



Lammas Low Impact Initiatives Ltd

The Process

Lammas' experience of the Planning System
December 2006 – August 2009



June 2006, Lammas submitting its first Planning Application

A compilation of three earlier reports:
The Process
The Process Updated
The Process part 3

Written by Paul Wimbush, Lammas project coordinator, October 2009

Contents

Introduction
Context
Scope of report
Beginnings
Pre-application meeting
Further dialogue
Design Commission for Wales
Correspondence
The Planning Report
The ADAS Assessment
Wider Context
Freedom of Information and ADAS briefings
Attempt to Appeal
Press Statements
High Court Proceedings
PCC Complaint Investigation
New Submission
Request for letters of support to be considered
Attempts to Dialogue
Lammas Families
Chasing up payments due
Permitted Development Rights?
Information Requests
The Appeal
The Public Hearing
Result
The Final Twist

Appendices

App. 1 Minutes of Pre-application meeting
App. 2 Notes from Pre-application meeting
App. 3 Letter of complaint regarding freedom of information violation
App. 4 Correspondence concerning ADAS report
App. 5 Letter from Planning Inspectorate
App. 6 Letter from Lammas initiating High Court Proceedings
App. 7 Letter from Head of Planning

Introduction

The Lammas project began in August 2005 following news of an emerging local planning policy (Policy 52, Pembrokeshire) that provided an innovative framework for sustainable rural development. The project aimed to create a flagship project that would highlight the opportunity afforded by the new JUDP¹ to allow people to build low-impact homes and create sustainable lifestyles in the open countryside, subject to eight strict policy criteria. The project was designed from the outset to wholly comply with Policy 52.

Context

The Lammas project is of international importance. The fact that the planning application received over 1500 letters of support is testament to that. The letters came from all over the world. They included letters from farmers, architects, community councillors, builders, academics, businesses, students, media companies, elected politicians, environmental scientists, crofters and planning officers.

Lammas is a voluntary organisation² that represents the interests and low-impact aspirations of hundreds of people from all over the UK. It has over 150 members.

Low Impact Development is generally an approach adopted by families who are in need of affordable housing solutions and have a passion for and commitment to land-based sustainable living. The Lammas organisation is not a corporate developer with the backing of corporate financial budgets.

Scope of Report

The supplementary planning guidance (SPG) for Policy 52 '*Low Impact Development: Making a Positive Contribution*' describes dealing with the authorities as a "process" (point 3) and goes on to suggest that a dialogue will take place (points 4-6).

This document is an attempt to shed light on how the "process" has been for us. It has been designed to provide a comprehensive overview of events and as such does not address the planning merits of our proposal, which are considered in exhaustive detail elsewhere. It is an attempt to share our experience of the planning system. We invite the reader to draw their own conclusions.

Beginnings

Between its inception in August 2005 and December 2006 Lammas endeavoured to design and articulate its vision of a low-impact rural development. It established a website and underwent a comprehensive permaculture design process. It attracted people and support sufficient to launch the project. It also identified a site suitable for the project.

¹ Pembrokeshire JUDP, July 2006

² An Industrial and Provident Society

Pre-Application Meeting

In mid-December 2006 Lammas submitted a formal request for a pre-application meeting with PCC about its proposed low-impact development at Pont-y-gafel farm, Glandwr.

After four months of lobbying, a pre-application meeting was finally arranged for April 2007. The meeting was held in County Hall, Haverfordwest and was attended by four Lammas representatives, David Lawrence (head of planning) and Peter Sedgewick (forward planning, co-author of Policy 52).



*The Lammas representatives outside County Hall
Pre-Application meeting, 26th April 2007*

One of Lammas' primary concerns was the question of how the planning system, which was used to dealing with agricultural applications, was going to assess a permaculture project.

At this meeting it was agreed that a conventional agricultural assessment would be wholly inappropriate for an application under Policy 52. Lammas was assured that if any assessment was going to be employed, that it would be done so by people who were familiar with Permaculture and Low Impact Development and it would not be based on conventional agricultural criteria.

It was also agreed that Mr Lawrence would facilitate a meeting with Highways if one was necessary.

Lammas was old that the application was being viewed favourably and that there was every reason to expect a recommendation for approval.

The notes from this meeting and the minutes for this meeting (in the form of a letter to PCC) are included in the Appendices. Peter Sedgewick later confirmed that the meeting notes were a fair representation of the meeting. David Lawrence never replied to the letter.

Further Dialogue

The original planning application was submitted in June 2007 and contained over 800 pages of text and 200 drawings. It was delivered (in quadruple copies, as requested by PCC) by wheelbarrow to highlight the administrative feat we were being asked to present.

From June 2007 until October 2007 Lammas requested additional meetings with David Lawrence, our case officer, about the planning application to no avail. In our experience it was extremely difficult to communicate with David Lawrence. We were, however, repeatedly assured by him that our application would be recommended for approval, and that should any issues arise then he would let us know.

Five days before the planning committee meeting we were told that our application was being recommended for refusal. This was a complete reversal of what we had been led to expect throughout all our attempts to maintain dialogue with PCC.

The report to committee (October 2007) recommend refusal on grounds which David Lawrence had at no point raised with us, at the pre-application meeting or subsequently. Furthermore, it was misleading, factually incorrect and wholly misrepresented our application. We lobbied for a deferral to challenge the evidence against us and were not given any opportunity to present our case.

The application was refused on October 9th 2007 primarily on grounds of insufficient data (in regards to traffic generation and business plans). We were denied any opportunity to speak at the planning committee meeting. Given the level of personal and financial resources that had gone into the application and the need for a more flexible, inclusive and empowering approach from the planning system to embrace Low Impact Development, this was wholly unsatisfactory.

Lammas then spent 6 months rewriting the entire application. During this period (October 2007 to March 2008) we were advised that meeting with PCC planning department was inappropriate because there was, in effect, nothing to discuss until we resubmitted our application.

On March 11th 2008 Lammas resubmitted its planning application. It was now 1185 pages, and included over 250 scale drawings, over 60 financial spreadsheets and was supported by 2 scale models.

Following the SPG's advice, we continued to lobby for a meeting to discuss our application until June 2008 at which point we gave up any hope of a further meeting as a lost cause.

Design Commission for Wales

In the meantime Lammas requested a review from the Design Commission for Wales, which was granted and set for April 2008. Representatives of the Design Commission emphasised to us the importance of the role of the Commission in creating a forum for productive dialogue between applicants and planning officers. They were particularly keen that our case officer attended.

On 12th March we invited our Case Officer along to the review. We had been asked by representatives of the Design Commission for Wales to confirm persons attending by April 2nd. We encountered considerable difficulty in getting a commitment from PCC that our case officer would attend the meeting. It was finally acknowledged that he would attend at the eleventh hour following direct intervention by the Design Commission for Wales.

The Design Commission Review was held on April 16th and Lammas presented its design using two models and a slideshow presentation. A lengthy discussion between all parties was subsequently held, with our lead Design Commission Panelist describing Lammas as "the most inspiring project he had ever seen in all his time at the Design Commission."

A written report (Design Commission for Wales, 2008) was produced on the 29th April and sent to PCC Planning Department as a consultation document for the planning application. The report describes the Lammas application as "a significant and inspiring project" and encourages the Local Authority to support and work with Lammas so that the project can succeed and become an exemplar of Low Impact Development.

The Design Commission's report was not even mentioned in Pembrokeshire County Council's subsequent report document to the planning committee.

