

## PLANNING COMMITTEE – 20 May 2025

**Reference Number:** 24/00781/FL

**Application expiry:** 23.05.2025

**Application Type:** Full

**Proposal Description:** Comprehensive redevelopment of the site including retention of the existing 14 days motocross, barn conversion for a manager's dwelling, reinstatement of "Where the Rainbow Ends" Cafe for use as a reception, heritage and information centre (with occasional kiosk/cafe), and erection of three holiday lodges with associated parking and turning and private drainage plant.

**At:** Butts Quarry, Butts Road, Ashover

**For:** Mr. and Mrs. Dring

**Third Party Reps:** 15(14) (12 objections and 3(2) supporting)

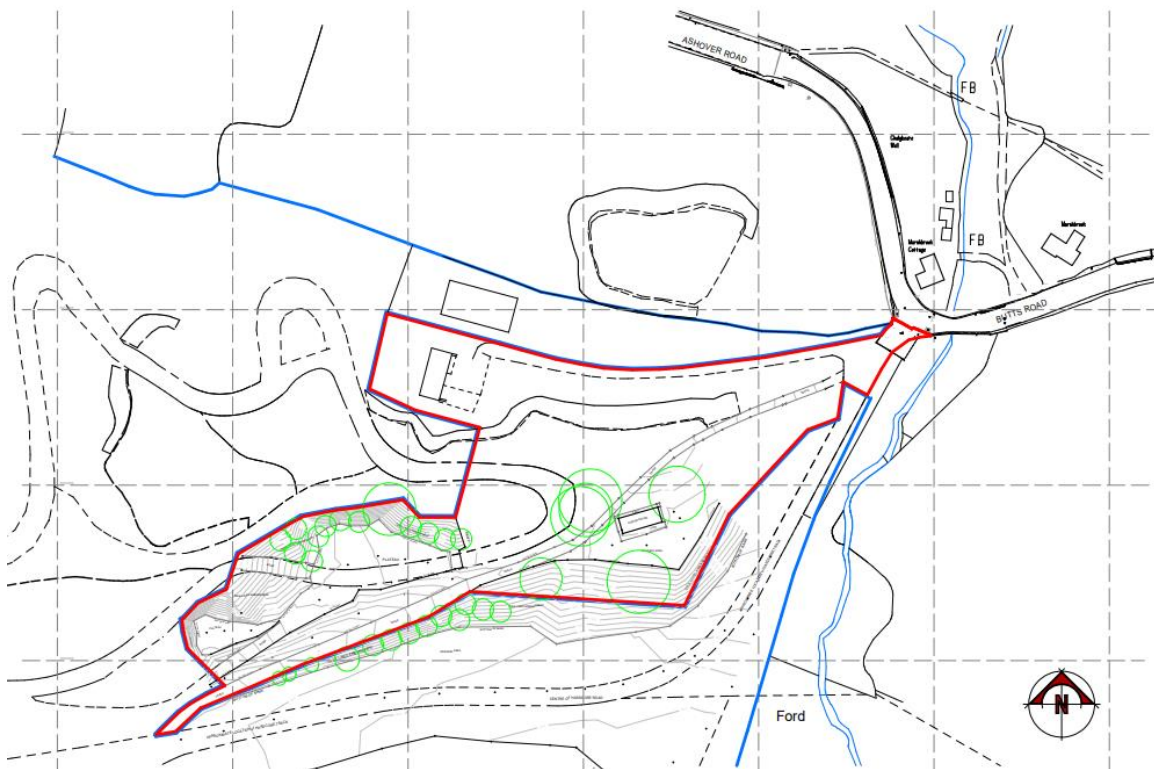
**Parish:** Ashover

**Ward:** Ashover

**Report Author:** Adrian Kirkham

**Date of Report:** 06.05.2025

**MAIN RECOMMENDATION:** Refuse permission.



*Figure 1: Site Location Plan, with site edged in red (other applicant owned/controlled land in blue)*

## **1.0 Reason for Report**

- 1.1 Cllr Wetherall has asked that the application is decided by Planning Committee due to its potential implications for highways and access, the location of the three holiday dwellings and whether the location is ideal for the topography of the site.

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site comprises an area of just under 1 hectare forming an element of the, former, wider Butts Quarry. It is formed of the most north eastern component of that site and the area adjoining the existing site access off Butts Road south west of the village of Ashover and south east of Kelstedge.
- 2.2 The site currently comprises a number of informal tracks leading to a barn/storage building at the application site's north western edge and a single storey utilitarian style building at the centre of the site.
- 2.3 The site is located in the countryside for planning purposes, within a primary Area of Multiple Environmental Sensitivity (AMES), areas representing the most sensitive in North East Derbyshire, and various public rights of way cross it as set out in Figure 2 below.
- 2.4 Access would be taken, as now, off Butts Road, at the point where the road crosses a brook which runs under the highway and on a bend in the road.
- 2.5 The site operates a motocross facility which carries on for 14 days in each calendar year under the auspices of a Noise Abatement Notice (NAN), issued by the Council, and planning permitted development rights.



Figure 2: The public rights of way crossing the application site.

## Proposal

- 2.6 The application comprises a number of distinct elements:
- A. The conversion of an existing building to a dwelling along with the formation of an associated domestic curtilage.
  - B. The provision of 3 holiday lodges and associated amenities and facilities,
  - C. The erection of a café/reception facility adjoining the existing utilitarian style building to provide facilities to support the holiday lodges and to provide refreshments on the days when the motocross facility is in operation,
  - D. The creation/formation of various parking/turning areas within the site, and,
  - E. Formal permission for the site to operate 14 days motocross each year.

A plan showing the various elements is shown at Figure 3 below.

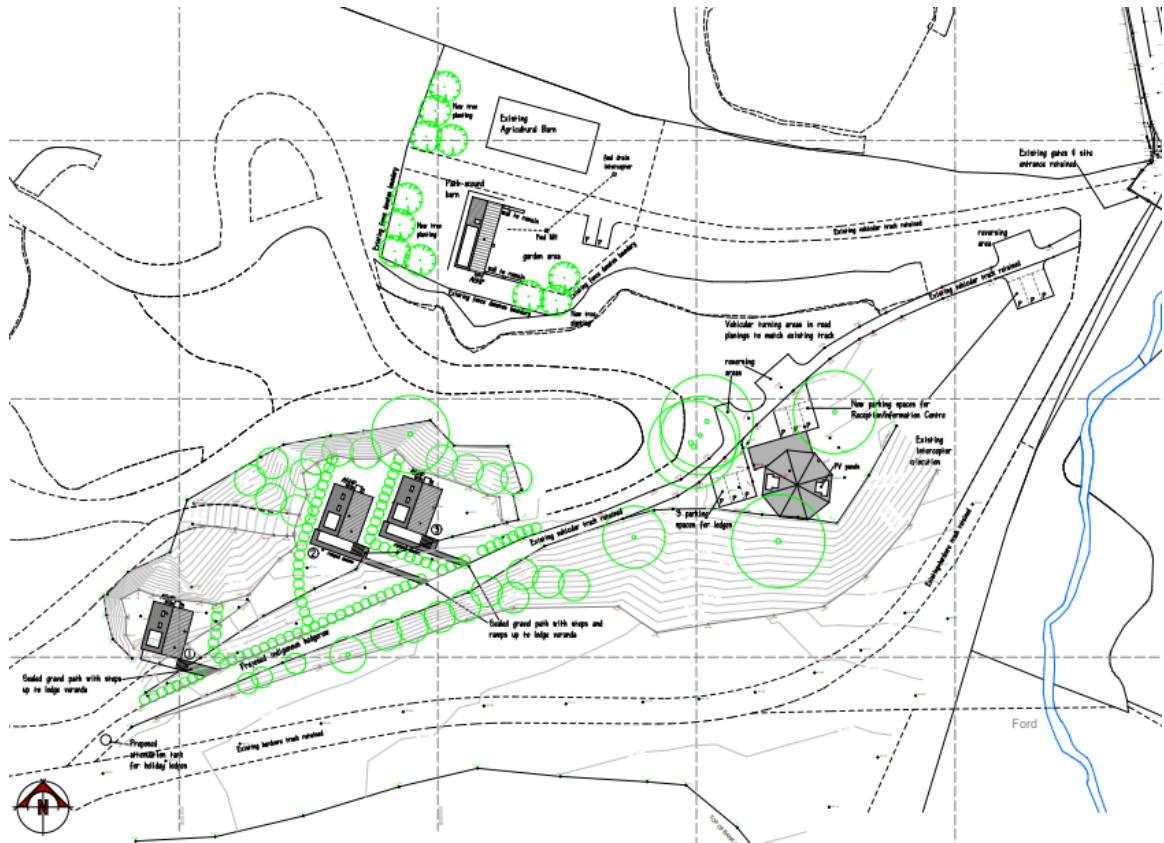


Figure 3: The application detailing showing the building to be converted, the holiday lodges and café/reception building.

