

Erection of a two storey detached dwelling

Report Item No  
A3

Land To The Rear Of Lobourne Nottingham Road Lount Ashby  
De La Zouch Leicestershire LE65 1SD

Application Reference  
16/00428/FUL

Applicant:  
Mr B Dalton

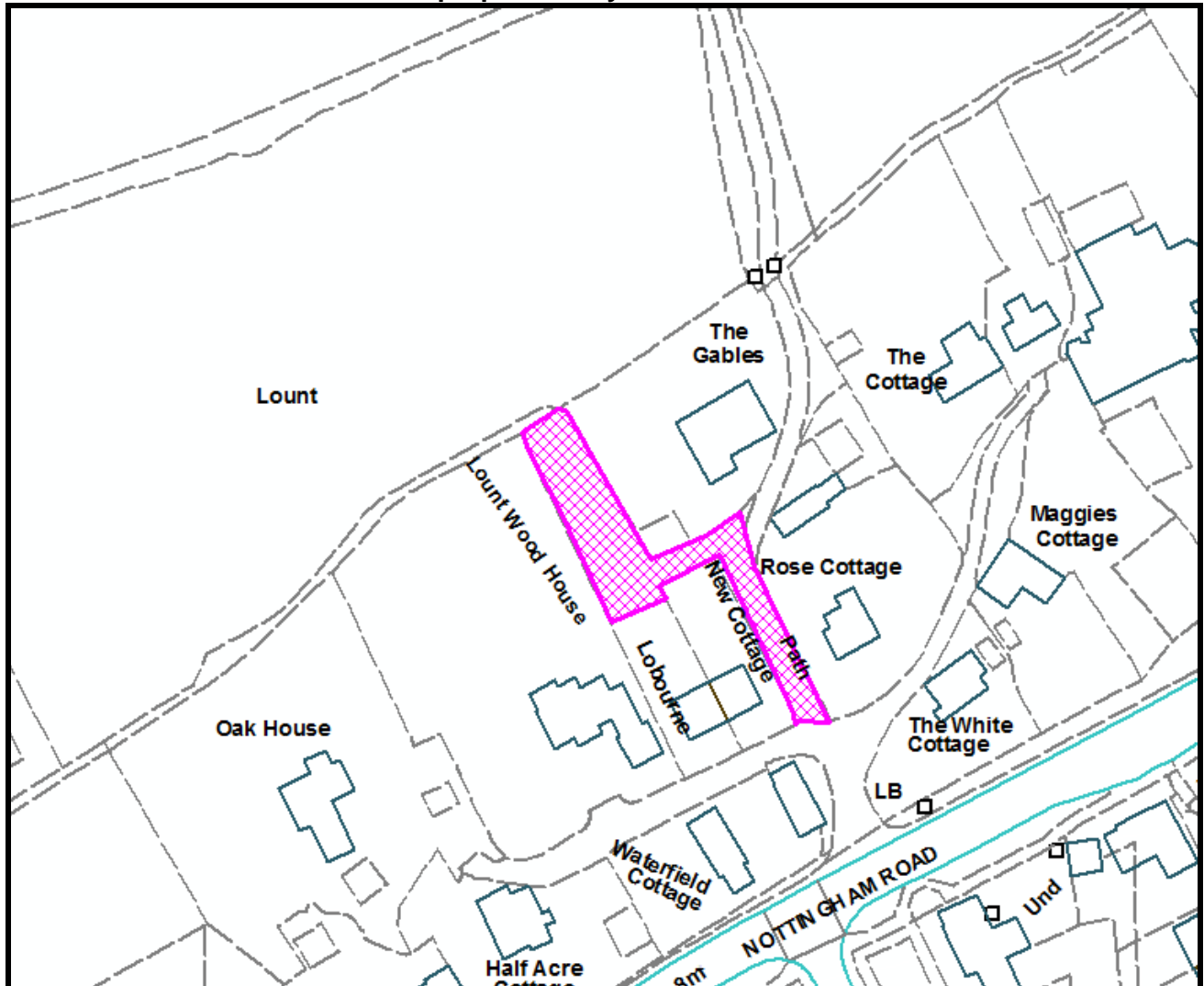
Date Registered  
14 April 2016

Case Officer:  
Adam Mellor

Target Decision Date  
9 June 2016

Recommendation:  
PERMIT , subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

The application is brought to the Planning Committee as the planning agent is related to a serving councillor (Councillor Blunt) and contrary representations to the recommendation to permit the application have been received.

### **Proposal**

The application seeks permission for the erection of a two-storey detached dwelling with associated off-street parking at land to the rear of Lobourne, Nottingham Road, Lount. The application site is situated on the north-western side of Nottingham Road and is within the defined Limits to Development. The Grade II Listed Rose Cottage is situated to the south-east of the site.

### **Consultations**

A total of five individual representations have been received opposing the development along with the Staunton Parish Meeting also objecting to the proposals. All other statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### **Planning Policy**

It is considered that the development would remain compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the current, and draft consultation, North West Leicestershire Local Plan and other guidance.