Correspondence

Here follows a catalogue documenting the relevant correspondence between Paul Wimbush (on behalf of Lammas) and PCC Planning Department between March 2008 and August 2008.

11 March 2008

The Lammas Planning Application was re-submitted by hand with a letter to the case officer requesting a meeting to discuss the application and requesting that the application be dealt with within the standard 8-week period.

12 March

I wrote to PCC head of planning about the Design Commission for Wales meeting requesting that a provision be made for our case officer to attend.

27 Mar.

Having had no reply, I phoned PCC and spoke to Stuart Longhurst (Planning Admissions Officer, PCC) who informed me that the application had just been printed and was being assigned a "number" that afternoon. He explained that David Popplewell (Planning Officer, PCC) would probably be our case officer and he was on holiday until Monday. I explained about the Design Commission for Wales meeting and the Design Commissions need to confirm attendees for the meeting by April 2nd.

I followed up this phonecall with an e-mail to Stuart Longhurst requesting confirmation of PCC representative attendance at the Design Commission meeting.

I also phoned Peter Sedgewick (Forward Planning Officer, PCC) and explained about the Design Commission for Wales meeting. Peter Sedgewick said he would e-mail around the PCC Planning Department to make sure that everyone was aware of the meeting.

28 Mar

Having had no reply, I phoned Stuart Longhurst - he hadn't received e-mail from Lammas (the wrong e-mail address is on the PCC website). Later that day he returned my call and gave Lammas a 'case number' for its planning application. He confirmed that David Popplewell was our 'case officer'.

31 March

9am. I e-mailed David Popplewell. No reply

4pm. I Phoned PCC. Spoke to David Popplewell. (again, wrong e-mail address on PCC website). David Popplewell had heard of the Design Commission for Wales meeting. He had been told to look further into it (by Alf Williams, deputy head of Planning). He informed me that in order to avoid 'prejudice' – someone else from the department (ie, not our case officer) would probably be sent, for example a junior clerk. I explained that this was not satisfactory. David Popplewell assured me that he would respond to the Design Commission with an answer by 2nd April.

I then phoned the Design Commission for Wales Chief Executive (Caroline Davis). She assured me that it was common practice for case officers to attend, and had never heard of a Planning Authority questioning this procedure. The Design Commission resolved to contact PCC about

the situation. I e-mailed David Popplewell explaining and referencing my conversation with the Design Commission.

Wednesday 2 April

Having had no confirmation of PCC attendance at the Design Commission meeting.

2.30pm. I Phoned PCC and spoke to Chris Wilks (Clerk, Planning Dept). I was told that David Popplewell was on holiday till Monday. Chris Wilks said he would chase it up and get back to me today.

4pm. Chris Wilks called to say they don't have a home telephone number for David Popplewell, though the head of department (Stephen Hurr) is happy for him to attend the Design Commission meeting in principal. He assured me that David Popplewell would ring first thing Monday morning.

I e-mailed David Popplewell explaining that we have reserved him a place and could he confirm asap.

Monday 7 April

Having had no response from David Popplewell,

10 am. I phoned David Popplewell

He hadn't heard from Chris Wilks. He said he would look into it the situation today and if okay with (his boss), will confirm. Either way he would get in touch with the Design Commission today and ring me back today.

I suggested meeting before the Design Commission for Wales Review to discuss the application (suggested 9th April) – David Popplewell declined.

4pm. David Popplewell phoned me and confirms that he will attend the Design Commission for Wales meeting.

16 Apr.

Design Commission Review attended by various Lammas representatives and David Popplewell. I talked with David Popplewell, requesting a meeting about the application. He said that he would be ready for a meeting to discuss our application in 2 -3 weeks, and that I should contact him then.

30 April

I phoned David Popplewell. He said he was still not ready to meet and that he would contact me within 2 weeks to arrange a meeting.

12 May

Lammas sent David Popplewell a letter about updated planning information regarding the application.

14 May

Having had no contact from David Popplewell about the promised meeting,

4.30pm. I Phoned David Popplewell – not there, he had left the office early

5.15pm. I then Sent David Popplewell an e-mail expressing frustration at lack of dialogue.

15 May

2.30pm. I Phoned David Popplewell – not there – I then left a message for him to call me asap (with home and mob numbers)

16 May

4.40pm. I Phoned David Popplewell. Not there. Left another message for him to call me asap (with home number)

20 May

Still having had no response from David Popplewell about the agreed meeting,

9.20am I Phoned David Popplewell. He was not at his desk. I left a message for him to ring back asap

10.10 am. I Phoned David Popplewell. We talked. David Popplewell said he wanted more time so that he could send the planning application to ADAS for consultation and that there were 'other issues', though he was not in a position to divulge what these other issues were. He repeatedly stated that he would write to Lammas by 27th May. He suggested that dialogue (and thus a meeting) at this stage was inappropriate.

I e-mailed David Popplewell requesting clarification on a point of discussion.

2 June

Having had no communications from David Popplewell,

I e-mailed David Popplewell explaining we have received no letter and asked what for an update on what was happening.

6 June

Lammas received letter from David Popplewell requesting a time extension.

8th June

I received e-mail from David Popplewell confirming letter requesting time extension.

10 June

Lammas wrote to David Popplewell agreeing time extension until 31st July.

I telephoned David Popplewell and had a 25 minute talk. David Popplewell said that PCC would consider all e-mails/ representations until the report to committee was written, and they still can't find missing letters of support (20 letters of support had been submitted to Pembrokeshire County Council on 18 April 2008, and had on further investigation on Lammas' part, been lost). He said PCC had now decided not to consult ADAS or raise any new issues for this application. David Popplewell stated that he saw no reason why our case should not go to committee on July 8th.

19 June

I Telephoned David Popplewell. He was not in. Spoke with Chris Wilks who said that Lammas was not on July 8th agenda.

20 June.

I Telephoned David Popplewell. He confirmed that we would have a full decision on July 31st. That in his view a site visit wouldn't be necessary. He agreed that he would show pictures of the model at the presentation.

14 July

Having had no communication from David Popplewell about our case,

I Telephoned David Popplewell, and asked when the agenda for July 31st would be written. I was told that PCC were waiting for consultation feedback and were not sure whether our application would be decided at the July 31st committee meeting, and that PCC may ask for deferral until

September. David Popplewell had sent our application to ADAS for review on instruction from superiors, despite previous decision not to. I explained that Lammas was not in a position to wait any longer and so would need to consider appealing on non-determination. He made a commitment to contact me by Friday 18th July.

23 July

Having had no contact from David Popplewell, I telephoned David Popplewell and was informed that the application was now not going to the planning meeting on 31st July, because PCC were awaiting the ADAS report, expected on 28 July.

4 Aug

Lammas wrote to PCC re change in Lammas' address.

12 Aug.

I telephoned David Popplewell. He said that "he was happy that we had met 7 out of 8 criteria" and that there was "one last hurdle", namely the ADAS report. This was now expected sometime around the 15th/18th August.

15 Aug

Lammas wrote to David Popplewell expressing concern at lost letters of support and requesting opportunity to view all letters received. Also expressing concern stemming from the conversation a member of our team, Nigel Lishman had with Aled Roberts from ADAS that morning. Nigel Lishman had been clearly told that the brief given to ADAS by PCC was to assess the planning application "on conventional agricultural criteria with no reference to Permaculture". Lammas' letter explained that this was entirely contrary to the approach agreed at the pre-application meeting.

