMIT**

**Site Location - Plan for indicative purposes only**



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**Reason the case is called to the Planning Committee:**

The application is brought to Planning Committee at the request of the Director of Place due to local objections to the scheme having regards to residential amenity, over development of the site, and the planning history of the site.

**RECOMMENDATION - PERMIT, subject to the following condition(s):**

- 1 Standard time limit (3 years)
- 2 Approved Plans
- 3 Materials – in accordance with
- 4 The building to remain ancillary to main dwelling and only occupied by a family member.

**MAIN REPORT**

**1. Proposals and Background**

*The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environmental Bill was enacted on the 2nd of April 2024. However, this requirement would only be applicable to those applications received on or after the 2nd of April 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. Furthermore, this requirement is not applicable to householder applications, such as this, which fall within the exempt 'Others' category of development. On this basis the proposed development would not be required to demonstrate a 10% BNG.*

Planning permission is sought for the erection of a domestic outbuilding consisting of a games / play room, bedroom, office, garden storage and shower room. The building would be sited within the rear garden of No.7 Garden Crescent, Castle Donington and would be used as an ancillary building to the main dwelling.

A lawful development certificate (22/01946/CLP) was approved in March 2023 for erection of a garden building within the existing residential curtilage to provide a garage, workshop, garden storage, home office and home gym with a shower room. It was determined that the development proposed in that application did not require planning permission as it would fall within permitted development.

An outbuilding is currently under construction on site which meets the size parameters approved under the aforementioned certificate of lawfulness application.

It is important to highlight that another certificate (23/01623/CLP) was submitted in December 2023 for an outbuilding and this application was refused. There were two reasons for the refusal, the first being that this application would have been within 2 metres of a neighbouring boundary and as such the proposal had exceeded the maximum height allowed under permitted development (2.5 metres). The second reason was that a bedroom was proposed within the outbuilding and a bedroom would require planning permission. For the avoidance of doubt, the current application would be at least 2 metres from all neighbouring boundaries (as shown on the site plan below), in this circumstance a building can be built up to 4 metres in height without requiring planning permission.

### Proposed Site Plan:



The current planning application would be the same size and would be sited in the same location as the approved certificate 22/01946/CLP. As such the built form proposed in the current application would not require planning permission. The only aspect in the current application which requires permission is the use of one of the rooms for a bedroom.

It is proposed that the building would be used as an ancillary building to No.7 Garden Crescent and would be occupied by a family member.

Precise details and measurements of the proposal are available to view on the submitted plans.

### Planning History

23/01623/CLP Certificate of lawful proposed development for erection of a garden building within the existing residential curtilage to provide garden storage, home office, shower room, games/play room and bedroom for use by a family member as an annexe form of accommodation REF 18.01.2024

22/01946/CLP Certificate of lawful proposed development for erection of a garden building within the existing residential curtilage to provide garage, workshop, garden Storage, home office and home gym with shower room PER 14.03.2023

22/01945/FUL Proposed two storey and single storey rear extensions and front porch PER 09.10.2023

22/00001/REFUSE Erection of bungalow (outline - access only) DISMIS 10.06.2022

21/00889/OUT Erection of bungalow (outline - access only) REF 08.07.2021

20/00881/OUT Erection of detached dwelling and garage (outline- access only) REF 23.07.2020

16/00325/PDNLHE Erection of single storey conservatory to the rear measuring 4.34 metres in length, with a maximum height of 3.43 metres and an eaves height of 2.40 metres NOBJ 15.04.2016

15/00145/OUT Erection of one detached dwelling and garage (Outline- means of access included). REF 13.05.2015

15/00011/REFUSE Erection of one detached dwelling and garage (Outline- means of access included). DISMIS 05.01.2016

### 2. Publicity

21 Neighbours have been notified.  
Site Notice displayed 1 March 2024.

### 3. Summary of Consultations and Representations Received

**Castle Donington Parish Council** – Object due to intensive use of the site.

**Airport Safeguarding** – no objections.

#### Third Party Representations

6 letters of neighbour representations have been received, raising objections on the following grounds:

Grounds of Objection	Description of Impact
<b>Principle</b>	There have been other applications refused at this site.
	Planning Inspectors have refused development on this site previously.
	There is no “need” for this additional space.
<b>Residential amenity</b>	Loss of privacy.
<b>Design / Scale / Visual Impact</b>	Overdevelopment of the site
<b>Environmental matters</b>	Noise
	Fumes
	Disturbance
	Disturbance from construction
	Dust
<b>Ecology</b>	Loss of ecological habitats / Impact on wildlife
<b>Other</b>	The building will be used as a bungalow.
	By allowing the provision of a bedroom in this application it will encourage it to be used as a separate dwelling.
	Setting a precedent for future development / neighbouring development.