### **Conclusion**

In conclusion, the site lies within Limits to Development where there is a presumption in favour of development subject to all other matters in respect of the development being addressed.

The settlement of Lount does not contain a wide range of services and facilities, the proposal is for one dwelling to meet a 'local employment need' which would assist in off-setting the carbon emission caused by a heavy reliance on the private car as the occupant would reside close to their place of employment. It is also noted that planning permissions have recently been granted for other local need dwellings in locations considered to be unsustainable. Taking this into account along with the economic benefits and limited implications to the environment, as the site is within the Limits to Development and closely associated with existing built forms, it is considered that the development would be compliant with the overall sustainability aims of the NPPF and therefore its principle would be accepted.

The position and orientation of the dwelling to neighbouring properties, as well its overall scale and location of habitable room windows, would ensure no substantially adverse impacts would arise towards existing residential amenities. Future amenities would also be adequately protected due to the separation distances to existing dwellings and amount of private amenity garden associated with the new property. Overall the scheme would be compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

Given the differing proximity of dwellings on the lane to Nottingham Road, as well as their dispersed positions, it is considered that the location of the dwelling to the rear of existing

properties would not impact adversely on the character of the area or result in harm to the appearance of the wider environment. The design and scale of the dwelling would also be consistent with the character of neighbouring dwellings with their being no harm to the setting of the heritage asset given the context of its setting. On this basis the proposal would be consistent with Paragraphs 57, 60, 61, 131, 132 and 134 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is considered that the junction of the lane onto Nottingham Road has the necessary width and level of visibility so as to ensure that there is no detriment to highway safety, with the overall level of vehicular movements associated with the new dwelling not comprising the free and safe passage of vehicles on the lane which is not subject to any restrictions on the total number of movements. On this basis the development accords with Paragraph 32 of the NPPF as well as Policy T3 of the adopted Local Plan. There would be no adverse impacts on the safe usage of the public footpath given that its route is along a lane already associated with vehicular movements, as such the proposal complies with Paragraph 75 of the NPPF.

A landscaping scheme would be secured as part of the conditions on any planning consent granted and this would seek to secure suitable planting for the application site, as well as a reinforcement of the south-western boundary hedge with Lountwood House. The development itself would also not impact adversely on any trees which are protected or considered worthy of protection. On this basis the proposal would be compliant with Policies E7, F1, F2 and F3 of the adopted Local Plan.

The County Council Ecologist has confirmed that there is no requirement for protected species reports to be carried out, with the legacy of coal in the area also not compromising the stability of the proposed dwelling. On this basis the development would accord with Paragraphs 118, 120 and 122 of the NPPF as well as Circular 06/05. Subject to the imposition of conditions archaeology would also not act as a constraint on the development which would ensure compliance with Paragraph 141 of the NPPF.

It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to conditions and completion of a Section 106 Agreement.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of a two-storey detached dwelling at land to the rear of Lobourne, Nottingham Road, Lount. The 0.045 hectare site is situated on the north-western side of Nottingham Road, directly to the north-west of Lobourne, and would be accessed off a lane serving 11 no. dwellings. It is identified on the Proposals Map to the Local Plan that the site is within the defined Limits to Development with the surrounding area consisting of residential properties, which vary in their size and scale, as well as open countryside to the north. The Grade II Listed Rose Cottage is to the south-east of the site.

The proposed dwelling would be a three bed detached type which would cover a ground area of 89.74 square metres and utilise a pitched gable ended roof with a ridge height of 7.90 metres. Vehicular access and the off-street parking serving the dwelling would be accommodated on an existing gap between the boundaries of New Cottage and Gables.

It is highlighted in the supporting information that the dwelling would be to meet a local employment need given the applicant is also employed at the Staunton Harold Estate. A legal agreement to secure such an occupancy restriction, as well as the general 'local need' criteria (i.e. someone who has resided in the parish, or nearby parishes, for a set number of years), would be secured on any consent granted.

A design and access statement, heritage statement and quantitative environmental risk assessment have been submitted in support of the application.

No recent planning history was found.

### 2. Publicity

4 no neighbours have been notified (date of last notification 15 April 2016)

Site Notice displayed 5 May 2016

### 3. Consultations

Staunton Harold Parish Meeting consulted 15 April 2016

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

NWLDC Tree Officer

County Archaeologist

LCC ecology

NWLDC Conservation Officer

LCC/Footpaths

NWLDC Footpaths Officer

Coal Authority

### 4. Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

**Coal Authority** initially objected to the application due to the lack of a coal mining risk assessment however following receipt of the Quantitative Environmental Risk Assessment this objection has been removed.

**Leicestershire County Council - Archaeology** has no objections subject to the imposition of conditions on any consent granted.

**Leicestershire County Council - Ecology** has no objections.

**Leicestershire County Council - Footpaths** has no objections subject to the imposition of conditions and notes to the applicant on any consent granted.