19 Aug

Having had no response, I telephoned David Popplewell. Not in the office - back in tomorrow

20 Aug

I telephoned David Popplewell. Not in. I was told to try on Friday

22 Aug

I telephoned David Popplewell I was informed that he was not at his desk. I was given a message from David Popplewell – yes Lammas representatives could come and see the files on 4th Sept. I was told that no ADAS report had been received yet.

27 Aug.

I telephoned David Popplewell. I was informed that he was on leave this week. Spoke with Chris Wilks. I was informed that Alf Williams has now taken on the case and is writing report to committee, that the ADAS report had now been received by PCC though they were not at liberty to disclose the content. Chris Wilks confirmed that ADAS and all other reports/ letters will be available on 4th Sept for us to view.

This catalogues a 6 month period. It is fairly representative of the level and quality of dialogue throughout the entire planning process.

The Planning report

The culmination of six months of consideration by PCC planning department was a report that seemed to fly in the face of the limited dialogue that took huge effort on our part to facilitate. The report itself was based almost exclusively on the previous 2007 Planning Report (by David Lawrence) and the ADAS recommendations. It contained a plethora of structural and material errors. It was confusing to read, being frequently unclear as to whether it was referring to the re-submitted application or the original application.

The Planning Report contained inaccuracies sufficient to suggest that the author had not even read the application under consideration. For example it stated that “*the revised application omits reference to community composting*”.

This was completely wrong. The community composting scheme was part of the business plan of plot 4 and twelve pages of detail were supplied in the plot 4 land management plan (pages 15 to 27). It was also discussed within section 11 of The Management Plan and within section 3 of the Permaculture report.

The planning report is considered in full in a separate document.

The report was presented to the Planning and Rights of Way committee on September 9th 2008 and the planning officer’s recommendation was passed. Lammas requested the opportunity to speak at the meeting and was again denied any opportunity to represent its case.

The ADAS Assessment

The planning report leant heavily on the ADAS assessment that PCC had commissioned.

The ADAS assessment was dismissive of the financial viability of the permaculture smallholdings, assessing them using an agri-business framework.

Assurances by the head of PCC planning department (David Lawrence) and co-author of Policy 52 (Peter Sedgewick) that our application would only be assessed by people fully briefed in Permaculture and Low-Impact Development had been given with good reason and were subsequently completely disregarded.

Further enquiry into the ADAS brief and the authors credentials revealed that our application was assessed by people who, by their own admission, have no training or direct experience in Permaculture or Low-Impact Development with a brief to conduct a conventional agricultural assessment³.

³ Of the two ADAS report authors, Aled Roberts concedes that he has no experience or training in either permaculture or low-impact development, and Chris Creed states that whilst he has no training in Permaculture or direct experience of up-and-running permaculture projects, he has some limited permaculture experience (amounting to once being involved in the embryonic stages of a permaculture project in North Wales which collapsed before the land was purchased) Chris Creed also has no experience or training in low-impact development. *This information stems from phone calls between Paul Wimbush, Aled Roberts and Chris Creed (17th and 18th September 2008).*

Neither authors visited the site, however Aled Roberts asserts that he drove past the site and observed it from various road vantage points⁴. This seems somewhat questionable given the fact that the vast majority of the land in question is simply not visible from any nearby roads.

The ADAS report approached its assessment using the conventional agricultural financial/ functional test. Policy 52 is specifically written to provide an alternative test. The planning guidance states in its opening paragraph:

Policy 52 'Low Impact Development Making a Positive Contribution' provides a context for permitting development in the countryside as an exception to normal planning policy other than that which is already possible under Agricultural Workers dwelling policies. Normally planning policy strictly controls development in the countryside but the Authorities consider that exemplars of sustainable living may be permitted. Carrying out low impact activities on a site and ensuring that

The conventional agricultural financial/ functional tests are replaced by criteria 6 and 7 which adopt an alternative assessment basis. ADAS were not briefed to this effect. For example ADAS discounted all value-added processes as non-agricultural, and subtracted these figures from the business plans. This was completely contrary to the approach behind policy 52.

PCC Planning Department made no effort to review or challenge this report in any way.

The findings of the ADAS report were pivotal to the subsequent refusal of the Lammas Planning Application.

The ADAS report is considered in full in a separate document.

Wider Context

In the time since Lammas initiated dialogue with PCC about their proposal (December 2006) two large-scale Low-Impact Developments (LIDs) had been granted planning permission in the UK. They provide a useful context for comparison.

The first project, Landmatters, has approached planning in much the same way as every other LID in the UK has over the past few decades. That is to say that they simply moved onto the land and established themselves before being 'discovered' by the planning system. They then went on to fight a retrospective planning campaign. In August 2007 Landmatters won their appeal and were granted planning permission for eight dwellings on 42 acres in Devon.

On 15 September 2008 Brithdir Mawr was granted temporary planning permission (part-retrospective and part prospective) for 5 low-impact dwellings by Pembrokeshire Coast National Park Planning Department under Policy 52.

Their planning application was 42 pages long.

We were beginning to question the rationale behind our approach.

⁴ This was stated by Aled Roberts (ADAS) in an e-mail to Paul Wimbush on 23rd September 2008.

Freedom of information and ADAS briefings

Between 9th September 2008 and 8th October 2008 Lammas made seven requests of PCC planning department (4 telephone requests and 3 written requests) to see a copy of the brief that was sent to ADAS. We were repeatedly told that the information would be forthcoming.

On 23rd October 2008, having been advised that withholding of information in this way constituted a clear violation of the Freedom of Information Act, Lammas wrote a formal complaint to Pembrokeshire County Council Freedom of Information Officer, Neil Bennet.

On the 3rd October we wrote a second letter of complaint.

We were subsequently informed that there was no ADAS brief as such.

The contract had been verbally agreed along the same lines as a previous contract to ADAS and there was no paperwork involved in the re-negotiation and re-allocation of this second contract.

Attempt to Appeal

Our resubmission having been refused on September 9th 2008, Lammas issued the statutory notices⁵ ready to submit an appeal. On 13th October the Planning Inspectorate requested to see an "Access Statement". We had never been asked for one. On 17th October the Planning Inspectorate stated that we could not appeal because our resubmitted application along with the planning decision was technically invalid, not having been accompanied by an access statement. This letter is included in the Appendix 5.

We had been clearly told by Stewart Longhurst (Admissions Officer, PCC Planning Department) when we resubmitted the application on 11th March 2008 that we did not need an access statement.

We were now caught in no-mans land. We could not appeal because of an administrative blunder on the part of PCC. We could not resubmit, having exceeded the 12 month time allowance for resubmissions.



September 2008, Tied up in red tape

We were informed that the only option left open to us was to begin the planning process again and submit an entirely new planning application.

⁵ It is required that 21 days notice is served upon landowners and/or tenant farmers prior to the submission of a planning application or appeal.

On 21st October, Lammas wrote an open letter to Jane Davidson, Minister for Environment, Sustainability and Housing asking her to intervene in the situation.

On 12th November, Lammas received a reply from the Welsh Assembly government which said:

“The legislation ...provides that local authorities must not entertain applications for planning permission which should be accompanied by an access statement but are not.”

It went on to say:

“As there is no valid application in this case, she is unable to consider your request.”

In other words she could not intervene in the situation, because there was now officially no application to call in.

Press Statements

In response to PCC’s mistake regarding our access statement Lammas did not receive any formal apology from Pembrokeshire County Council. Nor was any attempt to find a way through this situation communicated to us. Attempts to open dialogue with David Popplewell (planning officer) and Stephen Hurr (Head of Department) fell on stony ground. In fact the only response to the situation was via a press release.

