

## DELEGATED DECISION REPORT

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**SMD/2017/0615**  
**Valid 14/09/2017**

**STANFORD HOUSE**  
**DENSTONE LANE**  
**ALTON**

**APPLICATION FOR A LAWFUL  
DEVELOPMENT CERTIFICATE  
FOR AN EXISTING USE OF  
PROPERTY AS DOMESTIC  
DWELLING (USE CLASS C3)  
AT STANFORD HOUSE  
DENSTONE LANE, ALTON**

**(CERTIFICATE OF  
LAWFULNESS - EXISTING)**

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### THE APPLICATION AND MAIN ISSUES

The application is for a Certificate of Lawful Use which can only be granted in the circumstances where the existing use (on the date of the application) can be considered to have a lawful status that is immune from enforcement action. The app relates to the use of Alverton House as a normal dwelling house (Class C3 of the Use Classes Order).

A use can be lawful through the passage of time (a 4 year continuous period where the use is that of a building as a dwelling) or if results from a change of use that is not a material change of use. The application is to be decided on the basis of a legal determination with only consideration of evidence relating to that factor.

The complicating factor here is that from the 1980s the house has occupied land that has been used for a holiday accommodation, B&B and Motel business. The new owner and applicant simply wants to establish with a certificate of lawfulness that, following the closure of the holiday business, he can occupy the house normally as his dwelling.

However, with this there is the additional proposition that because they are within the same unit of ownership an adjacent outbuilding/coach house can now lawfully be used for purposes that are ancillary to the use of a dwelling. Whether this 'ancillary purpose' could include their occupation by family members is not a question specifically raised in the application.

### DESCRIPTION OF SITE

A detached 4 bedroom, double fronted Edwardian dwelling with an adjacent two storey coach house/outbuilding. The dwelling was once surrounded by paddock and orchard in a small holding arrangement, but this surrounding land was developed in the 1980s to provide a number of holiday accommodation units and facilities.

That surrounding land has since been sold and redeveloped with an arrangement of new houses leaving just the dwelling and the adjacent outbuilding in the applicant's ownership.

## **CONSULTATIONS**

### **Publicity**

Site Notice expiry date: 9.11.2017  
Neighbours consulted.

### **Public Comments**

4 Different Neighbours have submitted a number of written comments all relating to the continuing use of the outbuildings as holiday lets up to as recently as 2015.

## **SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS**

80/09201/OLD Two dwellings and access. Refused.

80/09202/OLD Conversion of Outbuildings to 3 Holiday flatlets. Refused.

81/09544/OLD New access to serve Alverton and its curtilage. Approved.

81/010279/OLD Outline planning permission for a new dwelling. Approved.

SMD/1981/0607 (81/10655/OLD) Conversion of existing outbuilding into 3 holiday flats. Approved 26<sup>th</sup> Jan 1982.

SMD/1982/0847 (82/11588/OLD) Conversion of existing garage into two holiday flatlets. Approved

84/13215/OLD Conversion of flatlets into breakfast room. Approved

SMD/1984/0656 (84/13224/OLD) Construction of five holiday flatlets. Approved.

86/0037/OLD Use of breakfast room by non guests. Approved.

SMD/1986/0940 (86/00713/OLD) Extensions to form kitchen and ladies toilets to guest dining room. Approved

SMD/1987/1225 (87/00929/OLD) Conversion of Summer House and Tennis Changing hut into single holiday bedroom units. Approved.

SMD/1987/1244 (87/00930/OLD) Details of replacement restaurant facility. Approved 14<sup>th</sup> Jan 1988.

SMD/1987/1245 (87/00931/OLD) Conversion of breakfast room to form 4 bedrooms. Approved 14<sup>th</sup> Jan 1988.

SMD/1988/0220 (88/01361/OLD) Extension to form garden room. Approved 19<sup>th</sup> Jan 1989.

SMD/1988/0221 (88/01362/OLD) Conversion of 3 existing holiday flatlets to 7 bed & breakfast holiday units. Approved 20<sup>th</sup> Jan 1989.

SMD/1989/0312 (89/01443/OLD) Proposed Bedroom Block 4 Units .Approved 14<sup>th</sup> Jan 1990.

SMD/1990/0852 (90/00568/OLD) Erection of Storage Building. Approved 11<sup>th</sup> Sep 1990.

SMD/1990/1409 (90/01182/OLD) Details of Restaurant. Approved 29<sup>th</sup> Jan 1991.