## Amendments

2.14 Various amendments have been received during the consideration of the application.

Firstly, a revised plan was submitted showing the proposed domestic curtilage (to be associated with the new dwelling), details of the proposed steps/pathways/ramps to be created to serve the holiday lodges, an indication of the finished levels of the newly created parking areas, café building and the site more generally and stating that only “minimal repairs” are proposed to the existing tracks that cross the site.

Subsequently, further to detailed comments from the Case Officer on the application, a package of additional information was submitted on the 21<sup>st</sup> March 2025. This included a requested change to the application title, an amended site plan showing some site levels and alterations to the parking and turning arrangements and with additional notes, an amended plan for the café building with the solar panels removed, a further Planning Statement (including a response to the points raised by the Case Officer), a response to the issues raised by DWT about the mine entry and bat



Further, on 10 April a further amended plan was received from the agent in response to the comments of the Ramblers Association to ensure the eastern parking area would not obstruct footpath 57. The agent reports that the site owners spend a significant amount of time ensuring the rights of way remain clear and open to use and there is no objection to the erection of rights of way signs. The agent suggests that the three lodges is very unlikely to result in a significant issue with traffic, visibility is good and holiday guests will be made aware of the paths.

[illegible]

## The Applicant's Submissions

A. A Biodiversity Statement and BNG metric (revised).

- B. A Design and Access Statement
- C. A Flood Risk Assessment
- D. A Bat Survey
- E. An Ecological Assessment (revised)
- F. A Structural Survey
- G. A Transport Assessment, and,
- H. A Tree Survey

These documents are referred to as necessary during the consideration of the application below but in summary the applicant sets out the following:

*“The submitted scheme demonstrates an opportunity to re-use an existing stone barn, construct a small-scale holiday accommodation scheme in an ideal location, and reinstate a building with local social history interest, synonymous with the quarry and surrounding area.*

*The barn conversion is an excellent re-use of an existing, structurally sound, vernacular building and is clearly large enough to accommodate a modest dwelling.*

*Given its location on the edge of the Peak District and set within unique, attractive countryside the holiday accommodation is likely to prove very popular and would serve as a welcome source of revenue for the tourist/leisure businesses in Ashover and surrounding villages.*

*The reinstatement of the original cafe building is an appropriate next step in the timeline of Butts Quarry. This proposal gives the opportunity to bring this building back to the site as well as providing the opportunity to introduce heritage information boards. It will also improve the existing toilet & welfare facilities on motocross days.*

*The many benefits of the proposed scheme are discussed in the planning statement. If there are any concerns about the design the applicants will be very willing to discuss this with the Council. It is hoped that the Council will be able to support this development and grant permission.”*

2.16 Dated March 2025, a further Planning Statement was submitted by the appointed agent (received 21.03.2025). A full transcript of it can be found in the planning file online but in summary it sets out the following issues:

- A. The site extends to 15 hectares and is used currently for motocross activities for 14 days each year.
- B. The site is crossed by a variety of tracks and occupied by a toilet block style building, a storage building and a stone barn. The site is occupied by many trees and much vegetation. There is a single point of access.
- C. The agent’s understanding of the dismissed appeal and its findings is given and the Council is asked to take into account changes that have

- subsequently taken place including the adoption of a new Local Plan and publication of the revised NPPF, that no extensions are now proposed to the barn, a Noise Abatement Order is now in place, discussion with the Council's EHO have taken place on how to reduce bike noise and a comprehensive scheme is now proposed.
- D. The reduction in motocross days from 28 to 14 has resulted in the viability of the applicant's business being marginal and so on-site diversification is now required.
  - E. The proposed lodges are bespoke and designed to accommodate level clearings.
  - F. The barn conversion would be accommodated by the site manager.
  - G. The remainder of the scheme will fund the re-instatement of the café, which included the (a) rectangular shape to its north. The café would be a reception for the holiday lodges with information boards attached to its exterior. On motocross days, the café would provide refreshments for users of the circuit.
  - H. Sections 5 (Delivering a sufficient supply of homes) and 6 (Building a strong, competitive economy) [of the NPPF] are considered especially pertinent to the application.
  - I. The site is in the countryside and the scheme seeks to make a more efficient use of the site. The applicant's agent sets out that the motocross facility is a valuable recreation facility recognised for its mental health benefits, and it has overwhelming local support. The scheme seeks to add value to the site to allow the motocross facility to continue. It would deliver a home for the applicants, holiday lodges for additional income and the reinstatement of the café bringing heritage benefits. It accords with planning policy bringing economic and social benefits, short term investment during construction, allows the motocross facility to continue and bring visitors to the area. There would also be environmental benefits from the re-use of the barn, the construction of the holiday lodges and the improvement of the toilet block. 10% biodiversity net gain would be delivered.
  - J. Notwithstanding the public footpaths that crisscross the site, the site is not considered prominent and any concern about the impact of the development is outweighed by the benefits of a more efficient use of the site, the retention of the motocross facility, the delivery of holiday accommodation, the conversion of the barn and the return of the café building.
  - K. The existing access provides an acceptable point of access into the site.
  - L. The future occupiers of the converted barn would be the site managers. The limited number of days/hours of operation would mean that the future occupiers would not be adversely impacted by the motocross and visitors to the site would be able to choose when they visited.
  - M. The barn conversion is substantially different to that refused on appeal in 2017 and overcomes the Inspector's concerns.

- N. The café is proposed in the form it was originally constructed and the solar panels are removed. The return of the café would be a major benefit of the scheme. The revised scheme demonstrates minimal changes to the onsite levels.
- O. The revised scheme addresses the concerns raised by DWT initially.

### **3.0 Relevant Planning History**

- 3.1 77/00015: Permission **granted** for the toilet block.
- 3.2 81/00026: Permission **refused** for the temporary storage of caravans.
- 3.3 88/00906: Permission **refused** for the temporary siting of mobile home
- 3.4 91/00606; Permission **refused** for the conversion of the barn to a dwelling.
- 3.5 00/01114: Permission **refused** for the conversion of the barn to a dwelling and extension of roof to form first floor accommodation.
- 3.6 16/00946: Permission **granted** for the erection of storage barn in connection with maintenance of the land.
- 3.7 17/00504: Permission **refused** for the alterations and conversion of a stone barn to a manager's dwelling.

### **4.0 Consultation Responses**

- 4.1 **Parish Council** supports the application under policies AP2 and AP7 of the Ashover Neighborhood Plan and considered the proposals complied with sections 70d (identifying land for homes), 84c (rural housing) and 88a, b and c (supporting a prosperous rural economy) of the [former] NPPF. On the amended plans the Parish Council strongly re-enforce its original comments.
- 4.2 **Ward Member Cllr Wetherall** requested that the application be referred to Planning Committee for the reason set out above.
- 4.3 **Cllr Baker** states that in May last year the Applicants, Mr & Mrs Dring, asked me (as one of their local councillors) to get involved in the early days of the pre-application consultation process for the proposed development. I am pleased to see that the application which has now been brought forward contains many of the features which were discussed at that time and am confident that should planning permission be granted the proposed scheme will bring many benefits to both the quarry and the surrounding area. Therefore, I wish to register my support for this planning application.



- 4.4 **Highways Authority (HA)** raise no objection subject to conditions.
- 4.5 **NEDDC Environmental Health (EHO)** raise no objection subject to the removal of permitted development rights to ensure no more than 14 days use for motorsport is undertaken, the prior approval of a noise management plan, the occupation of the dwelling is limited to a person working on site in connection with the motorsport uses, control over foul drainage and approval of any remediation works. On the revised plans the EHO re-iterates the original comments made.
- 4.6 **Derbyshire Wildlife Trust (DWT)** have reviewed the submitted Preliminary Ecological Appraisal (PEA), Bat Survey, the Biodiversity Assessment and Metric and the Tree Survey.