To quote from the Western Telegraph, page 10, 29th October:

A council spokesman said...."There is an onus on an applicant to submit a valid application. Whilst there was some discussion at the time about an access statement, this was ultimately not submitted."

This statement was issued by Len Mullins (Pembrokeshire County Council Marketing Dept) on behalf of Stephen Hurr, Head of the Planning Department⁶. This statement goes against policy guidance on the matter.

To quote directly from the Welsh Assembly guidance on Planning and Inclusive design (Nov 2007):

5.2 A local planning authority must not enter an application on the Planning Register unless accompanied by an access statement

It was the responsibility of PCC Planning Department to ensure that all the relevant documentation was in place. Specifically it was the Planning Admissions Officers responsibility to ensure an access statement was there when the application was registered and the Case Officers responsibility to check this.

Not only had we been denied a fair hearing of our planning case, the Head of Planning had now issued a statement to the press intimating that it was our own fault!

⁶ This was confirmed in an e-mail from Len Mullins (PCC, Marketing) on 30th October 2008

High Court Proceedings

Due to PCC's administrative 'oversight' in registering the application without an access statement Lammas was left with no other option than to go through the process of submitting a completely new planning application along with a new planning fee, effectively beginning the planning process anew.

Lammas' solicitor then wrote a letter of complaint about the situation to Mr Hurr, Head of Planning (28th October, ref: HJM/L10073-01), seeking a remedy from PCC.

Having had no response from either Mr Hurr or Mr Jones, on 7th November Lammas' solicitor issued a (14-day) pre-action protocol letter for High Court proceedings (judicial review) against Pembrokeshire County Council in an attempt to seek some kind of recompense, or at least recognition of responsibility for the situation from PCC. (Appendix 6)

Still having received no response Lammas wrote another letter of complaint to Mr Hurr (17th November ref: pw53), registering an official complaint under PCC internal complaint procedures.

We were advised on the 19th November that PCC had registered our complaint and that a Mr Laurence Harding had been appointed to investigate our case.

On the evening before high court action was due to be lodged, Lammas received a letter from Stephen Hurr, Head of Planning, Pembrokeshire County Council (20 November 2008, ref: SMH/AL) apologising on behalf of PCC for the oversight (in registering the application without an access statement) and stating that the LPA would reimburse Lammas' previous planning application fee. (Appendix 7)

Subsequently Lammas dropped its high court action, reasoning that whilst the proposed remedy was woefully inadequate for the delay, cost, inconvenience and workload generated as a result of the omission, it was at least some kind of recognition of responsibility and an apology of sorts.

PCC Complaint Investigation

The PCC website advises that all complaints will be dealt with within 15 working days, unless otherwise indicated.⁷

Some 20 working days after our complaint had been registered, Lammas wrote another letter to PCC (16th December, ref: pw59) about the lack of response or communications regarding the complaint investigation.

On 17th December Lammas received the complaint investigation report from PCC⁸.

The investigation was based on a series of issues raised in the conclusion of our report, "The Process" (which was used to provide evidence of our grievance), and considered our complaint under 8 points.

⁷

http://www.pembrokeshire.gov.uk/content.asp?id=6362&nav=101,154,170&parent_directory_id=646&Positioning_Article_ID=&language=&sortkey=

⁸ "Report into Stage 2 Complaint Investigation", by L.J.Harding, Monitoring Officer, 15 December 2006, available from Pembrokeshire County Council.

The investigation report concluded that there were little grounds for the bulk of Lammas' complaints. Lammas found the complaint investigation content biased, contradictory and incorrect.

Biased in that the evidence under consideration seemed to have been carefully selected. For example in arguing that the pre-application meeting⁹ was no longer relevant it suggested that *'it is not possible to obtain a balanced view of this complaint as the senior officer who is asserted to have given the assurances is no longer employed by the Council'* (p6, para6)⁸. It overlooked the fact that another planning officer (Mr Peter Sedgewick) who jointly made the relevant assurances and was still employed by the Council was present at that meeting.

Contradictory in that it presents opposing perspectives on the same fact to support different key arguments. For example, describing the application as *'significantly the same proposal...with additional information and justification'* (p8, para 3)⁸ when arguing why the Planning Report was simply an extension of the original planning report considering the same proposal, and also that *'the application was for a different, although similar, proposal'* (p6, para 5)⁸ when arguing that the pre-application meeting was not relevant as it concerned a different proposal.

Incorrect in that wrong information is presented. For example the investigation states that *'Neither the policy [52] nor the justification makes reference to low-impact development or permaculture'* (p4, para 3)⁸ when suggesting that the planning officer was correct to employ a conventional agricultural assessment by people unfamiliar with low-impact development and permaculture. Low-Impact Development is the name of the policy and appears in the introductory sentence. Permaculture is mentioned in the SPG.

As far as Lammas is concerned, the complaint investigation overlooked the essence of our grievance. There was no consideration of the overall frustration and difficulty that Lammas experienced in trying to communicate and work with the local planning authority. Essentially Lammas considers itself as having been misled, misrepresented and negated. The report entirely misses this and in that sense was deeply unsatisfactory.

The report did concede that PCC were at fault for accepting the planning application without an access statement, though it considered that 'acceptable remedy' had been applied. From Lammas' perspective this was not the case in that the remedy (in reimbursing the fee) was but one of a whole raft of implications of the error in registering the application, the most notable of which being the delay in a planning resolution.

The report also conceded that:

- PCC should apologise for the loss of 20 letters of support.(p7, para 9)⁸
- PCC should apologise for the 'error' in their planning report of 09.09.08. (p8, para 6)⁸

To date, Lammas has had no apology to date over these points.

Lammas chose not to take this issue any further, regarding it as fruitless.

⁹ Pre-Application meeting held on 26th April 2007 between Lammas and representatives from PCC Planning Dept.

New Submission

Lammas submitted a new planning application on November 21st (registered on November 28th) to Pembrokeshire County Council along with a letter requesting that the application (which was to all intents and purposes the same as the previous application of 11th March 2008) be decided within 8 weeks.



November 2008, Third Application

Request for letters of support to be considered

On 10th December 2008 Lammas wrote to Pembrokeshire County Council (letter ref. pw58) requesting that:

'Given that the Welsh Assembly, the Planning Inspectorate and your head of Department (in his letter of 20th November) all state that our previous resubmission is now considered invalid by virtue of being registered incorrectly by your department, and given that the representations for this application were all written in good faith, and given that the application is effectively the same application, we would formally request that those representations (in particular the 865 letters of support) are considered as current and valid representations for this application.'

On 22nd December Mr Popplewell replied in an e-mail:

'It will not be possible to transfer representations made in respect of the previous application (albeit that it was subsequently considered to be invalid) to the current application. Although the proposal is the same it is a new application and representations need to be made on the basis of the new submission...'

Attempts to Dialogue

Having submitted the new planning application, we were duly advised by PCC, that should they not reach a decision by 23rd January 2009, we could appeal to the Planning Inspectorate on non-determination¹⁰. Indeed Lammas made it very clear time and time again that should PCC not be able to make a decision, it intended to do just that.

¹⁰ Letter from PCC of 4th December 2008, ref: 08/0962/PA

David Popplewell, on behalf of Pembrokeshire County, made 3 requests for time extensions (8th December, 19th December, 7th January). Lammas suggested a meeting on Monday 26th January to discuss the possibility of a time extension until February 10th (The next planning committee meeting).