**Leicestershire County Council - Highways Authority** has no objections subject to their standing advice being considered in respect of off-street car parking.

**NWLDC - Conservation Officer** has no objections.

**NWLDC - Environmental Protection** has no objections.

**Severn Trent Water** no representation received, any comments received will be reported to Members on the Update Sheet.

**Staunton Harold Parish Meeting** objects to the application with the objections raised summarised as follows: -

- The existing lane is not appropriate for additional vehicles;
- No additional parking is being provided only existing parking will be rearranged;
- The new property will impede the view of residents;
- Removal of part of the hedge to New Cottage would detract from the visual aesthetic of the lane;
- Parking spaces are unsuitable as they are on top of a septic tank;
- Increased wear and tear on lane will lead to it not being suitable for future use;
- The proposal will result in upheaval to residents during its construction;
- The lane is too small and number of vehicles owned by residents is already at a maximum;
- All residents near the site oppose the development.

### **Third Party Representations**

Five letters of representation to the application have been received objecting to the application with the comments raised summarised as follows: -

- Unadopted lane is not suitable for additional vehicular movements;
- Unadopted lane is too narrow for emergency vehicles;
- All lanes in Lount are maintained by residents and therefore more traffic will lead to more maintenance;
- Windows will result in overlooking impacts;
- Parking area for adjacent property would be lost with the lane not being able to accommodate parking;
- Providing utilities will result in further damage to the road;
- Market price of the dwelling would not lead to it being affordable;
- Only four wheel drive vehicles can access the Staunton Harold Estate via the back lane and vehicle movements on this lane will lead to mud being deposited on the lane;

- Septic tank will be put under pressure trying to accommodate an additional dwelling and does not have the capacity;
- Service vehicles have difficulty utilising the lane;
- Disruption of construction will impact on amenities;
- Utilisation of lane to Staunton Harold will impact on the usage of the public footpath network;
- Property will impact on views of open countryside and National Forest planting areas;
- Development will impact adversely on trees to the boundary which has not been assessed in the tree survey;
- Backland development will impact negatively on the character of the area which is of dispersed housing;
- Development will impact negatively on the setting of the Grade II Listed Building;
- Height of dwelling will lead to it being dominant in relation to the neighbouring dwellings.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the adopted Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraph 10 (Achieving sustainable development);  
Paragraph 14 (Presumption in favour of sustainable development);  
Paragraph 17 (Core planning principles);  
Paragraph 28 (Supporting a prosperous rural economy);  
Paragraph 32 (Promoting sustainable transport);  
Paragraph 39 (Promoting sustainable transport);  
Paragraph 49 (Delivering a wide choice of high quality homes);  
Paragraph 55 (Delivering a wide choice of high quality homes);  
Paragraph 57 (Requiring good design);  
Paragraph 60 (Requiring good design);  
Paragraph 61 (Requiring good design);  
Paragraph 75 (Promoting healthy communities);  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraph 118 (Conserving and enhancing the natural environment);  
Paragraph 120 (Conserving and enhancing the natural environment);  
Paragraph 121 (Conserving and enhancing the natural environment);  
Paragraph 123 (Conserving and enhancing the natural environment);  
Paragraph 131 (Conserving and enhancing the historic environment);  
Paragraph 132 (Conserving and enhancing the historic environment);  
Paragraph 134 (Conserving and enhancing the historic environment);  
Paragraph 141 (Conserving and enhancing the historic environment);  
Paragraph 203 (Planning conditions and obligations);  
Paragraph 204 (Planning conditions and obligations);

### **Adopted North West Leicestershire Local Plan (2002)**

The application site is within the Limits to Development as defined in the adopted Local Plan. The following Local Plan policies are relevant to this application:

Policy S2 - Limits to Development;  
Policy E3 - Residential Amenities;  
Policy E4 - Design;  
Policy E7 - Landscaping;  
Policy F1 - General Policy;  
Policy F2 - Tree Planting;  
Policy F3 - Landscaping and Planting;  
Policy T3 - Highway Standards;  
Policy T8 - Parking;  
Policy H4/1 - Housing Land Release;  
Policy H6 - Housing Density;  
Policy H7 - Housing Design;

### **Draft Consultation North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;  
Policy S2 - Future Housing and Economic Development Needs;  
Policy S3 - Settlement Hierarchy;  
Policy S5 - Design of New Development;  
Policy H6 - House Types and Mix;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En6 - Land and Air Quality;  
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
Policy Cc2 - Sustainable Design and Construction;  
Policy Cc3 - Water - Flood Risk;  
Policy Cc4 - Water - Sustainable Drainage Systems;

### **Other Policies**

#### **National Planning Practice Guidance**

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied.

