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## Appeal Decision

Site visit made on 27 October 2016

**by B Bowker Mplan MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28 December 2016**

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**Appeal Ref: APP/P0119/W/16/3154364**

**Cloud Nine Barns, Cloud Nine, Church Road, Severn Beach BS35 4NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015..
  - The appeal is made by Mr Richard Larner against the decision of South Gloucestershire Council.
  - The application Ref PT16/1339/PNGR, dated 20 March 2016, was refused by notice dated 1 June 2016.
  - The development proposed is change of use of two agricultural buildings to two dwelling houses and associated operational development.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. Clarification and comments were sought from the parties regarding the floor works proposed and the effect of a recent High Court judgement<sup>1</sup> on the proposal. Accordingly, the appeal has been determined taking into account the High Court judgement and the comments received.

### Main Issues

3. In order to be considered permitted development, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), requires that the proposed building operations are reasonably necessary to convert the building for residential use. Should the proposal be considered permitted development under the exceptions listed in Q.1, the proposal is then required to satisfy the conditions listed in GPDO Class Q.2 which includes consideration of flood risk.
4. The Council's concerns relate to the extent of building operations proposed and flood risk. Based on the information before me, I have no reason to dispute the Council's acceptance of the proposal's compliance with the other requirements listed at Q.1 which includes the site being used solely for agricultural use as part of an established agricultural unit on 20 March 2013.
5. Consequently, the main issues are:
  - whether the proposal is permitted development having regard to building operations proposed, and if so;

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<sup>1</sup> Hibbitt v. SSCLG [2016] EWHC 2853 (Admin)

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- Whether future occupants would be safe from flooding.

## **Reasons**

### *Permitted development*

6. Paragraph Q.1 (i) allows for the installation or replacement of windows, doors, roofs, or exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. Planning Practice Guidance advises that "It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right".
7. I have not been provided with a structural report or with calculations to demonstrate that the buildings are structurally capable of accommodating the proposal. But the Council do not question the structural capability of the buildings to accommodate the proposal. This matter aside, in order to be considered permitted development, Class Q requires the development to consist of building operations that are reasonably necessary to convert the building. The referenced High Court decision above clarifies that the overarching provisions of Class Q is a freestanding requirement in itself which necessitates development to amount to a conversion before being considered under the exceptions in Q.1.
8. The appellant's Conversion Method Statement in response to the High Court judgement outlines that the works proposed to the Dutch Barn involves smooth faced block constructed to a raised ground floor level on all elevations and new zinc cladding 'hung' from the existing steel frame. The appellant also highlights that unlike the Dutch Barn at the appeal site, the building subject to the High Court judgement was described as being open on all three sides. In addition, I accept that in comparison to the Dutch Barn, the Dairy Barn is a more substantial building with solid walls and roof construction.
9. However, the works proposed to the Dutch Barn are similar in extent to the proposal subject to the High Court judgement, involving the construction of four new external walls. In addition, the appeal before me also involves extensive ground floor works which contributes further to the extent of construction required to enable residential use of the Dutch Barn.
10. Therefore, I conclude that the works necessary for the Dutch Barn's steel frame and roof to function as a dwelling go well beyond what could be described as conversion and would be so extensive as to comprise substantial rebuilding works. Consequently, the extent of works necessary to create a dwelling from the Dutch Barn would fall outside the permitted development right under Class Q of the GPDO.

### *Other matters*

11. Given I have concluded that the proposal is not permitted development under Class Q, it is not necessary for me to consider the prior approval matter of flood risk any further as it would not alter the outcome of the appeal. I also note the two letters in support for the appeal and that this decision will disappoint the appellant who has submitted a number of proposals to develop

the site. However, these matters do not alter the facts of the case as outlined above.

**Conclusion**

12. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

*B Bowker*

INSPECTOR