The PEA sets out no woodland or tree loss is anticipated but that records indicate that there is a recently felled area of woodland near the proposed café/reception building and this should be clarified as it should be included in the submitted [BNG] metric. In addition, the impact of the lodges and associated infrastructure is unclear with the tree survey indicating further tree loss will be inevitable. Full details of this impact is required.

Further information on the impacts of the proposal on bats is required also and a proper mitigation package to protect other species would be needed.

The BNG calculation also needs to be updated to take into account all the relevant impacts.

Any further comments on the amended details are awaited.

- 4.7 **Natural England** has no objection as the proposal will not have a significant adverse impact on any statutorily protected nature conservation site or landscape.
- 4.7 **Severn Trent Water** has no comments stating that the site is out of Severn Trent's area for sewerage and comment is only made in respect of the public wastewater network and the representation does not include comment from other areas of the company **Yorkshire Water** offer no comment stating the site is within the operational area of Severn Trent.
- 4.8 **Lead Local Flood Authority (LLFA)** raised no objection subject to conditions.
- 4.9 **Environment Agency** have no objection subject to a condition regarding the treatment of surface water run off during construction.

- 4.10 **DCC Rights of Way Officer (DCC ROW)** advises that Ashover Public Footpath No. 52 is the footpath referred to as the 'vehicular track' in the centre of the proposals, FP 57 joins to FP 52 at the northeast section and FP 53 crosses FP 52 to the south, at the southwest corner of the site but there is no reference to the existence of these PROWs on the application plan whilst there are significant works being proposed on and adjacent to the footpath.

The proposals refer to FP 52 as 'the existing vehicular track (to be) retained'. This is a public footpath not a highway, and a vehicular right of access is only to access property, which is not currently the case. It may have become subsumed for vehicles within the motocross tracks but Ashover FP 52 legally remains a footpath, as are FP 57 and FP 53. The plans would increase vehicle use along the path and this would impact the path surface. Three parking areas are immediately adjacent to the footpath with reversing areas placed on the other side, which would increase manoeuvring across the footpath increasing risk to the public's safety using the path. The planned attenuation tank is also placed directly on the south section of path, this would be something about which further details would be required. There is also a question of whether an event closure for FP 52 is in place for when the motocross events occur.

The DCC ROW therefore objects to the current proposals on the basis of public safety and the impact on the surface of the path, from increased vehicle passes.

In addition, it is requested that the applicant is advised that the footpath must remain open, unobstructed and on its legal alignment, there should be no disturbance to the path surface without prior authorisation from the DCC ROW, consideration should be given to the safety of members of the public using the path during the works [if PP is granted], a temporary closure of paths will be permitted on application to DCC ROW where the path(s) remain unaffected on completion of the development, there should be no encroachment of the path and no fencing should be installed without consulting the DCC ROW section.

On the amended plans, raise concern over the increase in the scale of the parking areas and state the legal lines of the paths (PROWs) must remain open. The amended plans showed parking over a PROW and the revised layout would have increased vehicle maneuvering over the footpaths. On that basis, the application was opposed. The lines of the PROWs must remain open and due to the increase in vehicles on the paths, consideration should be given to safety and any improvements needed to the path surface to address increased use.

Any further comments on the further amended plans area waited.

- 4.11 **Ramblers Association** has no objection subject to adequate signage being erected. In respect of the revised plans, concern is expressed over the increased car parking and turning area at the eastern end of the site and near the information centre and them being over the right of way. The lines of the PROW should be preserved but recommend refusal of the application due to the greater use of the tracks but ask for the definitive lines of footpaths are shown and how any visitors are informed of the shared nature of the tracks.

Any further comments on the further amended plans area waited.

- 4.12 **DCC Archaeology** has no objection.

- 4.13 On the 3<sup>rd</sup> May 2025 a representation was received made on behalf of the **Ashover Light Railway Society**. It supports the application and would appreciate the café being rebuilt in its original home. The proposal would ensure the original footprint of the café was retained and the size of the structure should be identical to that originally built 100 years ago. It would help the preservation of the locally historically significant monument and preserve it for the future. The railway is celebrating its 100<sup>th</sup> anniversary and the society would be very excited about the project and the opportunity to enhance the society in the place where it is most important.

Some background information is set out about the railway, stating the terminus of the railway was at the quarry and the part played by it in shaping the local economy. The social aspects of the railway and café are also noted.

It is stated the café will allow groups to come together for meetings and get together or for others who wish to use the building as a small meeting place. It will also help promote the railway.

In conclusion it is set out that that it would be detrimental to the history of the site if any other building was placed on the site of the former café and the whole of the development is supported to ensure the viability of the project.

## 5.0 Representations

- 5.1 The application was publicised by way of neighbour letters and the display of a site notice.

- 5.2 4 representations have been submitted, 12 in support and 3 (2 from one correspondent) in objection, raising the following comments to the proposed development:

In support:

- The motocross has never had an impact and it is a good thing. It is part of the village's DNA and contribute to the community.
- The quarry needs to be used and the village needs to be alive and developing. Otherwise, the quarry will become overgrown and an eyesore and the village a dormitory. The community and local economy will benefit.
- There is a need for people to visit with pubs and businesses needing footfall and activity. A café will be very popular with locals and walkers
- Any noise is short lived, not a problem and shortly all motorcycles will be electric. The motocross events are run very well.
- There is a high volume of traffic visiting the site and there is no incidents arising.
- If approved the application will allow the quarry to continue as a viable community asset.
- On site living will improve security.
- The holiday lodges will bring tourists to support the local economy and won't take up local housing
- The application is sympathetic to the local heritage and would result in the re-instatement of the cafe.
- The proposal complies with the Development Plan.
- If refused the owners may decide to leave and the site used by trespassers and become overgrown.
- The application will allow people to meet and learn.

In objection:

- The access is inadequate to accommodate a café and holiday accommodation as access is from a single point on a very dangerous bend.
- Additional traffic flow will be unsafe as it is a quiet rural road.
- There will be an impact on local wildlife from more pollution.
- Other applications for similar developments have been refused and nothing material has changed except traffic has got heavier and the holiday units serve only to aggravate the reasons for refusal identified previously.
- There are also many unreported accidents at Butts corner with the latest damaging the bridge parapet which remains unrectified.

## **6.0 Relevant Policy and Strategic Context**

6.1 The Development Plan comprises the **North East Derbyshire Local Plan (LP)** and the **Ashover Neighborhood Plan (NP)**

6.2 The following policies of the LP are material to the determination of this application:

- SS1 Sustainable Development
- SS9 Development in the Countryside
- WC5: Visitor and Tourism Development
- WC6: Camping, Chalets, Caravans and Lodges in the Countryside
- SDC1: Re-use and Conversion of Buildings in the Green Belt and Countryside
- SDC2 Trees, Woodland and Hedgerows
- SDC3 Landscape Character
- SDC4 Biodiversity and Geodiversity
- SDC11 Flood Risk and Drainage
- SDC12 High Quality Design and Place Making
- SDC13 Environmental Quality
- SDC14 Land Potentially affected by Contamination or Instability
- ID3 Sustainable Travel
- ID8 Greenways and Public Rights of Way

6.3 The following policies of the NP are material to the determination of this application:

- AP2: Development Proposals Outside the Limits to Development (P.17)
- AP7: New Small Scale Employment (P.23)
- AP11: Design (P.30)
- AP13: Landscape Character (P.36)
- AP15: Important trees and Hedgerows (P.41)
- AP17: Renewable Energy (P.45)
- AP18: Noisy Sports (P.47)
- AP19: Dark Skies (P.48)
- AP20: Traffic (P.50)
- AP21: Footpaths, Cycleways and Bridleways (P.51)

6.4 The National Planning Policy Framework (2024) is a material consideration insofar as it sets out the government's planning policies and how these should be applied. It continues to put sustainable development at the heart of the planning system and expects it to be achieved through the plan-making process and by the application of the policies in the Framework as a whole.

## **7.0 Planning Issues**

## Principle of Development

- 7.1 As set out above the application comprises a number of distinct elements considered as follows below:
- A. The conversion of an existing building to a dwelling along with the creation of an associated domestic curtilage.
  - B. The provision of 3 holiday lodges and associated amenities and facilities,
  - C. The erection of a café/reception facility adjoining the existing utilitarian style building to provide facilities to support the holiday lodges (including a reception area) and to provide refreshments on the days when the motocross facility is in operation,
  - D. The creation/formation of various parking/turning areas within the site, and,
  - E. Formal permission for the site to operate 14 days motocross each year.