We duly met. This was the second meeting that Lammas had with PCC since December 2006 (when Lammas first sent its plans to PCC). Lammas was represented by Paul Wimbush and Cassandra Lishman. PCC was represented by David Popplewell. A second PCC employee took detailed notes.

The meeting was a frustrating experience for Lammas in that it appeared to be used simply as a platform for PCC to deliver a fixed and non-negotiable statement to Lammas.

David Popplewell informed Lammas that:

- PCC was still waiting for an internal consultation from the Economics Department on the Lammas Business Plan.
- PCC had initiated discussions with the Grasslands Centre about the possibility of them running an agricultural yield assessment of the nine Lammas business plans, but had not yet received an indication from them of the fees they would charge and had not yet formulated a brief for them.
- PCC were intending to make a formal request for more information from Lammas about the projected functional working hours of the adults in order to clarify an independent report on functional need which used interview techniques to compliment what had been written in the Business Plans.
- David Popplewell suggested that these actions were as a result of there still being some question over criteria 6 and 7.
- In writing a third report to committee, it was entirely possible that new (or previously set-aside) planning arguments would be introduced by PCC, (just as they could be in an appeal scenario).
- PCC was therefore not in any position to give any indication whatsoever about when a planning decision might take place. PCC suggested that even if they were in a position to give an indication, that it would not be possible to give any assurances of timescales. David Popplewell suggested that he would contact us by the end of the week and that he might have a clearer idea of timescales then.

Lammas explained that:

- As an innovative project dedicated to integrated sustainable solutions, any future potential relationship between PCC and our organisation was being coloured by the process that PCC Planning Department were imposing on the application.
- PCC has made countless assurances to Lammas in the past about meeting timescales, and our experience has been that whilst some efforts may have been made to meet these targets, they were rarely met. That PCC is now unwilling to give even an outline indication of potential timescales (let alone assurances) raises considerable doubt about PCC's commitment to resolving this application.
- Regarding criteria 6; there are now 3 independent agricultural assessments (ADAS, The Permaculture Association and the Organic Research Centre), supported by a raft of additional evidence, all of which clearly indicate that the project will meet this criterion.
- Regarding criterion 7; there are now three independent functional need assessments which have been presented to Pembrokeshire County Council (Quiet Waters Consultancy, The Permaculture Association and the Organic Research Centre) along with a raft of additional evidence supporting our ability to meet criterion 7. The ADAS functional need assessment has now been totally discredited as inappropriate (David Popplewell agreed with this).

- In summary, we could see no logical reason for wanting yet further agricultural assessments, nor additional information, given the incredibly huge volume of information and evidence already presented (in excess of 1500 pages).
- Lammas reminded PCC that the only other application to have been passed under policy 52 (which was for a community roundhouse, several ancilliary structures and 8 dwellings; 3 retrospectively and 5 prospectively) was 42 pages long (albeit through the Pembrokeshire Coast National Park Planning Authority).
- We suggested that in any case there was an element of academic exercise involved in this process, because the business plans and designs (having been projected for a 5 year period) would inevitably be subject to future environmental, economic and social influence. And that the principle of ongoing design was intrinsic to Permaculture.
- Lammas suggested that if there was not sufficient evidence on the table now to persuade PCC that we meet policy 52, then it was simply not possible to do so.

Having exhausted all avenues of reason and negotiation we concluded that PCC, in continuing to place seemingly pointless obstacles in our path, was actually reluctant to determine our application itself and would rather see that decision come from the Welsh Assembly.

We pointed this out to Mr Popplewell (letter of 27th January ref, pw65), but received no comment or reply on the matter.

Lammas thus resolved to appeal to the Welsh Assembly on non-determination.

Detailed notes were taken at the meeting and we were assured that we would receive a copy of these in due course.

Lammas Families

The personal and financial pressures that the Lammas families were under at this point were considerable. The land for the development had now been purchased (January 2009) through securing loans from the families and Lammas supporters.

The nature of the planning application process required the articulation of extensive detailed plans and dreams. It is important to emphasise that an application of this nature requires a commitment to exploring a highly sustainable land-based lifestyle. With this comes an emotional investment. A hope for a future promise was kindled by an innovative policy 52 and nurtured by early constructive dialogue with the LPA. Financial situations and career opportunities were managed to revolve around the prospect of a pending lifestyle shift. Three of the families (plots 6, 7 and 8) had relocated themselves and were living close to the proposed development, in order that they could establish themselves in the area. Another of the families was poised, ready now to relocate at a moments notice (plot 9). Another two families (plots 1 and 4) were planning to move to be near the proposed development late spring/ early summer 2009.

The planning appeal was lodged as a written appeal only because of the time factor involved. Whilst Lammas would have preferred the kind of intense investigation that a public enquiry would have afforded us, we could not afford any further delay.

Chasing up payments due

On 20th November 2008 Lammas had received, along with a formal apology from Mr Hurr (PCC Head of planning) for the error which led to the previous Lammas planning application (and subsequent appeal) being deemed invalid, an assurance that the previous planning application fee would be reimbursed.¹¹

Several attempts to chase this up were made including an e-mail to David Popplewell on 23rd December and also in person at the meeting of 26th January 2009.¹²

On 3rd April 2009, Lammas filed a formal complaint regarding this matter.

On 7th April, Mr Hurr assured Lammas that the cheque would be in the post in the next few days.

On 18th April, approximately 6 months late, Lammas received the cheque.

Permitted Development Rights?

It is Lammas' understanding that agricultural holdings over 5 hectares in size have permitted development rights to build barns and install infrastructure for agricultural use.

Lammas (now managing land in excess of 31 hectares) submitted a 28-day permitted development notice to PCC on Thursday 5th March that it intended to build 4 small agricultural barns (totalling 162sqm) and one polytunnel. The submission was accompanied by full descriptions of all the structures, 1:100 drawings of all the barns and a 1:1250 site plan.

The submission was such that had it been approved, it would have enabled Lammas to proceed with agricultural developments and at the same time would not have interfered with the wider application under consideration. This was because the 4 barns and polytunnel being requested under permitted development rights were also included in the wider application for 9 smallholdings under policy 52.

On 27th March Lammas received a letter from PCC (ref 08/1328/AG) stating that the (permitted) developments needed 'prior approval' due to 'the siting, design and external appearance of the development'. The letter also suggested that there was insufficient detail in the submission and that subsequently PCC would require 1:100 drawings of the polytunnel along with a site plan of a different scale.

The letter went onto explain that if PCC were unable to make a formal decision within 8 weeks then we would be entitled to appeal to the National Assembly for Wales.

Lammas subsequently abandoned this approach, considering it a dead end.

¹¹ Covered in 'The process Updated'

¹² Meeting between PCC and Lammas, documented in 'The Process Updated'

Information Requests

On 10th March 2009 Lammas requested copies (either hard or electronic) of all letters of correspondence received between March 1st 2008 and October 1st 2008 concerning the previous planning application (ref. 1581).

On 3rd April, having only had an acknowledgement reply from the FOI Officer (who had been cc'd in) and following discussions with the FOI officer, Lammas filed a formal complaint on this point. We explained that the information was important to us in compiling our appeal case. Lammas never had any response at all from PCC planning department on this issue.

On 3rd April Lammas requested information concerning other residential developments in Glandwr. Specifically we wanted to know how many third party representations (for and against) were received by PCC for the following planning applications: 07/0907/PA, 07/1035/PA, 07/1258/PA, 07/0884/PA. We explained that this information was relevant to our appeal case. Lammas never had any response at all from PCC planning department on this issue.