### 4. Relevant Planning Policy

**National Planning Policy Framework (2023):**

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

### **Adopted North West Leicestershire Local Plan (2021)**

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

S2 - Settlement Hierarchy  
D1 - Design of New Development  
D2 - Amenity  
IF4 - Transport Infrastructure and New Development  
IF7 - Parking Provision and New Development  
En1 - Nature Conservation  
Cc2 - Water - Flood Risk  
Cc3 – Sustainable Drainage Systems

### **Other Policies/Guidance**

Planning Practice Guidance - November 2016  
Good Design for North West Leicestershire SPD - April 2017  
National Design Guide - October 2019  
Leicestershire Highways Design Guide (Leicestershire County Council)

## **5. Assessment**

### **Principle of Development**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021).

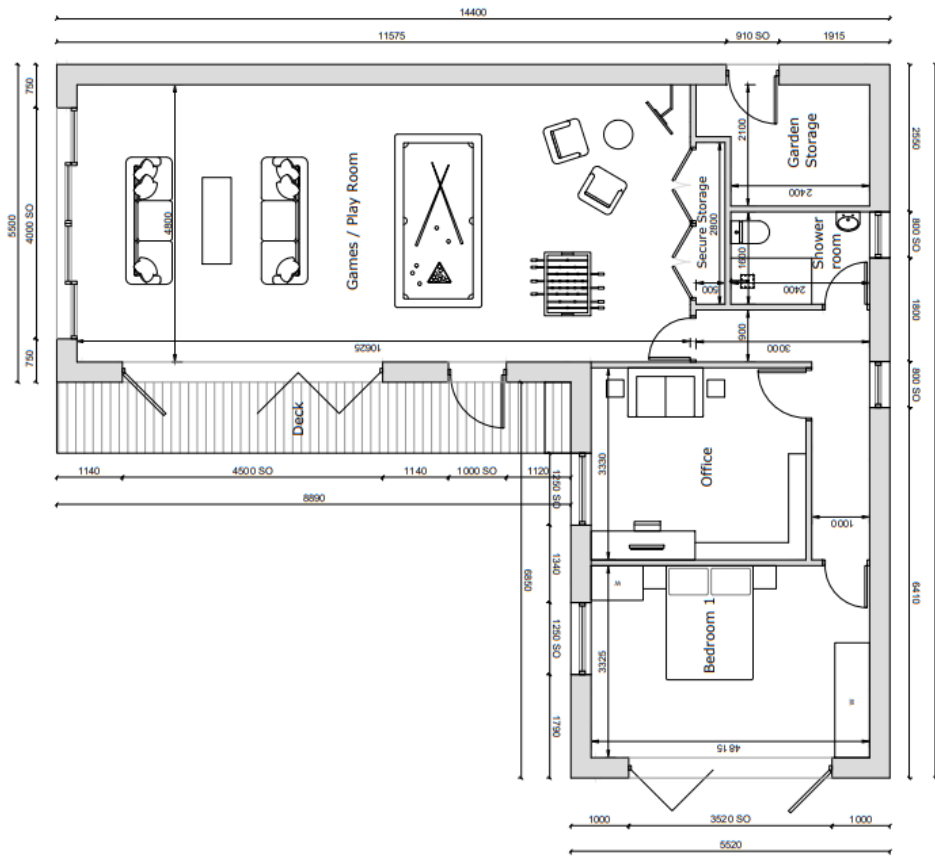
Some neighbour objections have been received regarding the principle of the development and some raise concerns that there is no need for this development. As the application site is within limits to development and is a domestic scale use, there are no policy requirements for the applicant to demonstrate a “need” for this development.

The site is located within Limits to Development as defined by the adopted Local Plan, and the Neighbourhood Plan where the principle of extensions to existing dwellings are acceptable, subject to all other planning matters being addressed.

### **Design and Impact upon Character**

The application comprises the erection of an outbuilding in the garden of No.7 Garden Crescent which would be an ‘L’ shaped building with a gable roof design. It is proposed that this would be constructed in a combination of timber cladding, render and plain grey roof tiles

## Proposed Floor Plan:



## Proposed Elevations:



The Parish Council and Neighbours have raised concerns that the proposed development would be an overdevelopment of the site. It is important to note that a previously approved certificate of lawful development (22/01946/CLP) demonstrated that an outbuilding of the same size, height, scale and location as this application could be built in the garden without the need for planning permission. This is currently under construction on site, and should this application be refused, it does not change the status that the development as approved under application 22/01946/CLP

(this development but without the bedroom) remains as permitted development and can continue to be constructed in line with the approved plans (see photo below).

**Permitted Development outbuilding being constructed on site:**



The applicants have since decided to include a bedroom within this building, for which permission is required. As such the bedroom is the only matter in this application that requires planning permission.

Notwithstanding the above, regarding neighbour concerns, it is noted that this development, combined with some approved extensions to the original dwelling (22/01945/FUL) still retain at least 50% of the current garden space. As such there would still be sufficient garden space to match the footprint of the original property in accordance with the Council's Good Design Guide. As such the combined impact is not considered to result in overdevelopment and would not be harmful.

Therefore, the development is considered to be compliant with D1 of the Local Plan, the Council's Good Design SPD and the advice contained within the NPPF and as explained above, the structure of the size and design proposed without the bedroom is permitted development and as such would not need planning permission in any case for its construction.

**Residential Amenities**

Policy D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it.