### *The Conversion of the Building*

- 7.2 The existing barn style structure that occupies the site appears to have previously been used as a storage building/barn, with the application form in respect of application NED/17/00504 describing it as a stone barn. It appears to be being used now as a storage building as no agriculture, or similar activity, appears to take place on the site. It is shown in Figures 5 and 6 below.



Figure 5: The Barn (Front)





Figure 6: The Barn (Rear)

- 7.2 The building lies in an elevated location close to another building, granted permission under reference NED/16/00946, and which was intended to be used to allow maintenance of the site and the land (see Figure 7 below).



Figure 7: Adjoining Building

- 7.3 The submitted structural survey identifies that the building is good in terms of its structural condition and “in prime condition for conversion” as described in that report. An external inspection of the building does not indicate this is an unreasonable conclusion.
- 7.4 The relevant policy of the LP (SDC1) allows for the conversion of buildings in the countryside providing they are of a permanent and substantial construction, their form is in keeping with its surroundings, the conversion would not be detrimental to it or its setting and the conversion preserves the openness of the countryside. The NP allows for development outside of settlements (as here) provided the proposal protects the character of, and is not intrusive into, the countryside (policy AP2).
- 7.5 As set out above the application, and subsequent appeal, in respect of NED/17/00504/FL, assessed the conversion of this building, albeit at that point, with some proposed additions. The appeal concluded that, under the terms of the Development Plan in force at that time (which included the NP but the former LP – with only moderate weight attached to the now adopted (but at that time emerging) LP) the conversion was not acceptable, that the alterations proposed and the curtilage that would be

created would be detrimental to the character of the area and fail to enhance its immediate setting as set out in the NPPF.

- 7.6 The current scheme does not now propose any extension(s) to the building as set out below in Figure 8 and 9. The appeal scheme is given in Figure 10 for comparison purposes.

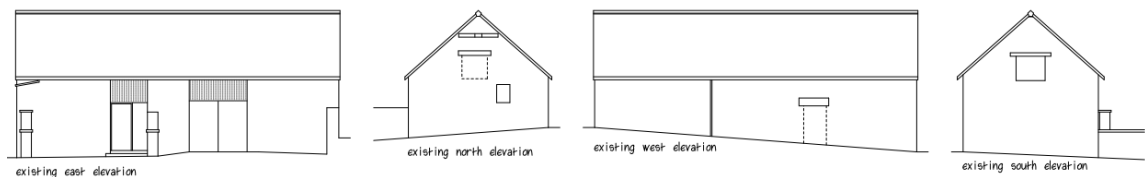


Figure 8: Existing Building

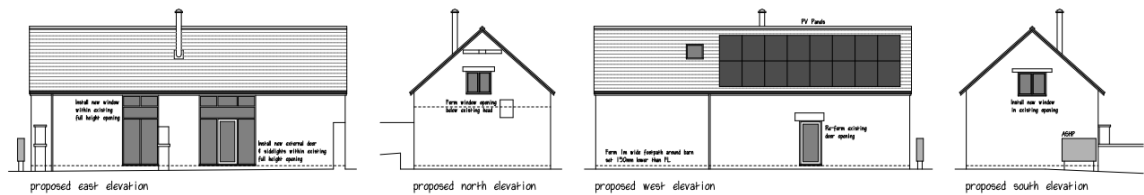


Figure 9: Proposed Building

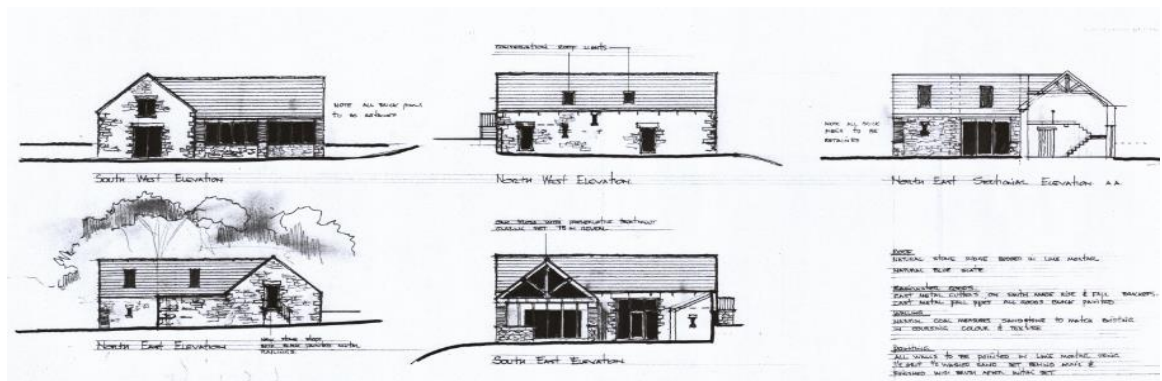


Figure 10: The Appeal Scheme (for comparison purposes)

- 7.7 In addition, the site is located in a primary Area of Multiple Environmental Sensitivity (AMES). These represent the most sensitive landscapes in North East Derbyshire. Within such areas, policy SDC3 of the LP requires new development to be sympathetic to the landscape area in which it is located and contribute, as appropriate, to its conservation and enhancement or its restoration and the recreation of the local landscape.



Policy AP13 of the NP supports and is compatible with this position. A view west from just beyond the building is given in Figure 11 below although it is noted that views from distance back towards the site are largely shielded by existing landform.



Figure 11: View west from the application site.

- 7.8 The site, when considered at appeal in 2017, lay within a Special Landscape Area (a designation now not included in the current LP) but the current designation as a primary AMES recreates the protection afforded to the area. The on site situation appears to have altered little since the consideration of this issue in 2017 and the proposal would still result in the conversion of the building, the introduction of large areas of glazing to the building, solar roof panels and a chimney and the creation of a domestic area (see Figure 12 below) that would detract from the simple rural landscape setting of the building and the character of the surrounding countryside in the same way that the appeal scheme would have done. In that respect there appears little substantive reason to depart from the conclusions of the Inspector in 2017.
- 7.9 The appellant's agent sets out that the fact that the conversion now no longer involves extension(s) is sufficient to defer from the conclusions of the Inspector in 2017. Officers disagree with this conclusion as the Inspector took into account the proposal as a whole, the alterations proposed, the parking and paraphernalia that would follow the conversion

of the building to a residential use, the isolated nature of the site as well as the largely screened nature of the site from public views in his assessment concluding that the proposal would detract from the landscape setting of the building and the character and appearance of the surrounding countryside.