#### **6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development;

#### **Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)**

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

### **Planning (Listed Buildings and Conservation Areas) Act 1990**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

## **6. Assessment**

### **Principle of the Development**

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. The NPPF states that decisions should encourage the effective use of land by re-using land that has been previously developed and that local planning authorities should consider the use of policies to resist inappropriate development of residential gardens. The background to this issue is that in January 2010 the Government's Chief Planner wrote to local planning authorities (dated 19 January 2010) to advise that garden land would no longer be considered previously developed land. This included an annex which stated, amongst other things that, "where the clear strategy to deliver housing on preferred sites is demonstrably working, then authorities may consider a policy to prevent development on gardens. Alternatively authorities could consider a policy which would set out clearly the circumstances in which garden development will be acceptable". The Council at the present time cannot demonstrate a 5 year supply of deliverable housing land and does not have a specific policy that prevents development on gardens. As such a reason for refusal on the basis of the loss of part of the residential garden could not be justified in this instance.

The site is located within the Limits to Development where the principle of residential development is considered acceptable, subject to compliance with the relevant policies of the adopted Local Plan and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole, or if specific policies in the NPPF indicate development should be restricted.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF. It is acknowledged that Policy H4/1 is out of date as the District Council cannot demonstrate a five year housing land supply.

In respect of Lount, it is a settlement which is only served by a public house (The Ferrers Arms), a play area and a two-hourly bus service, therefore any future resident would be socially isolated from facilities and services which would meet their 'day to day' needs. It is, however, noted that the dwelling proposed is to meet a local employment need which is outlined in the



Proposals and Background section of this report, and which is further elaborated on as follows: -

*"The applicant has strong employment connections with the local area. He has run the Staunton Harold Estate Shoot for the last 25 years. He has worked as an electrician on the Staunton Harold Estate on a self employed basis for the past 28 years. The proposal would reduce his travelling significantly with him currently living and commuting from Derby every day. The pheasant release pens and areas of woodland and game cover feed up can and would be accessed from the application site and without the need to go on the public highway, using the network of private estate roads. This will all result in a decrease in vehicular movements when compared to his current journeys."*

The supporting information specifies that the 'need' for a dwelling of a similar scale cannot be met from the existing housing stock and in this regard it is stated by the agent that *"a search of local housing stock reveals 2 houses currently advertised for sale which are £400,000 each and both 4 bed within Lount. Based on land registry results the lowest sale price for a property in Lount in the past two years was £226,500 from March 2014."* An internet search on Right Move on the 20th May 2016 reveals that there are no three bed detached houses within 0.5 miles of the post code of the application site with four 4 bed detached dwellings within 0.5 miles of the post code ranging in price from £415,000 (Henry Dane Way, Newbold) to £325,000 (Chapel Rise, Worthington).

Using build cost figures of 2016 ([www.homebuilding.co.uk](http://www.homebuilding.co.uk)) the District Council finds that build costs for a two-storey three bed detached dwelling, in the area using the most expensive build route (Main Contractor) and building to an Excellent specification, which would take into account better materials and improved building regulations standard (as well as VAT), would amount to £210,007.00. Using subcontractors would reduce the price to £189,674.00. Given these figures it would appear that the costs associated with building a new dwelling would be substantially less than any of the properties within the immediate area which would meet the 'needs' of the applicant.

With regards to social sustainability the benefit of the scheme is that it would provide a dwelling stated to meet a 'local employment need' which could also be used in the future to meet a 'local need' for any person with a connection to the settlement of Lount. The resolution to secure such an obligation on the dwelling would make the property more affordable to local residents, or anyone meeting the local employment need (limiting to a set area), in the future with the completion of a Section 106 Agreement ensuring that such a dwelling would be permanently available for such purposes (i.e. meeting a local need criteria - (a) a person or persons and their dependents residing permanently in the parish or adjoining parish, for at least 5 years or more in the previous 20 years; or (b) a person or persons required to live close to another person who satisfies criterion (a) and is in essential need of frequent attention and/or care due to age, ill health, disability and/or infirmity).

Whilst no policy exists to support such a development proposal, particularly in a socially unsustainable location, it is noted that planning permissions have recently been granted for other dwellings subject to a local need restriction in settlements considered to be unsustainable. Taking this point into account, along with the economic benefits and limited environmental impact as the site is within the Limits to Development and travel to work distances would be significantly reduced, it is considered that the development would be compliant with the overall aims of the NPPF, from a sustainability perspective, and its principle would therefore be accepted.

## Implications to Existing and Future Residential Amenities

It is considered that the properties most immediately affected by the proposed development would be Lountwood House, to the south, Lobourne and New Cottage to the south-east and Gables to the north-east.

In terms of distances between the new property and these dwellings it would be set 23.0 metres from the north-western (rear) elevations of Lobourne and New Cottage, 14.5 metres from the north-western (rear) elevation of Lountwood House and 16.5 metres from the south-western (rear) elevation of Gables. Such distances are considered satisfactory in ensuring that no substantially adverse overbearing or overshadowing impacts would arise particularly given the orientation to Lobourne and Lountwood House, the fact that it would not be directly behind Lountwood House and that it would not dominate the shared boundaries with Gables or Lountwood House.