Neighbours have raised concerns regarding loss of privacy and impacts on residential amenity, this will be considered in the section below.



**Aerial view of the site:**



The residential dwellings most immediately impacted upon by the proposal would be No's 9 and 11 Garden crescent to the north-west of the building, No.5 Garden Crescent to the North-east, No's 56, 58, 60 and 62 Moira Dale to the east of the site and No's 33 35, 37, 39 and 41 Eastway to the south of the site. Though it is appreciated that other properties could see the development from further away due to the open gardens in this location.



**View looking North towards No's 5, 7 and 9 Garden Crescent:**



**South elevation of building showing distance to boundary with neighbours on Eastway:**



Whilst this development would be sited near to neighbours' rear boundaries the neighbouring properties on both Eastway and Moira Dale (but at least 2 metres away) have long gardens and as such the outbuilding would have an approximate separation distance of at least 30 metres from neighbouring dwellings. As such it is not considered that this proposal would result in any detrimental impacts on these neighbouring dwellings.

The development would also be at least 6 metres from the neighbouring property boundaries for No's 5, 9 and 11 Garden Crescent, with there being at least 16 metres from the nearest neighbouring dwelling. Based on these distances it is not considered that the development would result in any harmful overbearing, overlooking or overshadowing impacts.

Owing to the above mentioned separation distances the 45 degree code of practice would not breach by this development. Whilst there may be some impacts to neighbouring gardens to the south of the development, due to the direction of sunlight, these impacts would be limited and would only affect small areas. It is also important to emphasise again that should the bedroom

element of the scheme be removed, the building could be constructed under permitted development, in any case and as such its impact on any neighbouring occupiers cannot be considered in that situation.

In addition to the above, the building would be single storey in height and all windows are at ground floor level and are screened from neighbouring properties by existing boundary fences / hedges.

Neighbours have raised concerns regarding noise, fumes, dust, and disturbance from construction. The construction of the development is a temporary part of any development project. In this case no objections have been received from the Council's Environmental Protection team regarding these concerns raised by residents. The impacts arising from the construction of this minor development would therefore not be significantly adverse to the amenities of existing properties. If a statutory nuisance issue was to arise then the Council's Environmental Protection team would be able to address this matter under separate legislation.

Neighbours have also objected due to past refusals for a dwelling on this site. There is speculation that the building could be used as a separate dwelling. It is recommended that any permission should be conditioned so that the development can only be used as an ancillary building to the main dwelling and should only be occupied by family members. This condition would control the use of the building and the Council's enforcement team could investigate and serve any necessary enforcement notices if any potential breaches occur in the future.

The objections raised by the neighbours have been taken into consideration, however it is considered that the proposal will not have a detrimental effect on residential amenity or have any significant design implications which would warrant refusal of this application. There would not be a detrimental impact on the amenities of neighbours in terms of overlooking, overbearing, or overshadowing and as such the development would accord with Policy D2 of the adopted Local Plan and the aims of the NPPF

### **Highway Safety**

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles in order to avoid highway safety problems and to minimise the impact upon the local environment.

The proposed development would increase the number of bedrooms on site to 4 bedrooms in total which would require 3 parking spaces to be provided on site. The existing site can provide at least three spaces and as such this would accord with the County Councils Highways Design Guide.

There would be no changes to the existing access because of this application.

The proposal is therefore considered to be acceptable in relation to Policies IF4 and IF7 of the adopted Local Plan as well as the Leicestershire Highway Design Guide

### **Ecology**

Neighbours have raised concerns with the loss of ecological habitats and impact on wildlife on the application site.

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environmental Bill came into force on 2 April 2024. However, this requirement is only applicable to planning applications classed as minors (one dwelling and above) and does not apply to

householder applications which fall within the exempt 'Others' category of development.

The development is located within a swift alert area. Given the limited scale of the development and that a similar building could be constructed without the need for planning permission, it is not considered reasonable to insist on any mitigation for swifts in this instance. Conditions that would be unreasonable would fail the six tests for conditions as per the NPPF and therefore would not be acceptable.

It is noted that there are no existing trees or hedges within the application site therefore no habitat will be lost in this respect. Furthermore there are no protected species identified on the application site and therefore there's no considered to be any harmful impact on protected species.

### **Other**

Objections have been received stating that other applications have been refused at this site and neighbours consider that this application should too. It is important to note that previously refused applications have been for dwellings which are materially different from this application for an ancillary outbuilding. As such those other reasons for refusal do not apply to the current application.

Some neighbours have concerns that this development would setting a precedent for future development or other neighbouring development. Each application is assessed on its own merits and as such, whilst one application for a development may be acceptable in one location, this does not guarantee approval on another site.

### **Conclusion**

The principle of the development is acceptable, and it must also be remembered that the structure as shown in the plans is permitted development without the bedroom element which is now proposed. The proposal is not considered to have any detrimental design, residential amenity, ecology, or highway impacts. There are no other relevant material planning considerations that indicate that planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan and the advice in the NPPF. Accordingly, the application is recommended for planning permission, subject to the suggested planning conditions.