Having attended a meeting with PCC representatives to discuss the planning application on 26th January 2009 and been assured that we would be sent a copy of the meeting notes, we had still received nothing. This was pursued several times (including 11 February, 11 March and 7th April). Lammas finally received a copy of these notes one day before the Planning Hearing (July 27th).

The Appeal

On 31st January 2009, Lammas lodged an appeal to the Welsh Assembly against the non-determination of its planning application.

On 18th February the appeal was started and was classed as a written appeal. Lammas thus expected a decision by mid-June.

In due course PCC requested to exercise their statutory right that the appeal be considered by a hearing, rather than as a written appeal (as had been previously agreed).

Lammas attempted to challenge what seemed to be another unjustified delay. Our challenge was overturned.

On 26th March the appeal was re-started as a hearing. A hearing date was set for 28th July. Lammas now expected a decision by the end of August.

The application was now simply epic. It was in excess of 2000 pages and consisted of 70 reports.

The Public Hearing

Lammas attended a Welsh Assembly public hearing presided over by a Planning Inspector (Mr Andrew Poulter) on 28th July 2009 in Crymych. We invited a range of planning, agricultural and permaculture expert witnesses and the few planning arguments that were placed against us were debated in detail.

A site visit was held the following day. This was the first time that our case officer had visited the site.

Result

On 27th August, Lammas received a planning decision that granted full planning permission.



August 2009, Final Decision

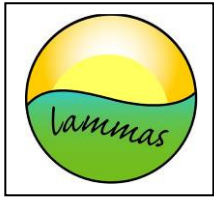
The Final Twist

On the morning of the planning decision the leader of Pembrokeshire County Council, John Davies, issued a press release¹³ condemning the decision as “a dangerous precedent”. He went on to give a BBC interview¹⁴ in which he criticised both the policy itself and the Welsh Assembly’s decision to allow the application.

¹³ http://www.pembrokeshire.gov.uk/content.asp?nav=&parent_directory_id=646&id=18426&Language=

¹⁴ BBC Wales news 27th August 2009

Appendix 1: Minutes of Pre-application meeting



Lammas Low Impact Initiatives Ltd

Reg. no: 30222R
Reg. Office:
Bronallt
Llangeitho
Tregaron
Ceredigion
SY25 6QX

11th May 2007

RE: Pre-application meeting held on 26th April
From: Sarah Sims Williams, Internal Communications Manager (Lammas)

Dear Mr Lawrence and Mr Sedgewick,

I was very pleased to meet you both and we all felt great benefit from the discussions we had at the meeting.

As you know I took notes during the meeting and so I am writing to you ask you to confirm that I have the main issues correct.

As I understand it your main concerns were the following:

1. The potential impact of 9 separate entities concerned Mr Sedgewick – you said that the revived ideas [terrace] have gone a long way to address this. Also we pointed out that based on extensive experience and research into intentional communities Lammas is modelled more on a traditional Welsh village, rather than an intentional community. Lammas' management plan seeks to facilitate cooperation and coordination, meaning Lammas can be accessible to a wider range of people than those just interested in living in an intentional community. The terrace seemed a good compromise, drawing more on the co-housing model.
2. It is important Lammas provides wider community/public benefit to mitigate impact – we discussed some ideas and received some feedback from Mr Lawrence suggesting a wider community mini-bus service, a community composting scheme, the children from the settlement helping to boost local educational provision and supporting/ facilitating a mobile library/shop. We pointed out that there will be both a local and wider benefit through educating for sustainability and more direct education through courses. There would be employment of local people and an improvement of the rural community's resilience through a stronger local land-based economy. A retail outlet was discussed (in light of the recent closure of the Glandwr shop/post office) and Mr Sedgewick said he would have to look at the Plan. Mr Lawrence said "the jury is still out on this [public benefit]". And he offered to try to get an indication on how close the school is to closure.

Also the wording of Criteria 1 was discussed - the "environmental, economic and / or social positive contribution."

3. That Lammas' "monitoring and performance indicators" aspect was weak, but our list of suggestions (developed since the documentation you had received) met with your approval, especially if they are linked back to Management and livelihood plans.
4. That Lammas shows the meeting of 75% of household needs is agricultural/horticultural/forestry/crafts based, and that we show the number of adults is necessary. (It will be a requirement of the lease)
5. Visitor numbers and trips generated. We clarified that part of Lammas' proposal involves a very strict management policy on traffic generation eg mini-bus to collect visitors, car share scheme. We expressed concern that the highways department would vastly overestimate Lammas' vehicle use, and Mr Lawrence said he will broker a meeting with them and us, as well as briefing them. We'd like some guidelines from them for figures acceptable to them.
6. Welsh Language – fear of us swamping Glandwr with non-welsh speakers. We take this issue very seriously, have a Welsh Language Policy in place and are committed to on-going improvement in this area to ensure the project supports the Welsh language.
7. Using existing buildings – unfortunately none are available to us.
8. The camping area – I believe Mr Lawrence felt happier about this when he saw the site?

We agreed that submitting for full planning permission was preferable for you.

We agreed Lammas would make it clear that this application is a complete entity for 9 residential units. That a further phase would be a separate issue, and would only commence having demonstrated the viability of stage one.

We agreed Lammas is keen to work with WAG and in particular to act as consultees on Low Impact Development Policies in the forthcoming review of Tan 6 and that it may be worth keeping in communication over such developments.

Mr Lawrence thought it unlikely our application would be referred to the Estate's department but if it was he would fully brief them because the standard farming criteria would be irrelevant to an application under the low-impact policy.

We pointed out that one of the objectors' principal concerns is a lack of proper control, and that Lammas is a legally accountable entity which can take legitimate public complaints through proper procedures and resolve them.

We discussed the inclusion of domestic wind turbines in the application, and that the Welsh Assembly is supportive of community renewables. We also discussed the hydro turbine and the inevitable occasional surplus of electricity as a result of micro-generation. Lammas is keen to provide electricity to the National Grid (which the electricity companies would measure as output verses input using meters). Mr Sedgewick was keen to avoid residents simply being able to draw more from the National Grid than they contribute, though he pointed out that a grid connection would be a wider benefit if there was a net contribution to the national grid. He is happy to discuss it further I believe?

Scales for drawings were discussed. Mr Lawrence suggested 1:100 for elevations, 1:500 for terrace and hub layout and 1:2,500 for site layout, but said there are no hard and fast rules and a common sense approach should be adopted.

A detailed application which met the policy criteria was deemed to be essential. Lammas emphasised that if you were of the opinion that an element of the application was becoming problematic then Lammas would be keen to discuss at the earliest opportunity and find a solution with you.

We agreed that if Lammas puts the planning application in on 1st June then a decision (from the Members) in mid-October is achievable.

Mr Lawrence suggested we put our proposals in as soon as possible in order to allow space to discuss things. Also, later, he suggested that there was no harm in sending early drafts in stages to him to establish if something needs attention. We are doing this. Once the planning application is in David Lawrence suggested any additional evidence should be merely illustrative or fill a hole, rather than an alteration.

We offered you a voice in the Lammas film, with editorial rights, and indeed we would really be pleased if you would take up this opportunity. Mr Lawrence is going to check with your press department.

Thank you for reading this all through. I'd be very grateful if you can let me know if there are any points that I have misinterpreted or missed.