With regards to overlooking impacts it is considered that an oblique angle of view would be established onto the rear amenity areas of Lountwood House and Gables from windows in the south-eastern (front) and north-western (rear) elevations, which would not be significantly adverse, and a condition would be imposed to provide an obscure glazed, restricted opening window at first floor level in the north-eastern (side) elevation of the new dwelling serving the dressing room to prevent overlooking onto Gables. Any views from the ground floor window serving the kitchen in the south-western (side) elevation would be prevented by the provision of a suitable boundary treatment. With a distance of 23.0 metres between elevations and a distance of 10.0 metres to the shared boundary, with land levels becoming lower from the rear elevation of Lobourne to the rear boundary of the application site, it is considered that any direct overlooking impact would not be sufficiently detrimental as to warrant a refusal of the application.

Given that the relationship with existing residential properties is acceptable it is also considered that the future amenities of any occupants would be adequately protected by such relationships particularly given the separation distances.

In terms of the objections raised over construction noise it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but it should be noted that, in this case, Environmental Health has not raised any issues in this regard and so it is considered unnecessary to impose an hours condition.

When this is the case, a planning condition restricting hours is often applied but in this instance as Environmental Health has raised no issues to the development in this regard, it is considered that the imposition of an hours condition would be unreasonable.

Overall the proposal would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

## Impact on the Character and Appearance of the Historic Environment and Streetscape

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that *"although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.*

*Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

Land levels on the site slope downwards from south-east to north-west, with the boundaries currently being defined by 1.8 metre fencing to the boundary with Gables and 1.0 metre high post and rail fencing and hedging to the boundary with Lountwood House. A 1.8 metre high close boarded timber fence also defines the extent of land which would be associated with Lobourne should permission be granted for the development. A mix of dwellings exists in the area with both two-storey and single storey types, which are either detached or semi-detached, and which are constructed from a range of external materials.

Whilst the proposed dwelling would be positioned behind an existing property, this would not result in sufficient detriment to the character of the area as to suggest that the development should be resisted given the dispersed nature in which dwellings are positioned in relation to Nottingham Road, as well as the way in which properties are orientated to address this principle highway (the majority face towards Nottingham Road but some do present a gable end). The proposed development would also not result in significant adverse implications to the appearance of the wider area given that the proposed dwelling would be viewed in the context of its relationship with existing properties particularly from the public footpaths in the vicinity. A site section supplied in support of the application also highlights that the proposal would not be dominant in views from the immediate access onto the lane from Nottingham Road, or dominant in relation to neighbouring properties, particularly given the ridge height is lower than those dwellings to its south-east (Lobourne and New Cottage).

Rose Cottage is a Grade II Listed Building whose setting is characterised by residential properties of differing designs and types. Paragraph 134 of the NPPF advises that any development which results in less than substantial harm to the significance of a heritage asset should be assessed on the basis of the public benefits associated with the proposal. In respect of this development it is noted that the dwelling would be set 18.5 metres from the boundary with Rose Cottage and given the context of the setting it is considered that the proposed dwelling would result in no harm to the significance of this setting and as such an assessment in the context of Paragraph 134 of the NPPF is not required. This view is supported by the Council's Conservation Officer who has raised no objections.

In terms of the individual design characteristics of the property it is considered that it exhibits features which the Local Authority consider desirable (i.e. chimney, brick arches and cills, dentil course detail, verge detailing and timber framed canopy) and would therefore respond positively to the appearance of the environment in which it would be set. The overall footprint and height of the dwelling would also be consistent with those in the immediate vicinity which would maintain the character of the area. It is highlighted on the drawings that red bricks, clay tiles and timber joinery would be used in the construction of the dwelling, which would be consistent with materials used on neighbouring properties, with a condition being imposed on any consent granted for the precise materials to be agreed.

Overall the layout, design and scale of the dwelling is considered to be appropriate, with there being no harm to the significance of the setting of a heritage asset, and therefore the development would accord with Paragraphs 57, 60, 61, 131, 132 and 134 of the NPPF as well as Policies E4 and H7 of the adopted Local Plan and Section 66 of the Planning (Listed Buildings and Conservation) Areas Act 1990.

## Highway Safety

The County Highways Authority have been consulted on the application and have raised no objections subject to their standing advice in respect of off-street parking being considered.

It is considered that the long established junction of the lane onto Nottingham Road is of a sufficient width to enable vehicles to pull clear of the highway whilst another vehicle exits, and also has adequate visibility splays to enable a vehicle to enter the highway at a controlled speed when factoring into account the speed of traffic on this part of the highway (40 mph). In this circumstance additional vehicular movements at this junction would not impact severely on the safe movement of vehicles on Nottingham Road.

