

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

Report Item No
A1

7 Garden Crescent Castle Donington Derby DE74 2PL

Application Reference
24/00203/FUL

Grid Reference (E) 444942

Date Registered:

Grid Reference (N) 327289

12 February 2024

Consultation Expiry:

Applicant:

5 August 2024

Ms Deborah Pickering

8 Week Date:

Case Officer:

8 April 2024

Sarah Booth

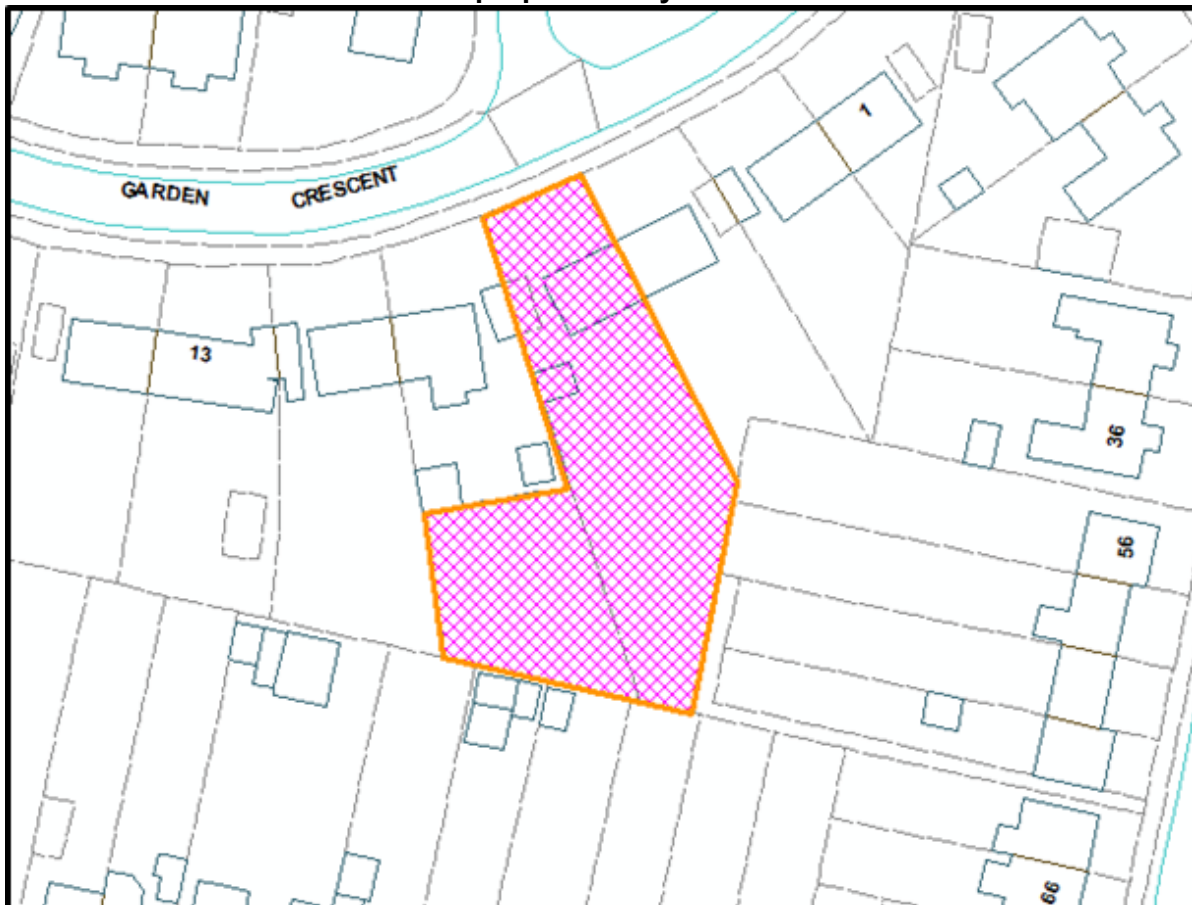
Extension of Time:

19 April 2024

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 because the Director of Place has requested this due to concerns regarding residential amenity and over development 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 details submitted in the application.
- 4 The building to remain ancillary to main dwelling and only occupied by a family member.

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for minor development as required by the Environmental Bill was enacted on the 2nd April 2024. However, this requirement would only be applicable to those applications received on or after the 2nd 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. Notwithstanding this, Paragraphs 180(d) and 186(d) of the NPPF set out a requirement for developments to minimise their impacts on and provide net gains for biodiversity.

1. Proposals and Background

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. The applicant proposes that only a family member would occupy the proposed bedroom.

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. The building has undertaken some design changes since the 22/01946/CLP certificate application was permitted. Whilst the size, footprint and height of the building in this current application (24/00203/FUL) would normally constitute permitted development within the curtilage of a dwelling, the current proposal would nevertheless still require planning permission for the reasons set out in more detail below.

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 in that circumstance a bedroom would require planning permission because this would not be an incidental use of the building and therefore would not fall under permitted development in that case.