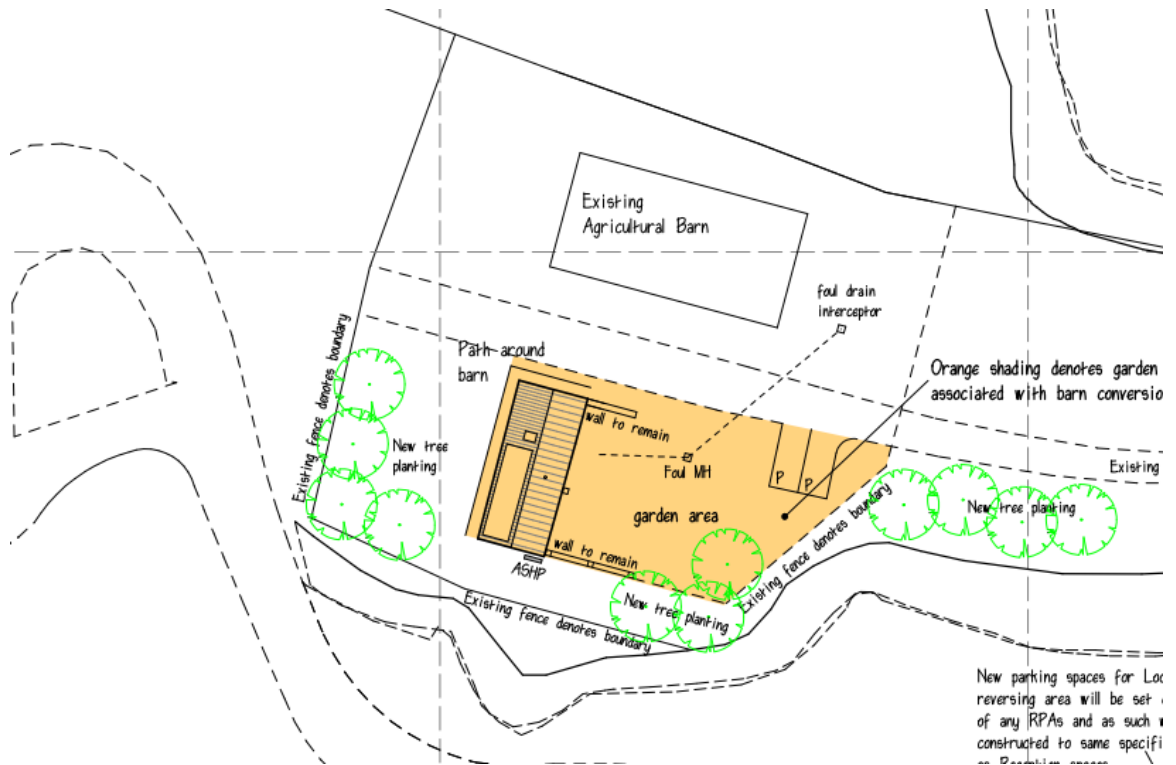


Figure 12: Plan showing extent of domestic curtilage shaded orange

- 7.10 The submitted Design and Access Statement sets out that the thermal efficiency of the building will be increased and that tree planting to the west will enhance biodiversity. However, these are not considered of any weight to be added to the overall planning balance as they are not exceptional to this site and would be expected in any converted building whilst tree planting could take place without planning consent being granted for the conversion proposed.
- 7.11 The use of the site for motocross activities is expected to continue. The tracks and activity would be located in close proximity to and in association with the new dwelling. It is noted that, subject to condition tying the dwelling to occupants controlling the motocross use, the Environmental Health Officer has no objection to the scheme. However, in considering the matter in 2017 the Inspector concluded that a condition limiting the occupation of the dwelling to the operator of Butts Quarry "is not a realistic option given the many unknown variables that could arise in

the future. Not least it cannot be assumed that the motocross activities will always be under the direct control of the occupiers of the dwelling, or that motocross is the only potentially noisy activity that could operate at the site...”

- 7.12 Officers note both the comments of the EHO and the Inspector and also that little of this impact is set out in the submissions made. Such is the proximity of the motocross track to the proposed dwelling, Officers consider that the conclusion of the Inspector in 2017 is overriding in this case and that the continuing motocross activity on the site would result in an unacceptable impact on the amenity of any future occupiers of the dwelling.

#### *Holiday Lodges*

- 7.13 The application proposes 3 holiday lodges as shown below in Figures 13 and 14.

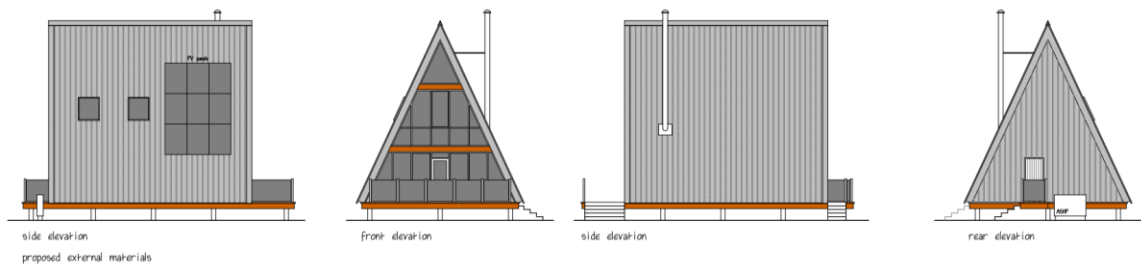


Figure 13: Holiday Lodges



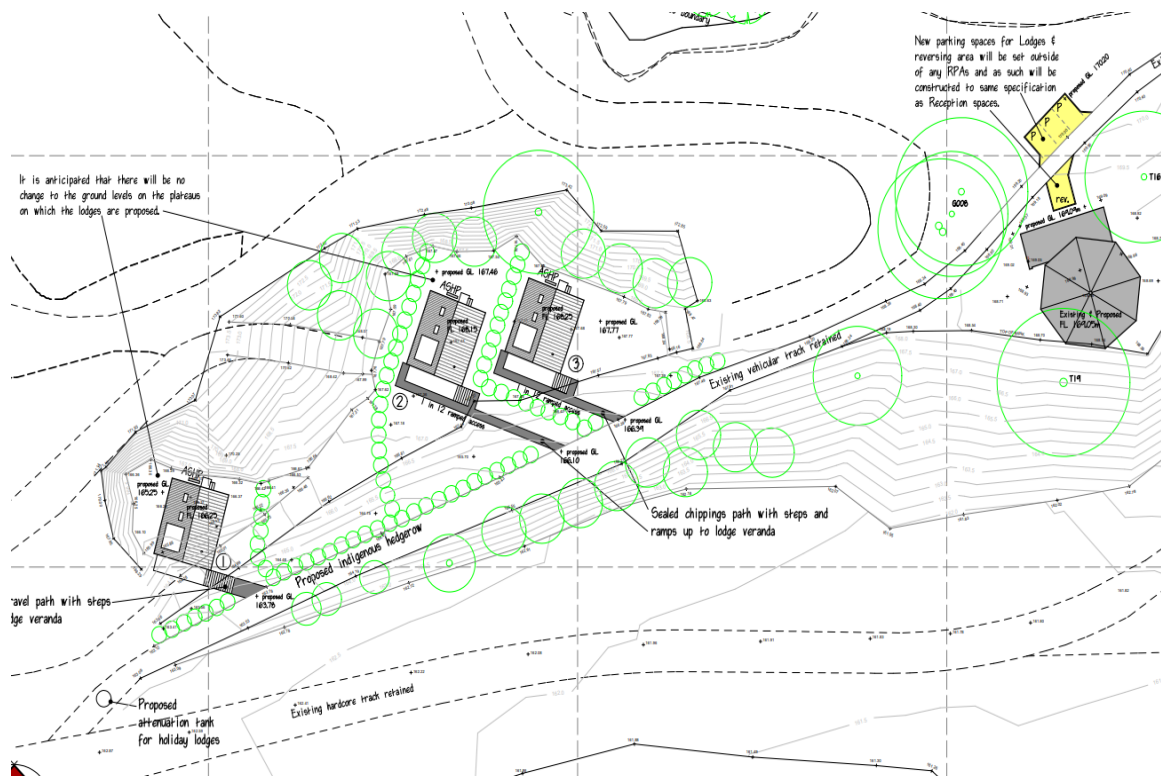


Figure 14: Lodge Location

- 7.14 Officers conclude that the introduction of holiday lodges in this location would generally accord with the policies in the Development Plan that support visitor and tourism development in that the lodges would be generally located in proximity to Ashover and other local attractions and support links to the Peak District.
- 7.15 However, the Development Plan, both LP and NP, seeks to ensure that new development, even for tourism accommodation, is compatible with the character and appearance of the area in which it is located and of an acceptable design (LP policy SC12 and NP policy AP11). Specifically, policy SDC3 of the Local Plan when referring to AMES, which represent the most sensitive areas of landscape in North East Derbyshire, requires new development to be informed by, and be sympathetic to, the distinctive landscape in which they are situated and contribute, where appropriate, to the conservation and enhancement, or restoration and re-creation of the local landscape taking into account its wider landscape character type.
- 7.16 In this case, the lodges would occupy existing flat areas (probably formerly quarried) within the site as shown in Figures 15 and 16 below. They would also be located adjoining and in close proximity to one of the public footpaths that runs through the site and so readily visible to users of the wider site and the footpaths in particular.



Figure 15: Proposed Chalet 2 and 3 Location

- 7.17 The site is characterised by its open appearance flanked by areas of trees and undergrowth and its generally rural nature. The lodges would introduce 3, multi storied structures into this presently undeveloped site. There would also be steps and tracks and formalised areas set out to the front of all three buildings which would further formalise and impact on the rural character of the area introducing a level of formality to a site where there is currently little.
- 7.18 The applicant's set out that the lodges are to supplement the motocross business and make the site viable overall (although no details of how this is needed or will be achieved is provided), they would offer a unique tourist offer and that they are located to reduce their impact. However, despite the trees that occupy the site, in view particularly of a proposed height of approximately 8.5 metres, the design of the lodges incorporating a fully glazed frontage (Figure 17 below) and the formalised areas around them that would be formed, similar to a dwelling's garden and curtilage, Officers consider that they would result in the structures being conspicuous in both close up and longer distance views and impact adversely directly on how the footpaths and the wider site are experienced.
- 7.19 Overall, Officers conclude that the lodges themselves and the wider infrastructure to support them is not characteristic of the area, is not designed in response to the local landscape character and so contrary to the policies of the Development Plan that seeks to protect such areas from harmful



development. Additionally, policies in the NP that seek to protect dark skies (policy AP19) will be impacted by the new structures and so this too weighs against the scheme.