Objections have been raised in respect of additional movements on the lane and that this will result in further 'wear and tear' which would lead to maintenance or repairs being carried out more frequently. There is no restriction on the amount of vehicular movements which can occur on this lane with the access road beyond Gables allowing vehicular traffic to enter the Staunton Harold Estate, albeit this access is restricted to private movements. In these circumstances any issues associated with maintenance of the lane would not be of such consequence as to refuse the application as any potential agreement requiring the applicant to provide funds for the upkeep of the lane would constitute a private matter between the affected individuals, as opposed to a material planning consideration. In addition, difficulties associated with service vehicles accessing the new property, due to the narrow nature of the lane between Rose Cottage and New Cottage, would not justify a refusal of the application given the limited infrequency of such vehicle movements as well as the fact that Gables is also served off this narrow section of the highway. As there would be less than 45.0 metres between the site and the point where an emergency vehicle could park, which is the recommended distance for emergency access, there would also be no issue associated with emergency vehicles having the ability to access the dwelling.

The additional vehicular movements associated with the new property on the lane would also not disrupt the free and safe passage of traffic on the narrow part of the lane, particularly as two properties (New Cottage and Gables) already conduct vehicular movements on this part of the highway, as well as the fact that private vehicles could also enter the Staunton Harold Estate via this lane. The lack of a restriction on the amount of private vehicular movements on the estate road to the Staunton Harold Estate could also lead to mud being deposited on the highway, with or without the development, and therefore this matter would also not justify a refusal of the application on highway safety grounds. In respect of vehicular manoeuvres it is considered that whilst these would be partially conducted within the lane the speed and frequency of vehicular traffic at this point would ensure that such movements would not impact adversely upon the safety of pedestrian or vehicular traffic. Overall the proposed development would not impact 'severely' on pedestrian or highway safety and would therefore be compliant with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

The County Council Rights of Way Officer has raised no objections to the application and given that the public footpath follows the route of the lane, it is considered that pedestrian and vehicular movements already coexist. In this circumstance the minor increase in vehicular movements associated with the new property would not compromise pedestrians' enjoyment of this footpath and therefore the proposal accords with Paragraph 75 of the NPPF.

A total of two off-street parking spaces would need to be provided to serve a dwelling with three bedrooms, in order to accord with the 6Cs Design Guide, and the submitted layout identifies that sufficient off-street parking with satisfactory external dimensions could be provided to serve the

new property. One off-street parking space would be provided for New Cottage to the rear of the property, with the proposed dwelling also having the ability to provide further off-street parking to its frontage in the same manner as Lobourne. On this basis sufficient off-street parking would be available for the existing property and proposed dwelling in order to accord with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

### **Landscaping**

There are no trees on the application site which would be adversely affected by the development although the submitted tree survey does highlight the presence of a Kanzan Cherry tree within the garden area of The Gables, as well as semi-mature un-protected Rowan and Mountain Ash trees within the garden of Lountwood House. A beech hedge also lies along the boundary with Lountwood House set at around 1.0 metre from the proposed dwelling.

The dwelling is set away from the boundary with Lountwood House and this would allow for protective fencing to be provided whilst the dwelling was under construction. Given that the hedge contains a number of gaps, there is also the possibility that any landscaping scheme agreed between the developer and Council could seek to reinforce and provide new hedgerow planting to this boundary. Whilst there are trees in close proximity to the boundary of the site they are not protected trees, nor would they be worthy of protection given that they do not contribute significantly to the visual amenity of the wider area, and as a consequence should not act as a constraint in resisting development on the application site. In any event any impacts the footings of the dwelling may have on the root system of the trees and hedge would be no different to that which may occur should a substantial outbuilding be erected in the rear garden of Lobourne without planning permission as a form of 'permitted development' under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015. The tree within the garden of The Gables which may be affected is also impacted on by its relationship with the detached garage to The Gables.

On this basis it is considered that the scheme would not conflict with the principles of Policies E7, F1, F2 and F3 of the adopted Local Plan and that the development should not be resisted provided that a condition be imposed on any consent granted for a soft landscaping scheme to be agreed.

Any impact the development would have on the long term health of trees on third party land would be a private matter between the affected individuals and not a material planning consideration given that the trees would not warrant protection. There is also no indication that the existing hedgerow to the north-eastern boundary of New Cottage is to be removed but in any event planning permission would not be required should this hedge be taken out.

### **Ecology**

The County Council Ecologist has been consulted and has identified that there is no requirement for ecological surveys to be carried out given that the development site is on an existing garden. In the circumstances that no objection has been raised it is considered that protected species would not act as a constraint on the development and as such it would accord with Paragraph 118 of the NPPF and Circular 06/05.

### **Archaeology**

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located within the medieval

and post-medieval historic settlement core of Lount and immediately to the south of earthwork and cropmark remains of medieval to early post-medieval coal mining works have been noted. Historic mapping and aerial photographs of the site indicate that the area has not previously been subject to significant ground disturbance and as such any archaeological deposits present are likely to be close to the ground surface.

Given the opportunities which exist for archaeological remains to be present on the site, the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a programme of archaeological work (including professional archaeological attendance for inspection during groundworks with a contingency provision for emergency recording and detailed excavation), written scheme of investigation and programme of archaeological mitigation to be provided, in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF.

