DELEGATED DECISION REPORT

SMD/2016/0771 **Valid 15/12/2016**	**11 FAIR VIEW BATTLESTEADS ALTON**	**CERTIFICATE OF LAWFUL USE OF OUTBUILDING AS ANCILLARY TO RESIDENTIAL USE OF THE DWELLINGHOUSE** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

MAIN ISSUES

- The main point for consideration is whether or not the outbuilding as constructed is deemed to constitute lawful development.

DESCRIPTION OF SITE

This application relates to Fair View, No.11 Battlesteads, Alton. The site is positioned on the southern side of the highway and comprises of a detached rendered bungalow and detached single storey outbuilding that is the subject of this Certificate.

PROPOSAL

This application seeks to certify that the building positioned within the southern corner of the plot constitutes existing lawful development. The application has been supported with a Statement that outlines the site history and the Applicants reasoning to

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2008/1069	Certificate of proposed lawful use or development for detached domestic ancillary accommodation building Refused
09/00039/BOC	Construction of refused ancillary building 08/016 Case Closed

CONSULTATIONS

Publicity

Site Notice expiry date: 25.01.2017

Neighbour consultation period ends: 06.01.2017
Press Advert: N/A

Public Comments

No comments received.

Town / Parish Comments

Alton parish Council: Objection agreed by all the councillors on the grounds this was unlawful development in the first place. It is overdevelopment in the area and will result in an increase in traffic.

OFFICER COMMENTS

This application relates to a structure that was the subject of a previous Certificate of Lawfulness of Proposed Use/ Development that was refused by the Local Planning Authority 4th November 2009. The application submitted at that time was supported by a series of photographs that clearly demonstrate that works had commenced on site. Taking account of the date of submission the Town and Country Planning (General Permitted Development) Order 1995 is applicable to the assessment of this current application.

Class E of the 1995 Order allowed for *the provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.*

The conclusion reached by the Local Planning Authority in 2008 stated that *the Local Planning Authority does not consider that the development would fulfil the requirement within Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. The proposal is not considered to satisfy the criteria of "…for the purpose incidental to the enjoyment of the dwellinghouse…". The proposed uses of areas within the proposed development are uses which are ancillary to the dwellinghouse, not incidental. The proposed floor area will include substantial living accommodation which, by it description and size would not be regarded as incidental to the main residence.*

Following this decision, records show that an enforcement investigation was carried out in 2009. However, in light of an allowed appeal in respect of Braeside, Ashbourne Road, Bradnop (Planning reference: SMD/2008/0739) where the Council refused a CLUPD for the proposed construction of a detached garage; the Local Planning Authority did not consider it expedient to take any further action and consequently the complaint was closed.

Nevertheless, in accordance with Section 171B of the Town and Country Planning Act 1990, as the building has been substantially complete well in excess of 4 years the development, in any event, is considered immune from enforcement action. Taking account of the factors outlined within this report a recommendation for a positive certificate is given.

OFFICER RECOMMENDATION : Positive

Case Officer: Lisa Howard
Recommendation Date: 09.02.2017

X B.J. Haywood

Signed by: Haywood, Ben

On behalf of Staffordshire Moorlands District Council