Yours sincerely,

Sarah Sims Williams
Internal Communications Officer, Lammas
e-mail: floatysarah@riseup.net

Appendix 2: Notes from Pre-application meeting

Pre-Planning Application Meeting Notes

26/4/07 10.30am Longhand notes taken by Sarah Williams

Present:

Lammas: Larch Maxey (L), Paul Wimbush (P), Mark Dyson (M), Sarah Williams

Planners: David Lawrence (head of planning) (DL), Pete Sedgewick (Forward Planning) (PS)

DL Coming up to site in next few days

PS Checking criteria, how fits in, not sure how works... Looks like issuing small holding rather than community – better communal growing areas as less impact rather than piecemeal. SPG suggest/prefers NOT to have plot type development, but I haven't seen it yet ...
(Issue of legal, physical and visual fragmentation)

P People are coming to it for different reasons: 1) to have small holdings, so need to be central in their plots 2) terrace

Fragmentation will be managed legally by ...

PS Breakdown of farm units – fragmented, less well managed, messy in landscape, maybe looking at the land it will fit in . Argument – design not actual project

L overview of aim – make more accessible not just community, appeal to wider range of people. Keen for coordination and integration. Piecemeal development, we want to put whole plan in as one

PS How we see process? Not sure. Submit outline or full?

P full, with details

PS good to hear – concerns resolved by having the people in place e.g. check number of adults, livelihood plan. Need good level detail to check meeting policy criteria.

DL Outline vs. full planning application. Development is a mix of things e.g. camping cannot be outline. Everything into one application is valuable, which is impossible for outline. We can explore limits of how flexible we can be, but there **are** limits

L Explains terrace and independent

PS Phasing: do we see next stage as being applied for on success of first stage

L Yes, Expanded

PS View as 9 and not think about the 21. Wider idea is to set up network if successful. Welsh Assembly government will be concerned about the countryside emphasis. I'm wary, alarm bells ring in Assembly about Lammas' wider aim. Assembly may change but not allowed for now in policy – all based on hub/urban based and focussed: 70:30% split. JUDP settlement patterns Leave it out for this stage.

P explains network as connecting with existing land based projects in area...and developing links rather than a network of new ecovillages

M Strengthening local...

PS Start of network of settlements

L Keen to work with Wag and TAN 6

PS Laxing policy, criticised... Housing in countryside is very tied still

M (confirming PS) LID is extension of Tan 6, approved by inspector. Functional test is different to estate's test.

PS Not same, livelihood vastly differs. Hence criteria drafted differently for basic need and we recognise that i.e. largely self sufficient

M You mean you wont refer ours to Estate's?

PS Yes, may ask them for certain information, standard farming criteria irrelevant

DL Probably wouldn't, but if did would fully brief them

M could we talk to them

PS there to assess farm value and income, they'd need to be aware of context

DL Application for 9 (might be further 11 in time). Re Lammas network: whatever put in will be closely scrutinised (by objectors). Already objections, I've written back to say nothing to object to yet! Those objectors will latch onto anything, and blow out of proportion. Two examples: is it for 9 or 21. I'm getting message it's clear i.e. 9. In application do you mention rest? [phase 2] express aspirations on [web] site, but not in planning application. Future application...

M can you confirm we don't mention future aspirations

DL you're openness - "a lot of merit in that" objectors will grab any mention of 21. Make it clear this is complete entity for 9.

PS mention wider aspiration on web site. Someone could say we should take the 21 into consideration because we know about it

M meet performance indicators, so future application will depend upon that and future planning rules.

PS Indicators: monitoring side is weak in what we've got. Want to see more

P Any performance indicators in mind – lists our suggestions

PS those are the sorts of things. Providing a Management Plan and livelihood plan shows what you're going to do; indication will link back to them. Indications tied directly to proposal. What group as whole intend. Must be shown. Closely...
Income: (6) reliance on training, camping, visitors – not sure as meeting land based 75% - maybe 150% will come, but need to show land based. What you do on top is additional, value added etc. Bulk needs to be met agricultural/horticultural/forestry based. Are the adults on site necessary to meet that?

M those clarify there's income stream for infrastructure – hence camping etc to pay for someone to do e.g. annual report to yourselves. Requirement for each lease to meet 75%– explains one unit may make more and another may need to be allowed to make less, but overall 75% on average

PS Re-phrase, what do on site to meet... is up to you. More need to know you meeting 75%. Rest is important but key is 75% met from growing/craft and adults that are needed for that. Wider Lammas organisation not strictly our concern

M underlying concern from objectors is fear lots of people, no effective control. We're keen to show Lammas has resources to hold things together and can take legit public complaints through proper procedure, be dealt with through legit process to mutual satisfaction.

P clarifying that 75% of needs will be met from agriculture/ forestry.

PS Visitors numbers: not sure about, traffic. Saw it being self contained, interacting with local community, not wider...

P we're going to be 1st, pioneering, lots of attention. We will get visitors so we create well defined policy

PS We will need that if it's a proposal, but it is a concern. Large amounts of people visiting. Welsh Language: Numbers of dwellings adds 50% to number of households in Glandwr. We have Welsh Language policy to not be swamped by additional... Inevitably loads of tourist in summer so ... trip generation

M traffic will vastly over-estimate number of vehicles per household. How can we get them to tear up the rule book?

PS Management Plan stipulates numbers coming and going, this is not standard policy, not about attracting standard...

M Can we know what figures they'll find acceptable?

PS And manage your proposal to that?

DL We can broker a meeting with the key people

A Question: Particularly interested, How do you propose to meet criteria 1, partially (particularly?) address in proposal: 1) with public benefit

L And vs. Or [point 1] How do you interpret Criteria 1... and/ or??

PS don't know

P Environmental is easy because of permaculture approach

Social benefit is largely education for sustainability is meeting on a macro scale (awareness) and on a micro scale e.g. local schools: demonstratable. Assembly –3 planet footprint

Economic – we're employing people outside of Lammas site, market research. Not expecting to be huge economic production

PS Yes

P But contribute

PS Economic included in sustainable criteria

DL Minibus – common benefit

P Minibus and car share scheme. Minibus to Clynderwen for visitors, maybe include public in this

PS Public benefits wider than community in proposal. Planning gain of any development, mitigate impact, making scheme more acceptable

M Local economy networks making rural community more resilient, by circulating money locally is longer term real benefit. Socially permissive paths opening up unavailable countryside

L Good terms with PO owners but it couldn't hold on, had to fold before we got there. We're keen to support

DL Community composting scheme is effective

PS Not too much cost for schemes because you don't need to make lots money

P win win situation as we demonstrate LID as a solution.

A question, What's your general feeling about the application?

DL Fair question but 1st need to know

Existing buildings at Pont y Gafel – have you considered that

P Sue not interested in selling to us, at times considered

M No buildings so can't contribute to (5)

L we wanted to leave farm buildings with the farm house

DL Pretty well covered all concerns

PS Dave will talk about how it will be dealt with etc

DL Will go to Committee for certain, even if complied or straight forwardly refused. No matter what our initial view, councillors will ask for committee, we won't be able to resist.

If we are thinking of approval and delegated, for example the tone of one objector's letter was adamant that they will challenge any decision. would be to look for anything to object to, so Committee's approval means it is less open to review. Meet every month. We would like to say 8 weeks, in reality bit longer. Interests different, procedure same as any other planning, we report to committee, they might go for site inspection – would be positive if do.

Under current procedures, small number application that committee look at, brief submission on site by applicant and also objectors. 3 minutes each, an opportunity.

General reaction: difficult to answer: Interesting and positive thoughts developed and thinking gone on.