### **Other Matters**

The Coal Authority, following reconsultation, have raised no objections to the proposal and consider that past coal mining activity will not put the development at risk. There is also no requirement for further investigations to be carried out. On this basis the proposed development would accord with Paragraphs 120 and 121 of the NPPF.

With regards to the septic tank it is considered that in order to connect into this drainage system permission from the Environment Agency (EA) would be required through a permit application. In agreeing any permit application the EA will be responsible for ensuring that the septic tank has sufficient capacity to deal with the dwellings which connect into it. Whilst at present the dome of the septic tank protrudes above ground, into the area where the off-street parking is to be accommodated, a replacement system is to be installed which will have the ability to take the weight of a car parking on top of it, this will ensure that the off-street parking spaces will be available. The agreement to an alternative system will also be carried out by the EA. On this basis the drainage scheme for the development will be acceptable in accordance with Paragraph 120 of the NPPF.

The installation of services to the property would be carried out by separate organisations that benefit from permitted development rights to undertake works without planning permission, in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015, and therefore any disruption to the lane to provide such services could be undertaken with or without the development. In any event there is no certainty that such works will need to be undertaken and should they be carried out the lane would be repaired once such works were completed. Such a concern with the proposal would therefore not justify a refusal of the application.

The loss of a view would not be a material planning consideration which could be taken into account in the assessment of the application with the lack of maintenance of another property and land within the ownership of the same applicant/land owner not being of any relevance to the assessment of this proposal.

### **Summary Reasons for Granting Planning Permission**

In conclusion, the site lies within Limits to Development where there is a presumption in favour

of development subject to all other matters in respect of the development being addressed.

The settlement of Lount does not contain a wide range of services and facilities, the proposal is for one dwelling to meet a 'local employment need' which would assist in off-setting the carbon emission caused by a heavy reliance on the private car as the occupant would reside close to their place of employment. It is also noted that planning permissions have recently been granted for other local need dwellings in locations considered to be unsustainable. Taking this into account along with the economic benefits and limited implications to the environment, as the site is within the Limits to Development and closely associated with existing built forms, it is considered that the development would be compliant with the overall sustainability aims of the NPPF and therefore its principle would be accepted.

The position and orientation of the dwelling to neighbouring properties, as well its overall scale and location of habitable room windows, would ensure no substantially adverse impacts would arise towards existing residential amenities. Future amenities would also be adequately protected due to the separation distances to existing dwellings and amount of private amenity garden associated with the new property. Overall the scheme would be compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

Given the differing proximity of dwellings on the lane to Nottingham Road, as well as their dispersed positions, it is considered that the location of the dwelling to the rear of existing properties would not impact adversely on the character of the area or result in harm to the appearance of the wider environment. The design and scale of the dwelling would also be consistent with the character of neighbouring dwellings with their being no harm to the setting of the heritage asset given the context of its setting. On this basis the proposal would be consistent with Paragraphs 57, 60, 61, 131, 132 and 134 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is considered that the junction of the lane onto Nottingham Road has the necessary width and level of visibility so as to ensure that there is no detriment to highway safety, with the overall level of vehicular movements associated with the new dwelling not comprising the free and safe passage of vehicles on the lane which is not subject to any restrictions on the total number of movements. On this basis the development accords with Paragraph 32 of the NPPF as well as Policy T3 of the adopted Local Plan. There would be no adverse impacts on the safe usage of the public footpath given that its route is along a lane already associated with vehicular movements, as such the proposal complies with Paragraph 75 of the NPPF.

A landscaping scheme would be secured as part of the conditions on any planning consent granted and this would seek to secure suitable planting for the application site, as well as a reinforcement of the south-western boundary hedge with Lountwood House. The development itself would also not impact adversely on any trees which are protected or considered worthy of protection. On this basis the proposal would be compliant with Policies E7, F1, F2 and F3 of the adopted Local Plan.

The County Council Ecologist has confirmed that there is no requirement for protected species reports to be carried out, with the legacy of coal in the area also not compromising the stability of the proposed dwelling. On this basis the development would accord with Paragraphs 118, 120 and 122 of the NPPF as well as Circular 06/05. Subject to the imposition of conditions archaeology would also not act as a constraint on the development which would ensure compliance with Paragraph 141 of the NPPF.

It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to the following conditions and completion of a Section 106 Agreement;**

- 1 The development shall be begun before the expiration of one year from the date of this permission.

*Reason - to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended) and as the dwelling is required to meet a local need.*

- 2 The proposed development shall be carried out strictly in accordance with the Site Location Plan (1:5000), Topographical Survey (1:200) and drawing numbers LOU.EXL.001 Revision A (Existing Layout), LOU.PRL.004 Revision B (Proposed Layout), LOU.ESS.005 (Existing Site Section) and LOU.PSS.006 Revision A (Proposed Site Section), LOU.PRP.007 Revision A (Proposed Floor Plans and Section) and LOU.PRE.008 Revision A (Proposed Elevations), received by the Local Authority on the 14th April 2016, unless otherwise required by another condition of this permission.

