DELEGATED REPORT

FILE REFERENCE: SMD/2016/0293

MAIN ISSUES:

Whether or not on the balance of probabilities the stone barn attached to the dwelling was used for purposes ancillary to the residential use of the house for a continual period of more than ten years along with a small single-storey extension to the barn that was built without planning permission.

PUBLICITY/REPRESENTATIONS:

Parish Council: Supported

CASE OFFICER ASSESSMENT:

The application is for a certificate of lawfulness for the use of a barn attached to a dwelling as residential floorspace linked to the dwelling (on a property called "The Croft") and also for the lawfulness of a small lean-to structure built onto the rear wall of the barn and its use also as part of the dwelling.

Under planning legislation, if the applicants can demonstrate/give evidence that the lean-to (which was built without planning permission) has been present for more than ten years and the use of both the lean-to and the barn as accommodation ancillary to the main house have occurred continually for the same period, then both the works and use would be deemed to be lawful. This is because under Section 171 and Section 191 of the Town and Country Planning Act 1990, breaches of planning control for this continual length of time, become exempt from enforcement action (i.e. and therefore the works and the use of buildings therefore become lawful). Although the onus is on the applicant to demonstrate the breaches, on the basis of the provided evidence, if the Council considers on "the balance of probabilities" that the breaches have occurred continually for more than ten years, then the Certificate can be issued.

The evidence provided by the applicant includes a Planning Statement containing photographs of the interior of the barn, a structural inspection report dated 20th Feb 2002 and also builders invoices from 2002 and 2003.

A drawing attached to a planning application submitted to the Council in 1998 (Ref: SM98/0200) has been submitted and shows a two-storey extension to the barn to provide a garden store on the ground floor and en-suite bathroom internally connected to the barn on the first floor. This was approved by the Council but the extension was not built. The applicant claims the lean-to was built instead of the two-storey extension. However, the drawings show the layout of the barn which has rooms marked as library and study on the ground floor and bedroom and landing on the first floor. Although this does not give evidence the barn was used for this purpose (it could have been a proposed layout not implemented), the 2002 building inspection reported carried out for a change in ownership comments that "the attached barn other than being re-roofed has not been completed although this work was in progress".

The builders invoices refer to "work done on renovation" and include structural works, re-pointing, new windows and works to the walls and floor.

On the site visit, the above works described had clearly been done and the lean-to comprised domestic storage and a WC. There was also some domestic storage in the barn.

Although the above does not give evidence that the barn and lean-to have been used as habitable accommodation for a continual period of ten years, the above is evidence that any agricultural use of the barn had ceased more than ten years ago and that the works carried out, although not complete were clearly in connection with the domestic use of the structure and were commenced more than ten years ago. I therefore consider that on the balance of probabilities, although the structures have not necessarily been "lived in", they have been used for purposes connected to, or ancillary to, the main residential use of the dwellinghouse. I therefore consider a Certificate of Lawfulness can be issued for the use of the buildings for purposes ancillary to the residential use of The Croft.

RECOMMENDATION:

GRANT CERTIFICATE OF LAWFULNESS

Date 05/07/2016 **Signed** _____
Chris Johnston

DEVELOPMENT CONTROL MANAGER COMMENTS:

Date **Signed** _____