DELEGATED DECISION REPORT

SMD/2018/0772 **Valid 10/12/2018**	**INGLENOOK REACLIFFE ROAD RUDYARD**	**APPLICATION FOR LAWFUL CERTIFICATE FOR EXISTING USE OF LAND AS A DWELLINGHOUSE AND ASSOCIATED GARDEN** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

THE APPLICATION

The current and longstanding occupant and owner of Inglenook wishes to establish confirmation by way of legal determination that the existing and lawful use of the building and its surrounding curtilage is that of a dwellinghouse (Class C3 of the Use Classes Order). The following evidence is available:

- O.S. maps show that Inglenook had been built before 1922, before the first Planning Act and the 'appointed day' in 1947.

- Photographs taken in the 1950s and 1960s show that the building was apparently built for the purposes of providing dwelling accommodation for holiday makers and was used accordingly.

- The applicant's statement of truth which explains that from the late 1980s until 1997, while the property was still in his mother's ownership as part of her inheritance, he renovated and modernised the property before moving in. He claims to have lived there, using the property as his sole and main residence, since 1997 and was gifted ownership of the property in 1998.

- Council Tax Bills from 2014/2015 through to 2018/2019

- Electricity Bills from 2014 to 2018

KEY LEGISLATION

For the purposes of the Act uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and they do not constitute a contravention of any of the requirements of any enforcement notice then in force (s.191(2)(a)&(b)).

The time for enforcement action expires in respect of a breach consisting of the use of a building as dwellinghouse after a period of 4 years; and the use of land after a period of 10 years (s.171B (2)&(3))

DESCRIPTION OF SITE

Timber chalet dwellinghouse erected in the early 20th century as a holiday retreat for visitors to Rudyard Lake. 'Inglenook' was one in a row of similar properties to the edge of the woodland evident on a 1922 – 1925 Ordnance Survey map. Inglenook and its distant neighbours Braeside and The Laurels are the only three that survive from that row.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None – the building pre dates the first planning Act and was built without the grant of planning permission.

PUBLICITY

The nearest neighbours were notified in writing. No comments have been received.

Town / Parish Comments

Awaited

OFFICER COMMENTS

First and most obvious observation here is that O.S. maps show that Inglenook had already been built before 1922. It pre dates the first Planning Act and the 'appointed day' in 1947. It would have therefore been built without an express grant of planning permission at a time when planning permission would not have been required and is not subject to any restriction that would limit the terms or periods of occupancy. Inglenook was a chalet clearly built to provide living accommodation as a lake side holiday retreat, it has not at any time within its history, been used for any intervening purpose. The use of the property as a more permanent residence in latter years would not have resulted in a material change of use (both Class C3 of the Use Classes Order).

If the use of Inglenook as a single dwellinghouse had resulted in a breach of planning control, which is not considered to be the case - no enforcement action maybe taken after the end of a period of 4 years in respect of that breach; and in respect of the use of the surrounding 'curtilage land' for purposes that are ancillary and functionally linked to that use of Inglenook, no enforcement action maybe taken after a period of 10 years (s.171B(2) & (3) of the Act). The evidence, substantiated with copy documents, is clear and precise pointing at a period of use well in excess of the 4 and 10 year time periods prior to the date of the application.

No enforcement action may therefore be taken because the applicant's use of Inglenook (building and land) as a dwellinghouse did not result in a material change of use and planning permission would not have been required; and in any event the Council would now be out of time to take action.

I have checked the Council's records and can not find that there are any enforcement notices in force. The applicant's use of the property would not constitute the contravention of any requirement of a notice.

CONCLUSION / PLANNING BALANCE

For the purposes of the Act therefore, section 191(2)(a)&(b) makes it clear that in these circumstances the use of the property should be considered lawful and a certificate can be granted.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 28/01/2019

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council