SMD/1990/1489 (90/01365/OLD) Extension to Garden Room. Approved 13<sup>th</sup> Feb 1991.

SMD/1991/0289 (91/01165/OLD) New Bedroom Block and extension to form self contained holiday unit. Approved 7<sup>th</sup> Feb 1992.

SMD/1991/0916 (91/00272/OLD) Erection of sign. Approved 25<sup>th</sup> April 1991.

SMD/1994/1060 (94/00566/OLD) Childrens Play Area. Approved 26<sup>th</sup> July 1994.

SMD/1995/0581(95/00826/OLD) Side Extension to form lounge. Approved 13<sup>th</sup> Nov 1995

SMD/1996/0120 (96/1116 /OLD) Storage Shed. Approved 6th March 1997.

SMD/1998/0035 (98/0112 /OLD) Extension to Lounge. Approved 6<sup>th</sup> April 1998.

SMD/1998/0658 (98/0111/OLD) Extension to holiday unit. Approved 6<sup>th</sup> April 1998.

SMD/1998/0779 (98/0844/OLD) Single storey domestic extension. Approved 19<sup>th</sup> Nov 1998.

SMD/1999/0497 (99/01417 /OLD) Single storey front extension to bar. Refused 1<sup>st</sup> March 2000.

SMD/1999/0773 (99/00056 /OLD) Extension to Holiday Unit. Approved 9<sup>th</sup> March 1999.

SMD/2000/0552 (00/00939/FUL) Extension to Games Room. Approved 22<sup>nd</sup> Nov 2000.

SMD/2005/0080 (05/00362 /FUL) Detached building for civil marriages. Approved 8<sup>th</sup> June 2005.

SMD/2008/1482 (08/01990 /FUL\_MJ) 16 2 bed starter homes. Refused 18<sup>th</sup> June 2009.

SMD/2017/0390 Proposed Garage. Withdrawn.

SMD/2017/0615 Certificate of Lawfulness. Pending.

## **SUMMARY OF PROPERTY AND PLANNING HISTORY**

The 4 bedroom property Alverton house was built in the early 20<sup>th</sup> Century. By 1922 there were a couple of glass houses on the land and a detached two storey brick outbuilding/coach house (historic aerial O.S. maps 1899-1901 & 1922-25). The earliest planning history begins in 1980 with the previous owners, Mr and Mrs Keates, making applications to build new houses on their property. However, the grant of an outline permission for one dwelling was not followed up.

In January 1982 a permission was granted to convert the outbuilding into '3 holiday flatlets' subject to a condition that restricted the occupancy to holiday makers. The details of the application show that these 'flatlets' would be self contained, 2 bedroom cottages and the red edge on the approved layout plan apportioned the 'flatlets' a planning unit that was separate to that of the applicant's house.

Later that year a planning permission was granted for another two flatlets to be created in an adjacent detached garage building. But just 2 years later, 1984, planning permission was granted to build a block of 5 new holiday flatlets and to convert the two in the old garage into a breakfast room for guests, with a toilet and kitchen extension permitted in 1986.

In the late 80s and early 90s there were plans to build a large new restaurant building adjacent to the original house and to create further bedroom units by converting the existing breakfast room into 4 bedrooms, a summer house and tennis changing room into single bedroom units, construct another 4 bedroom block and to convert the 3 original holiday flatlets into 7 bedrooms – Planning permissions were granted for all of these developments.

In 1988 and 1991 permission was granted for the new restaurant building but it does not appear as though it was ever built. It is also not clear whether all of the bedroom unit permissions were implemented, in particular whether the original 3 flatlets were actually converted to the 7 B&B bedroom units or whether the old garage breakfast room became additional bedroom units and meals were provided elsewhere on site. However, it does generally appear as though the business continued to expand and its model moved from the provision of self catering holiday cottages to the provision of numerous guest bedrooms and breakfasts/meals in a separate guest restaurant building and by 2002 the business had been incorporated as Alverton Motel Ltd.

Rather than construct the restaurant building the applicant's house was extended on each side to provide lounge and garden room extensions. The extent to which the original house became used, if at all, in connection with the business is not entirely clear, it may have been that breakfast was served in the house taking advantage of the extended space, while the old garage breakfast room was sacrificed to provide additional bedrooms, but there is no evidence to explain or detail this.