- 7.20 The EHO has requested that if planning consent is granted that a scheme to limit noise emanating from the lodges is required to make the development acceptable. Notwithstanding the Officer conclusion on the principle of the acceptability of the lodges, Officers consider any such condition would be both unreasonable and unenforceable due to the location of the units and their likely use which would be to operate as units with direct access to the open air and use of the associated open amenity space.



Figure 16: Public Footpath and Chalet 1 Location (site of small hut)



Figure 17: Sketches of the lodges taken from the submitted Design and Access Statement

*The erection of a café/reception facility adjoining the existing utilitarian style building.*

- 7.21 A building is proposed to be constructed to operate as a reception area for the holiday facilities and as a café on motocross days. It's location in relation to the site entrance is shown in Figure 18 below.
- 7.22 The submitted Design and Access statement sets out that this comprises the re-instatement of the "Where the Rainbows End" café which will be used as a reception, heritage and information centre (with occasional use as a kiosk/café on motocross days). It would incorporate heritage information panels on the walls but the originally proposed solar panels have now been removed from the scheme. [N.B. It is noted in representations that further/other uses/activities is/are expected to be provided by the facility. However, the application should be considered on its face and, if permission is granted for it, its use controlled appropriately.]
- 7.23 It would abut an existing, utilitarian style single storey building as shown in Figure 19 below, which would, itself, have a new fiberglass roof installed and be reclad in softwood boarding. The café/reception building is itself 13 metres across, single storey and octagonal as shown in Figure 21 and would look southeast across the site as shown in Figure 22.

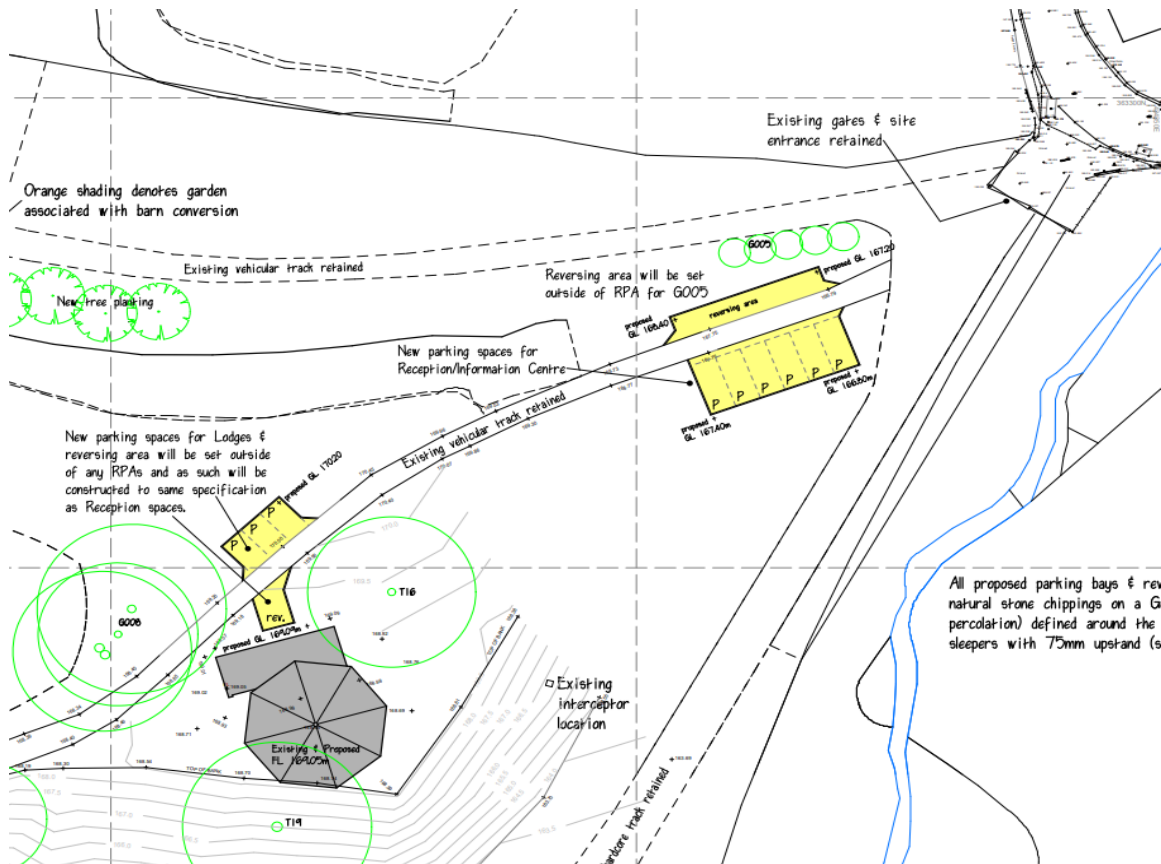


Figure 18: The proposed location of the “Where the Rainbows End” café building

7.24 The submitted information indicates that the “new” building comprises the café originally placed on the site in 1926 at the terminus of the former Ashover Light Railway. The café was dismantled after the railway closed and re-erected at the Clay Cross Company sports ground and then subsequently stored by the Ashover Light Railway Society to the present day. Photos of the former building are shown in the Design and Access Statement and are reproduced in Figure 20 below.





Figure 19: Existing Single Storey building



Figure 20: Photos of the former café building (from the submitted DAS)





- 7.25 There is little policy justification for the provision of such a large structure in the countryside as it does not involve the conversion of a building, it is not related or required to support a rural activity and it is not visitor accommodation. In addition, it is not considered necessary to facilitate any on site tourism provision as a building of this size is not considered reasonably necessary to serve the three lodges. Further, the prominent location of the building occupying a bluff overlooking the river valley would mean it was conspicuous from those vantage points notwithstanding it would sit directly adjacent a right of way and so impact on its users also.
- 7.26 It is accepted that a building formerly occupied the site and it is likely to be as described by the applicant and in representations, although Officers cannot confirm the authenticity as set out, but, in any case, it is not a listed building and has spent much of its existence located elsewhere. In addition, any argument that it has heritage value is diluted by the provision of display boards on its walls and its close proposed association with the existing building which is not part of the original structure.
- 7.27 Officers consider there is only limited weight that can be attached to the overall scheme by the re-introduction of the café building to the site. It could be re-introduced, with planning permission, without the remainder of the scheme taking place in any case, but conversely, there is no mechanism proposed that would ensure its re-introduction, even if planning consent is actually granted for the scheme as a whole.
- 7.28 Additionally, it is not proposed it will have a use other than to support the 14 days of motocross activity and so it would add little to the overall viability of the wider scheme. Providing facilities for the motocross activity does not add weight in favour of the building's construction as those facilities can be provided otherwise without introducing a new structure where one is not currently present.

#### *Ancillary parking/turning areas*

- 7.29 Proposed throughout the site are various parking spaces (11) and turning areas (2) to serve the lodges, the café/reception area and the converted building (Figures 4 and 18 above). The parking areas and turning facilities for the two areas serving the lodges and café building are to be surfaced in stone chippings on a geotextile membrane surrounded by railway sleepers (the parking to serve the conversion is unspecified).
- 7.30 It is understood the existing tracks are to remain unaltered. It is also intended that the new parking and turning areas are to be located outside

the tree root protection areas and not make any significant alteration to the current on site levels.

- 7.31 Subject to any final comments being received on these matters, Officers are now of the view that the new formal areas for parking and turning would not adversely affect the trees that occupy the site. However, the impact these areas of surfacing would have on the character and urbanisation of the area, particularly through their prominent location close to the site entrance, and the enjoyment of the public rights of way, adds additional weight against the scheme. It adds further support to the Officers conclusion that the scheme is not reflective of, and led by, its location.