*Reason - to determine the scope of the permission.*

- 3 Notwithstanding the details shown on the approved plans, the dwelling shall not be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority: -

- Details of the materials to be utilised in all external surfaces (including the construction material of windows and doors);
- The proposed colour/stain finish for all joinery;
- Details of the brick bond (which shall not be a stretcher bond);
- Details of the rainwater goods;
- Position and finish of the meter boxes (if external);
- Construction material of the cills and lintels;
- Precise details of the dentilation, corbelling and verge finish to the dwelling;

The development shall then be carried out in accordance with the approved details unless alternative materials are first submitted to and agreed in writing by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over the external appearance in the interests of the amenities of the area.*

- 4 The first floor window serving the dressing room in the north-eastern (side) elevation shall be glazed with obscure glass, to Pilkington Standard 3 (or its equivalent), and shall be non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the dressing room, and provided shall thereafter be so retained.

*Reason - in the interests of preserving the amenities of Gables.*

- 5 Notwithstanding the details shown on the approved plans before first occupation of the dwelling, hereby permitted, a scheme of soft and hard landscaping (including for retention and any works to existing trees and hedgerows) shall be submitted to and



agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The approved hard landscaping scheme shall be provided in full prior to the occupation of any of the dwellings unless otherwise agreed in writing by the Local Planning Authority and shall thereafter be so retained.

*Reason - to ensure a satisfactory landscaping scheme provided within a reasonable period and in the interests of visual amenity.*

- 6 Any tree or shrub which may die be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - to provide a reasonable period for the replacement of any vegetation.*

- 7 Notwithstanding the provisions of Part 1 (Classes A - E) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) the dwelling hereby permitted shall not be enlarged, improved or altered unless planning permission has first been granted by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme, in the interests of preserving the amenities of neighbours and as the dwelling is to meet a local need.*

- 8 Notwithstanding the details shown on the approved plans before first occupation/use of the dwelling, hereby approved, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

*Reason - to preserve the amenities of the locality, in the interests of highway safety and because insufficient information has been submitted as part of the application.*

- 9 No development shall commence until all hedgerows to be retained are protected by a 1.2 metre high protective barrier which shall be erected at least 1.0 metre from the hedgerow, where possible. Within the fenced off area there shall be no alterations to the ground levels, no compaction of the soil, no stacking or storing of materials and any service trenches shall be dug and back-filled by hand.

*Reason - to ensure that existing hedgerows are adequately protected during construction in the interests of the visual amenities of the area.*

- 10 Before first occupation of the dwelling hereby permitted the following shall be provided: -  
- The off-street parking as shown on drawing number LOU.PRL.004 Revision B

(Proposed Layout), received by the Local Authority on the 14th April 2016;

Once provided the off-street parking shall thereafter be so maintained.

*Reasons - to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.*

- 11 Notwithstanding Condition 2 above, nor the information shown on drawing numbers LOU.PSS.006 Revision A (Proposed Site Section) and LOU.PRP.007 Revision A (Proposed Floor Plans and Section), received by the Local Authority on the 14th April 2016, no development shall commence until the proposed finished floor level of the dwelling and finished site levels, which shall be related to an existing datum point of the site, have first been submitted to and approved in writing by the Local Planning Authority.

*Reason - to determine the scope of the permission and in the interests of residential amenity.*

- 12 No development shall commence until a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Archaeologist.

*Reason - to ensure satisfactory archaeological investigation and recording.*

- 13 No development shall take place other than in accordance with the Written Scheme of Investigation agreed under Condition 12.

*Reason - to ensure satisfactory archaeological investigation and recording.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 4 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a

- signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
- 5 The Coal Authority has advised that detailed conditions and/or foundation design may be required as part of any subsequent building regulations application.
  - 6 The available width of the Public Rights of Way must not be encroached upon by works associated with the development. The Public Rights of Way must not be further enclosed in any way without undertaking discussions with the County Council's Safe and Sustainable Travel Team (0116) 305 0001.
  - 7 The Public Rights of Way must not be re-routed, encroached upon or obstructed in any way without proper authorisation. To do so may constitute an offence under the Highways Act 1980.
  - 8 If the developer requires a Right of Way to be temporarily closed or diverted for a period of up to six months, to enable construction works to take place, an application should be made to [roadclosures@leics.gov.uk](mailto:roadclosures@leics.gov.uk) at least 8 weeks before the temporary closure/diversion is required.
  - 9 Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
  - 10 No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority having been obtained. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
  - 11 The County Council Access Officer has advised that no trees or shrubs should be planted within 1.0 metre of the edge of the Public Right of Way, although if any trees or shrubs are planted alongside a Public Right of Way they should be of a non-invasive species. Prior to and during construction measures should also be taken to ensure that users of the Public Rights of Way are not exposed to any elements of danger associated with construction works, and wherever appropriate they should be safeguarded from the site by a secure fence.