In any event, in 2012 the majority of the business land was sold for housing development and the owners had applied to Companies House to strike off the limited company. All of the buildings providing flatlets and bedroom units were removed for development leaving the main house and the two storey outbuilding that originally provided the 3 flatlets. There is evidence from the online marketing and neighbour's observations that the accommodation within the outbuilding was last used, up until Autumn 2015, prior to the applicant's purchase as three self contained flatlets, marketed as Weeping Ash, with the option of a continental breakfast provided within the kichenettes. Some of the neighbour's evidence suggests that the 'Weeping Ash' guests would register and park first at the main house, but there is no substantive evidence that guests would stay or breakfast actually in the main house. After all while it has been extended fairly extensively on the ground floor Alverton house is still essentially only a 4 bedroom dwelling.

Now the new owners occupy the property, the main house is occupied as their dwelling house while it is reported that their two grown up children live in the flatlets with their respective partners – there does not appear to be any intention of using any of the property for business purposes.

## **OFFICER COMMENTS**

### Alverton House

Whether Alverton House can, following any association it has had with the holiday business, now be used lawfully as a dwellinghouse seems in itself a relatively straight forward question. Alverton House was built as a four bedroom dwellinghouse, the previous owners Mr. and Mrs. Keates occupied it as such for the whole of their ownership. I am not convinced that the house has ever had a composite or mixed use of say hotel and dwelling but this is not something which the evidence resolves definitively. While there does seem to be some likelihood that at one time guests maybe had breakfast in the house and registered there as a reception, the limited number of bedrooms makes it unlikely that guests stayed in the house and any associated business use of the house is unlikely to have been of an extent or significance to cut across the primary or prevailing use of the house as Mr. and Mrs. Keate's dwellinghouse.

It does not appear as though planning permission has ever been granted to change the use of the house to any kind of different business use and even if at one point the use had become a mix of something similar to dwelling house and hotel, ceasing one element of the mixed use so that just the dwellinghouse element remained, would not have resulted in a material change of use requiring planning permission.

In any event, section 171B(2) of the Act provides that the use of any building as a dwellinghouse becomes lawful after 4 years and it seems clear that from 2012, following the close of the Alverton Motel business, the Keates and then the applicant used the house only as a single dwellinghouse. If during this time flatlet guests called and registered or if bedding, for example, was laundered at the main house, this would not in my view have materially changed the prevailing characteristics and impact of the use which was undoubtedly that of the owner's dwelling house. A certificate can be issued in respect of the use of the house as a C3 dwellinghouse.

### The Flatlets/Outbuilding

All of the neighbour's comments and evidence that has been forwarded as objections to this application point out that up until as recently as 2015 the outbuilding has been let out as holiday flatlets and operated as a holiday business. This has no implication for the use of the main house that as previously discussed, is a straight forward matter. However, it does show that up until relatively recently the outbuilding has been used for a purpose that is materially different and physically and functionally separate from that of the dwelling.

While the flatlet outbuildings would have once been coach houses and stables within the grounds of Alverton House they have been subject to at least one material change of use, possibly more, since 1981. Firstly they were granted a planning permission that would have established them as three self contained holiday cottages in their own planning unit, and then a following permission allowed them to change into a 7 bedroom motel unit. While it is not clear whether the 7 bedroom permission was implemented, the submitted evidence does not detail this, there is strong evidence that they have most recently been used and available as three self contained holiday cottages, albeit guests could be provided with a continental breakfast in their kichenette. It is far from clear, therefore, that these buildings can lawfully be used as ancillary accomodation or purposes without another material change of use occurring and a planning permission being necessary. There has simply been no evidence submitted that details and explains either the way in which the buildings are currently used or any planning history, recent or otherwise. A certificate can not be granted for the use of the buildings therefore.

### The footpath link

The applicant also includes within the red edged land relevant to his application, a strip of land between the highway and the house that is under his ownership but has its own separate land title. This land strip formed part of the land that was granted planning permission for the housing development and provides a vital footpath link for the new houses. It is simply outside of the curtilage or planing unit of the applicant's dwelling and shall be exluded from the effect of the certifcate.

### **CONCLUSION / PLANNING BALANCE**

A certificate of lawfulness should be granted for the use of Alverton House as a dwelling house, however, the outbuildings and footpath link have physically and functionally separate uses and are outside of the dwellings planning unit.

**OFFICER RECOMMENDATION :     Issue Certificate**

**Case Officer: Ben Hurst**

**Recommendation Date: 6/11/17**

X *B.J. Haywood*

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Signed by: Ben Haywood

**On behalf of Staffordshire Moorlands District Council**