*Permission for the site to operate for 14 days motocross each year.*

- 7.32 Planning consent is expressly sought, as part of the scheme, for motocross to operate from the site for 14 days each year. This would, in effect, replicate the on site activity that currently takes place in accord with a Noise Abatement Notice (NAN) that has been issued by the Council. Previously, the site operated motocross for 28 days each year in accord with permitted development rights (of which 14 days were not racing but “play and pay” days).
- 7.33 There appears no support for this activity in principle in the LP, and the NP specifically sets out at policy AP18 that proposals for permanent noisy sports will only be supported provided that any noise can be adequately mitigated, there would not be excessive noise levels at the boundaries of noise sensitive development, that any proposal should incorporate and commit to manage the site in a way that minimises the impact of the activity on areas of wildlife importance, there is no disruption to footpaths etc and there is not an unacceptable impact on traffic congestion and flows.
- 7.34 No supporting information has been submitted to address any of these matters and so when set against the Development Plan, it is considered by Officers that the provision of motocross on the site does not address the policy requirements of the Plan.
- 7.35 It is noted and accepted that the site operates as a motocross facility under permitted development rights and so this is a “fallback” position to be taken into account. However, the only matters set out in support of the scheme is that the motocross facility is supported locally, it is a valued facility, offers mental health benefits, is well managed and operates increasingly through the use of electric bikes.

- 7.36 The lack of detailing about how the site will actually operate and its likely impact on the nearby noise receptors and its potential likely adverse impact on other proposed uses of the site, other legitimate users of the site and on the area generally, leads Officers to conclude that the lack of detailing would result in an unacceptable use being granted a permanent planning consent to operate in the countryside contrary to material planning interests.
- 7.37 It is accepted that the site can and does operate the motocross facility under permitted development rights currently. However, in granting planning permission, the LPA would formalise a planning consent for the use and so then, legitimately, would be expected to operate some control over it. Controlling such a use through planning condition(s) would, in the view of Officers, be difficult to monitor and enforce (as necessary) as any conditions would need to be based on moving elements rather than anything fixed.
- 7.38 It is considered that control over the nature of the bikes used, to non-electric for example, would not be possible to control for example. Additionally, the NAN could be withdrawn at any time removing any control it may provide leaving only the planning consent in place as a controlling mechanism. In view of the conflict with the Development Plan and the impact on the area of such a use and the inability to properly control a motorcycle use of the site subsequently, Officers consider the ongoing motocross use unacceptable in strict planning terms.

#### *Trees*

- 7.39 The originally submitted tree survey report concluded that the majority of trees on the site hold some visual amenity value, that the full extent of excavation around them is not known and so it is not possible to establish exactly which trees could be significantly affected by the proposals and/or if remedial works or any tree removal would be required. In addition, what and the extent of any tree protection measures was also unknown, and that replacement planting would be required and a detailed tree planting plan should be produced.
- 7.40 Subsequently, further information has been submitted to accompany the revised site layout stating that the parking areas are now outside the Root Protection Areas (RPA) of any trees, the impact of constructing the cafe building would be mitigated by using tree appropriate construction methods and where root damage is necessary it would not be detrimental, no significant excavation/alterations are to be made and so there should be no risk of tree/tree root damage caused to trees and the ground levels around the proposed lodges have been amended so there will be no change within RPAs of any trees. Overall, the applicant's agent states that

any potential to impact adversely on the retained trees has been alleviated.

- 7.41 Officers note that the site is characterised by its heavy tree planting and coverage. It appears inevitable that the implementation of any permission would impact on trees that occupy the site to some extent and it is accepted by the applicant, even in respect of the revised scheme, that trees/shrubs will be impacted to some degree.
- 7.42 However, subject to conditions that would remove any permitted rights to upgrade or improve the existing on site tracks, Officers are now satisfied that the impact on the trees/vegetation occupying the site would be limited to works associated with the café building and the new parking and turning areas, and that generally these occur outside RPAs and the trees can be protected during any construction by appropriate fencing/restricted areas. The café building's erection would inevitably impact on the trees adjoining that site and lead to some works to the canopy and probably affecting the roots too. However, by using appropriate techniques, which could be controlled by planning condition, the impact on these tree(s) would be limited and by requiring landscaping, some additional long term tree cover could be obtained.

*Ecology and Biodiversity.*

- 7.43 The Council's consultees on these issues, Derbyshire Wildlife Trust (DWT), undertook a full assessment of all the relevant submitted documents and noted that, whilst much of what has been submitted, adequately assesses the impacts of the scheme on ecology and biodiversity, the full impact of the historic woodland loss on the site is not properly taken into account and the impact on bats has not been adequately appraised. This impacts too on the Biodiversity Net Gain [BNG] calculations submitted.
- 7.44 Revised information on these matters has been submitted setting out that the impact on bats has been fully appraised and that any bats using the site are located at such a distance from the operational part of the site that they would be unaffected. A condition restricting lighting is recommended by the applicant to address any such issues. A revised BNG calculation has also been supplied.
- 7.45 The further comments on the revised details is awaited from DWT. These comments will inform the issue of ecology and will be provided to Planning Committee when they are received by the Council.

### *Rights of Way*

- 7.46 The consultees on this issue have provided contrasting advice. However, the DCC PRoW team originally objected to the application due to its impact on rights of way across and through the site. Further information on this matter has been received, and amended plans and further comments from the appropriate consultees is awaited.
- 7.47 Officers note the comments made and concur that the development and its close association with the various PROWs that cross the site will impact adversely on their enjoyment, even if all hard development is located away from them. The character of how the footways will be enjoyed in this rural area would be significantly impacted by the proposal, therefore, and no plan of how that impact would be properly and reasonably mitigated and managed has been provided.
- 7.48 This concern adds further weight to Officer concerns about the proposals and their incompatibility with the area in which they would be located and is contrary to policy ID8 of the LP.

### *Flood Risk/Water Disposal*

- 7.49 A flood risk assessment accompanied the application noting that all and any new buildings would be located outside any area prone to flooding. In agreeing with the comments of the LLFA and the EA Officers consider this matter acceptably addressed
- 7.50 The comments of the waste water body are noted. In general terms it is likely that proper provision to dispose of waste water can be accommodated on site and it is proposed to dispose of such water by package treatment plant. One of the disposal points is still shown as within a PRoW as noted by the consultee and an alternative location may be necessary but Officers do not conclude, without the specific advice of the consultee, that this is matter on which the application should be refused.

### *Highways*

- 7.51 Concern has been raised in representation in respect of access and highway safety. The site would be accessed off the main highway network at Butts Corner in the valley bottom off Butts Road.
- 7.52 Previously, the Highway Authority (HA) had opposed the development of the conversion of the building on the site to a dwelling. However, on appeal, the appointed Inspector had dismissed this argument. In considering its comments on this application the HA has taken into account the Inspector's comments and concluded that the proposal would



not impact adversely on highway safety and so offers no objection to the scheme.

7.53 The visibility at the site access is shown in figures 23 and 24 below.



Figure 23: Site access (in non-critical direction (west))



Figure 24: Site access (in critical direction (east))

- 7.54 Taking into account that all vehicles using the site can be accommodated on site and that visibility in both directions at the site access is generally good, when taking into account that vehicle speeds will be low, Officers agree with the HA that the development, as a whole, would not adversely impact highway safety and demonstrably harm the highway network.

#### *Contamination*

- 7.55 The Environmental Health Officer (EHO) has noted the creation of some domestic areas/curtilages. In view of this, a condition to address any contamination found is recommended.

#### *Noise and Lighting*

- 7.56 The level of activity from 3 holiday lodges is likely to be limited. However, in view of the location of the lodges and the potential to impact on the quiet area in which they would be located, the prior approval of a noise management plan is considered appropriate by the EHO to mitigate any impact on amenity from the lodges. However, it is not considered by Officers that conditioning the manner in which the lodges are to be used is reasonable or enforceable. Notwithstanding this, the provision of holiday accommodation in the location proposed would create noise and

disturbance to the site and its surroundings and adds to Officer concerns over the wider impact of the development on the character of this area.

- 7.57 Policy AP19 of the NP sets out that “any proposals to install lighting in areas of the Parish that are currently dark at night will be resisted. Dark at night is defined as more than 50m from an existing streetlight. All the elements of the scheme are over 50 metres from the nearest street/highway. All of the three main elements would create additional light, most notably from the lodges which would have large, glazed frontages. This impact does not include any external activity and lighting that may be deemed necessary to light stairs and access points. The additional light would be incompatible with the aims of the Neighbourhood Plan and so this adds weight against the scheme.

*Impact on neighbours.*

- 7.58 The new uses proposed would be located some way from the nearest other residential properties which are located either close to the site entrance or within Kelstedge itself. Such is the distance from these properties that Officers conclude that there would be no adverse impact on them from the proper and reasonable use of the site for the proposed purposes.

