

SUMMARY FROM CUMPASS

DCS reference: 200-000-560

hearing: 2013

County: SWANSEA

RE APPEAL DECISION FROM
GOWER, SWANSEA.

Inspector: RENNIE, G

ALLOWED

An inspector deleted an agricultural occupancy condition attached to the permission for a bungalow in south Wales, finding that it was redundant following the grant of a certificate of lawfulness.

Planning permission for the farm bungalow had been granted in 1979. A unitary development plan policy stated that the removal of an agricultural occupancy condition would only be permitted where the agricultural need advanced at the time no longer applied and there was no need for the dwelling to meet the long term needs of the agricultural community. The inspector acknowledged that the bungalow had not been marketed to the agricultural community for sale or rent at a realistic affordable price as required by the policy. Nevertheless, a certificate of lawfulness for planning purposes had been granted in 2012 in recognition that the bungalow had been occupied in connection with an adjacent caravan site in breach of the condition for more than ten years. The council maintained, however, that the conditions for the removal of the condition had not been met and that the property should remain available for agricultural occupation at some future point in time. The inspector pointed out that circular 35/95 The Use of Conditions in Planning Permissions stated that conditions should satisfy a number of tests, including that conditions were enforceable. The CLPP effectively granted immunity from enforcement of the condition and therefore made it impossible for the council to enforce. Moreover, TAN6 sought to ensure that such conditions were extended to persons who would be eligible for affordable housing. The inspector concluded that the condition was unenforceable and therefore redundant. He considered that the notion that at some time in the future the breach would cease and the condition would reclaim a degree of enforceability and satisfy its original purpose was a spurious one.

Related DCP Online Sections

- 3.14 The power to call in applications
- 4.412 The six tests
- 5.133 Applications for full planning permission
- 7.1 Housing estates
- 9.3 Agricultural, forestry and equestrian dwellings