DELEGATED DECISION REPORT

SMD/2020/0487 **Valid 09/09/2020**	**ROCKHAVEN SMITHY BANK** **ALTON**	**CERTIFICTE OF LAWFULLNESS FOR EXISTING USE AS RESIDENTIAL.** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

MAIN ISSUES

The application is for a Certificate of Lawfulness relating to a change of use from a bed and breakfast back to the use of the building as a dwellinghouse. The change of use can only be granted in the circumstances where the use (on the date of the application) can be considered to have a lawful status that is immune from enforcement action.

This type of change of use, to the use of a building as a dwellinghouse, can become lawful through the passage of time (a 4 year continuous period). The application is to be decided on the basis of a legal determination with only consideration of evidence relating to that factor.

DESCRIPTION OF SITE

A detached purpose built dwellinghouse in the centre of Alton Village. There appears from historic maps, to have been a dwelling in this location since the 19th Century. However, the existing dwelling doesn't have an obviously 'historic appearance', this may be a consequence of renovation and conversion work necessary to convert the dwelling into a bed and breakfast under the planning permission granted in 1997.

Rockhaven is built against the curtilage boundary to the north and the steep rock face to the east. Despite this the curtilage is sizeable and provides parking and garden in an enclosed area to the front.

THE APPLICATION

Rockhaven originates as a dwellinghouse. However, in 1997 the current owner and occupier gained planning permission to carry out some conversion and extension work and to change its use to a bed and breakfast. During this time he and his wife lived at the property, using it as their home, while offering and operating the service.

In 2008 they simply ceased trading and using the property as a bed and breakfast (for reasons of deteriorating health). However, they of course continued to live there using it only as their dwellinghouse. Perhaps not surprisingly, they did not apply for a planning permission for the change of use from B&B back to dwellinghouse.

The property now has an agreed sale and solicitors have asked for confirmation that the former B&B can be lawfully used as a dwellinghouse.

The applicant and current owner/vendor simply provides, as evidence, a covering letter/statement and council tax records.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
97/0374/OLD Conversion and change of use to bed and breakfast. Approved.

CONSULTATIONS

Publicity

Site Notice expiry date: 13th November 2020
Press Advert: N/A

Public Comments
None

Town / Parish Comments
No Objection

OFFICER COMMENTS
We arrive at a rather unusual situation where the lawful status of the property as a dwellinghouse has come under question, simply because the residents stopped offering bed and breakfast accommodation. It does occur that there might actually be some debate around whether the bed and breakfast use actually resulted in material change, and needed planning permission in the first place, and then, indeed, whether there was a material change of use when that use and trade ceased – at all times the property was used primarily as the owners home and dwellinghouse. In saying that I do not intend to explore or discuss this matter any further, it is unnecessary, because the prevailing fact is that the property has only been used as a single dwellinghouse since 2008, well over 4 years.

Planning permission was granted in 1997 (97/00374/OLD) for a change of use at this dwellinghouse to a bed and breakfast.

The applicant says that he has lived at Rockhaven for 55 years using it as his dwellinghouse until a recent sale of the property. Throughout the time that Rockhaven offered bed and breakfast accommodation, he and his wife lived there continuing to use it as their home.

They ceased trading in 2008 when the health of the applicant's wife had deteriorated to an extent that she could not continue. An internet search reveals that the Rockhaven B&B limited company was dissolved, even earlier than that, in 2004.

This means that the property has only been used as a dwellinghouse, with no element of guest house accommodation, since 2008 at the latest.

There is no countervailing evidence or reason to doubt this straight forward clear version of events. Nobody has responded to the publicity.

CONCLUSION / PLANNING BALANCE

The use of this property as a single dwellinghouse is immune from enforcement action and lawful.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 16th November 2020

X B.J. Haywood

Signed by: Ben Haywood
On behalf of Staffordshire Moorlands District Council