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.

Amended plans have been received during the course of the application to include some design changes to the development. The south facing elevation now includes a gable end and some windows and door alterations have been made to all of the elevations.

Proposed Site Plan:



Whilst the design has marginally altered, the current planning application would be the same footprint and height as the approved certificate 22/01946/CLP and it would be sited in the same location. 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
Principle	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.
Residential amenity	Loss of privacy.
Design / Scale / Visual Impact	Overdevelopment of the site
Environmental matters	Noise
	Fumes
	Disturbance
	Disturbance from construction
	Dust
Ecology	Loss of ecological habitats / Impact on wildlife
Other	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
- Good Design for North West Leicestershire SPD - April 2017
- National Design Guide - October 2019
- Leicestershire Highway 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).

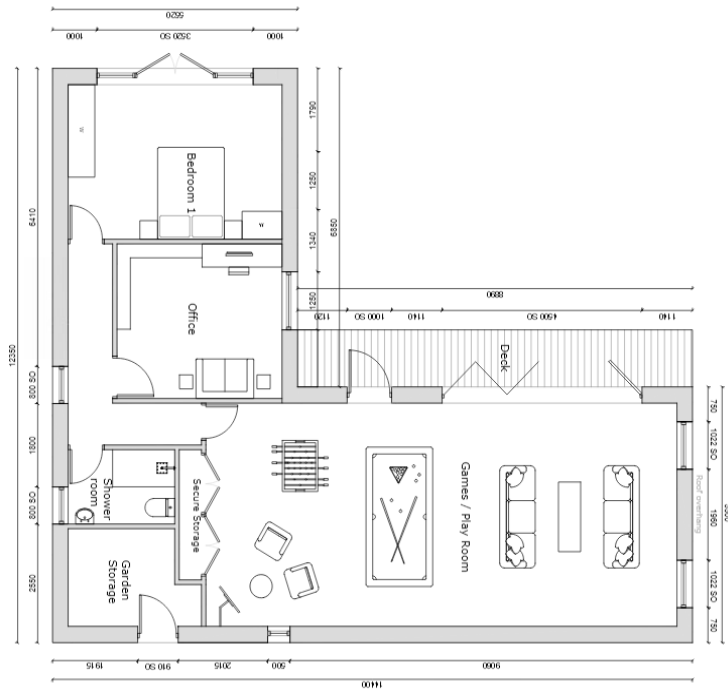
Some neighbour objections have been received with regard to the principle of the development and some raise concerns that there is no need for this development. As the application site is within limits to development and the proposal is of domestic scale and use, there are no policy requirements for 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. The proposed floor plan and elevations are shown below.

Proposed Floor Plan:



Proposed Elevations:



The Parish Council and Neighbours have raised concerns that the proposal would result in 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 footprint, height, scale and location as this application could be built in the garden without the need for planning permission.

If this application was refused, it is important to highlight that a building of this height and size could still be constructed without the need for planning permission. Furthermore, this would not change the status that the development approved under application 22/01946/CLP remains to be permitted development.

Outbuilding being constructed on site:



The applicants have decided to include a bedroom within this building, for which permission is required. Given that the built form of the building would be permitted development, the bedroom is the only matter in this application that results in planning permission being required.

Notwithstanding the above, with regard to 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, an outbuilding of the size and height 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 with regard to 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. Although 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. On the basis of 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 be breached 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 with regard to 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 with regard to 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 to this application on the basis of past refusals for a dwelling on this site. There is speculation that the building could be used as a separate dwelling. It is important to highlight that planning permission would be required to use the building as a separate dwelling, therefore such a development would need to be assessed by the Local Planning Authority under a separate application process. In the case of this application, the applicant proposes that only a family member would occupy the proposed bedroom and the building would be ancillary to the use of the main dwelling. Officers are of the opinion that this should not preclude the occasional visit from family friends, but the primary occupants would be family members.

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. The applicant is agreeable to such a condition. This condition would therefore 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.

It is noted that there is currently a fence which sections off the immediate garden of No. 7 Garden Crescent from the outbuilding and the rest of the garden for No.7. This is highlighted in green in the site plan below:



This fence was in place whilst the property was tenanted however the site will now be occupied by the applicant and would no longer appear to be required (and could, it is considered, inhibit connectivity between the outbuilding and the host dwelling). Nevertheless, permitted development rights exist which allow for the erection of fencing of this type in locations such as this, and there would normally be no reason why a householder could not erect means of enclosure within their garden subject to the usual permitted development criteria. As such, whilst the fence would now appear unnecessary, it is not recommended to attach a condition requiring its removal.

The objections raised by the neighbours have been taken into consideration, however it is considered that the proposal will not have any detrimental effects on residential amenity and there is no justification that would warrant refusal of this application. There would not be any harmful impacts 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 is capable of

providing 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. The application would therefore accord with Policy En1 of the adopted Local Plan.

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 be 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.