*Other Issues*

- 7.59 The Parish Council raise policy AP7 (of the NP) as relevant to this application. However, it relates to new small-scale employment uses which it is not considered applicable to this matter.

## **8.0 Summary and Conclusion**

- 8.1 The application site is located within a countryside area defined as a primary AMES, areas of the District comprising its most valued and sensitive landscapes. In such areas, development should be informed by the character of the area and respect it in accord with Local Plan policies SS9 and SDC3 and Neighbourhood Plan policies AP2 and AP13.
- 8.2 In this case, the conversion proposed would introduce an isolated new dwelling and its associated curtilage into an area where residential development is normally strictly controlled. In accord with the conclusion of the Inspector appointed to determine a similar proposal in 2017 it is considered this would be contrary to the spatial strategy of the Council and the character of the area. Additionally, the dwelling would be located close to an ongoing motocross use such that the impact on the future occupiers would be unacceptable and unable to be appropriately controlled (again in accordance with the Inspector’s conclusion) adding further weight to the

conclusion on this issue. The new dwelling would also add light and activity to the area contrary to Development Plan policies seeking to protect this landscape.

- 8.3 Whilst tourism development is generally supported, in this case the scale, design and character of the proposed accommodation and associated facilities is considered to be alien to and not informed by the landscape character of the area. The design of the buildings is considered especially harmful and by reason of the conspicuous location of the facilities the use would impact adversely on the users of the local footpath network. This weighs heavily against the scheme contrary to LP policies SS9, SDC3, SDC12 and policies AP2 and AP13. The large amount of glazing too would create its own impact, and this would be contrary to the Dark Skies policy of the NP policy AP19 and the noise created would add further harm to the location.
- 8.4 The re-instatement of the former café building on the site is noted. However, the authenticity of the building cannot be guaranteed and weight attached to any heritage value of its resiting on the application site is diluted by the manner in which it is located directly abutting another existing structure and by the fact it would have advisory boarding added to it. There is also no mechanism that would guarantee its construction in any case. Overall, it is considered that it would result in the introduction of another large structure into this otherwise largely undeveloped area without overriding justification. This also weighs against the proposal.
- 8.5 The site has a number of public rights of way crossing it. One right of way (PRoW) runs directly alongside the proposed location of the café building and all three lodges whilst the others offer clear views towards the holiday facilities. It is concluded that the manner in which these PRoWs are experienced would be significantly impacted by the proposed development and this is contrary to LP policy ID8 and NP policy AP21. This weighs against the scheme too.
- 8.6 The formalisation of a motocross use is requested. Whilst noting the “fallback” PD position, there is no Development Plan support for the use or activity due to the noise it creates and the impact it has on the area. Whilst it is accepted that it may proceed under permitted rights there is no policy justification in favour of the scheme and so it is considered there is no public interest in formalising an inappropriate countryside use in such close proximity to existing and proposed residential properties, holiday lodges and a network of PRoWs contrary to LP policy SS9 and NP policies AP2 and AP18.
- 8.7 The proposal also looks to introduce formalised parking and turning areas and upgrade the existing tracks. The level of detail supporting this element

of the proposals is limited but the urbanising impact these additional areas are likely to have on the area generally adds further weight against the scheme.

- 8.8 Detail has now been submitted in respect of potential tree works needed to develop the site, the mitigation necessary and of the ecological impact of the scheme. Subject to any final comments being made on this issue these matters are now considered acceptable but neutral in the planning balance as they merely retain the existing status quo.
- 8.9 In favour of the scheme would be the provision of a single additional house and the contribution to the local economy of a small scale tourism facility along with the localised and short term benefits from any construction. However, it is considered these benefits are limited and carry only limited weight in the balance.
- 8.10 The applicant sets out that the motocross facility is a valued local facility and would otherwise be lost unless the development as a whole is allowed. Comments are made in respect of how the site would be managed without the scheme being approved. Much is also made of the health benefits of the facility. However, there is no evidence submitted to support these claims or any connection made between all the various elements of the scheme or any information set out that show that any one aspect cannot be developed alone and without the other elements or that the motocross facility is otherwise unviable. No mechanism is provided to show that the other elements of the scheme, including the conversion of the building to a dwelling, would sustain the motocross facility or that it would then be retained into the future if permission is granted for the scheme, as a whole. In view of that, Officers are unable to place any weight on these issues. All the elements could, if permission is granted, be developed alone as individual elements, or not at all or as a combination, and no substantive evidence has been submitted to support any of the general contentions made. Officers therefore do not place any weight on these issues.
- 8.11 Therefore, when taken as a whole, it is concluded that the proposal does not conform to the provisions of the Development Plan when read as a whole and there are no other material planning matters that outweigh that conclusion. Accordingly, the application is recommended to be REFUSED.

## **9.0 Recommendation**

- 9.1 That planning permission is **REFUSED** for the following reasons, with the final wording of the reasons delegated to the Planning Manager (Development Management):-



1. Local Plan Policies seek to ensure that new development in rural areas is appropriate to be located there, would be in keeping with the character of the area and, where it is located in an Area of Multiple Environmental Sensitivity (AMES) be informed by, and be sympathetic to the distinctive landscape areas in which they are located.

By virtue of the scale of the alterations proposed, the design of the scheme and the formation of a large curtilage and parking areas to service the proposed dwelling, the potential for lighting to be introduced to the area as well as the potential for the formalisation of the track leading to the property it is considered the proposed residential conversion would adversely introduce additional development into the countryside, fail to be in keeping with and materially detract from, the character of the area, fail to conserve or enhance the natural environment and represents an inappropriate intrusion into the countryside and the designated primary AMES.

Additionally, the dwelling would be formed in a location close to an area used for motocross activities. This activity would have a significant impact on the amenity of any future residents of the dwelling both inside and outside the structure. It has not been shown that this impact can be appropriately mitigated or addressed to an acceptable level and so the provision of a new dwelling in this location would have an unacceptable impact on the standard of amenity of any future occupiers of the dwelling.

The proposed conversion is therefore unacceptable and fails to comply with the requirements of policies SS1, SS9, SDC3 and SDC12 of the North East Derbyshire Local Plan, policies AP2, AP11 and AP13 of the Ashover Neighbourhood Plan and the policies of the NPPF when read as a whole.

2. Local Plan Policies seek to ensure that new development in rural areas is appropriate to be located there, would be in keeping with the character of the area and, where it is located in an Area of Multiple Environmental Sensitivity (AMES) be informed by, and be sympathetic to the distinctive landscape areas in which they are located.

By virtue of the scale, siting, design and use of materials of the proposed chalets and associated café/reception building and its ancillary and associated features it is considered the proposed development would adversely introduce additional unacceptable development into the countryside, fail to be in keeping with and materially detract from, the character of the area, fail to conserve or enhance the natural environment and would adversely introduce additional development into the countryside, and represents an inappropriate development in the countryside and the designated primary AMES.

The proposed development is therefore unacceptable and fails to comply with the requirements of policies SS1, SS9, WC5, SDC3 and SDC12 of the North East Derbyshire Local Plan, policies AP2, AP11 and AP13 of the Ashover Neighbourhood Plan and the policies of the NPPF when read as a whole.

3. Development Plan Policies seek to ensure that new development in rural areas is appropriate to be located there, would be in keeping with the character of the area and, where it is located in an Area of Multiple Environmental Sensitivity (AMES) be informed by, and be sympathetic to the distinctive landscape areas in which they are located. In addition, noisy sports should only be permitted where their impact can be properly controlled and mitigated.

No details have been submitted to show how the impact of the proposed motocross would be mitigated. The motocross use would impact adversely on both the area generally and the amenity of nearby residential occupiers.

The proposed use is therefore unacceptable and fails to comply with the requirements of policies SS1, SS9 and SDC3 of the North East Derbyshire Local Plan, policies AP2, AP11, AP13 and ASP18 of the Ashover Neighbourhood Plan and the policies of the NPPF when read as a whole.

- 4 The proposed development would be undertaken both on and adjacent to the various Public Rights of Way (PRoW) that cross the site. Sufficient information to assess and as necessary mitigate any impact on the PRoWs has not been submitted. Without this information it is not possible to fully quantify the impact of the development and it is concluded there would be unacceptable impact on the footpath network and its users.

The proposed development is therefore unacceptable and fails to comply with the requirements of policy ID8 of the North East Derbyshire Local Plan and policy AP21 of the Ashover Neighbourhood Plan and the policies of the NPPF when read as a whole..