- 1) I have a little doubt re: camping area – talk further
- 2) Potential impact of 9 separate entities concern me – revived ideas [terrace] have gone a long way to address this
- 3) Public benefit, jury still out on this – is it enough. Have further thoughts on composting, minibus service as community resource.

Future of school – under review. Could your development and kids on the site help with this?

L P.O., shop – we want to support, but timescale has been a problem.

DL We can try to get an insight on how close to the threshold The school is to closure.

M Sad shop has been approved to residential [DL showed he hadn't known this]

L we need to think creatively

M anything we provide will show community benefit

P meetings with local people to shape proposal, considered shop. Would the inclusion of a shop work from your perspective?

PS Have to look at proposal and check against plan – all policies of plan are still relevant albeit in terms of what your proposal does rather than standard policies
For a retail policy – maybe mitigating circumstances over normal requirements
Number of policies we've got to look at. May not fit policy but be ok because of wider community benefits

M things changed now shop is closed- strengthens public benefit

P traffic re shop

M locals will walk

PS Trip generation. We'll consider when planning application comes in

DL suggests: take produce into village in something other than car, once a week e.g. like a mobile library/shop

P(S?) largely positive but issues to work through

DL Yes. Not looking forward to flack from objectors

PS Detail is essential

M If you say something is a problem we want to find solution in planning terms

PS Make sure your proposal absolutely fits the policy

DL Only takes one highly motivated objector to generate a big volume of objection, which is a nightmare.

PS Volume isn't planning consideration – quality and relevance of arguments of supporter/objector

M Does this hold true at Member level as well as Officers?

PS No harm in trying to get Members' support. They don't always agree with Officer's recommendation. County Council elections in 1 year, so they may well be considering that

P What's the procedure to take this forward? Who will be dealing with the case?, How, follow up meetings? Feasible to get a decision by September? What steps, how long do you need?

DL September achievable, committee meet middle of month

P Site visit August?

DL October then if site visit September [August closed] meeting late in July – would be touch and go. Application would have to be in by next 2-3 weeks for July.

P Can we put stuff in and then you chew over

DL Get it in as soon as possible because of time scale, then discuss

P Independent electricity grid feasibility, therefore wind turbine aspect of application

DL Include wind turbine on application or as separate application

PS Welsh Assembly encourage community renewables –local community

M feeding back into grid

PS or to locals, feeding back into grid is local benefit

L Pre...Lammas lobbied for this in the consultation period for the SPG

PS Grid connection enables people to use grid [net import]. Later proposal putting in turbine to benefit community? My concern is they'll [residents] will use grid

M Easy to show, costly from hydro which is considerable. Opportunity to defray cost may be a factor we need to take into consideration. No landscape impact from hydro. We need feedback before making decision.

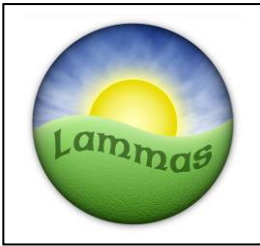
SSW My parents feed solar into grid and it is all clearly monitored by meters and the electricity company

P Coming back to Time scale – If we were to submit in 4 weeks, end May. How would that fit?

DL really tight

- M We could give it to you in section, so you have some earlier?
- DL No harm in sending early draft so we can look and see if something needs attention. When you do submit, anything in advance will not be included (amended?). It must be complete.
- M You cannot guarantee July, but we can assist
- P September, for committee when need...
- DL Get in by end of April, say 1st June for decision mid October.
- P Extra meeting
- DL Send draft document [instead]
- P If in 1st June, what is the procedure for additional evidence e.g. film, model, drawings, letters
- DL Letters anytime after. We put out a press notice, write to the neighbours, put up site notices. Letters have a deadline of 3 weeks from this but in reality will be considered after
If purely illustrative and doesn't alter what you are applying for, then ok. If alteration then difficult as application has to be withdrawn and re-submitted or re-run publicity with modification
- M Ok if fills a hole, something as identified as problem to granting?
- L You two dealing with it?
- DL Not thought who yet. 3rd person would be fully briefed, we don't usually get involved in that part
- PS I'd be asked for input, ecologist... – a variety of specialists would assess
- DL Case Officer not chosen
- SSW How can we communicate with you
- DL/PS Email, telephone to contact in meanwhile
- P talks about Lammas film and a planning representative, offers full editorial rights.
- DL speak to press dept
- SSW can you confirm size of plans
- DL 1:100 elevations fine, must be metric. No other hard and fast rules. Site layout – varies for different parts. Suggests 1:2500. Terrace area needs more detail 1:500 or can manipulate JS[?] to locate unit.
- M Interpret with common sense then?
- DL Home in on any changes
- L Let us know when you want to do your site visit.

Appendix 3: First letter of complaint regarding freedom of information violation



Mentrau Effaith Isel Lamas Cyf
Lammas Low Impact Initiatives Ltd

Rhif cof/ Reg no: 30222R
Swyddfa cof/ Reg Office :
Tegfan,
Tan y rhiw
St Dogmaels
Pembrokeshire
SA43 3HB

Our Ref...pw51

23rd October 2008

**FAO: Neil Bennet
Head of Information and Cultural Services
Pembrokeshire County Council
County Hall
Haverfordwest
SA61 1TP**

Dear Mr. Bennett,

RE: Failure to disclose information under the Freedom of Information Act (2000)

I would like to file a formal complaint against Pembrokeshire County Council regarding what I believe to be a violation of the Freedom of Information Act (2000).

As I'm sure you are aware, written requests for information, whether received electronically or by mail, must be processed in compliance with the Act regardless of where in the Council they are received.

On the 12th September 2008, I contacted Christopher Wilks in the PCC Planning Department to request a copy of an ADAS agricultural assessment commissioned by PCC relating to planning application number 07/1581/pa. Under the FOI Act, the Council had 20 working days to disclose the requested information or inform me that a decision has been taken to withhold the information under a legitimate legal exemption. The deadline for the Council to disclose the requested information was 9th October 2008. My initial request was followed by several reminders by telephone and email to David Popplewell, who offered multiple promises to disclose the requested information by an ever-receding date.

Mr Popplewell finally wrote on 9th October 2008, the deadline for compliance with my request under the FOI Act, to apologise for the delay and promise once more that the information is being prepared "and will be emailed shortly". It is now two weeks since I received this email and I have yet to receive the requested information.

This letter is to express my deep dissatisfaction with the Council's failure to comply with the Freedom of Information Act (2000) and notify you of my intention to escalate this complaint to the Information

Commissioner's Office if I am not entirely satisfied with the Council's response, which I sincerely hope will include the assessment or a legitimate legal explanation for the Council's refusal to disclose it.

Considering the extent of my unsatisfactory communication with the relevant officers, I consider stage one of the Council's complaints process to be thoroughly exhausted. As per the Council's complaints procedures, I will expect your response to this stage two complaint within 15 working days of the receipt of this letter, and would be grateful if the requested information could be provided.

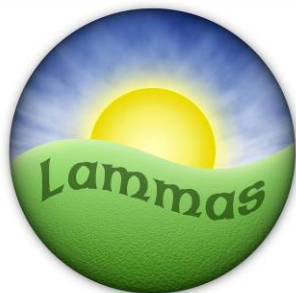
Sincerely,

Paul Wimbush
On behalf of Lammas Low Impact Initiatives Ltd

e.mail: paul.wimbush@lammas.org.uk
tel: 01437 563175

Attached: Details of relevant correspondence with PCC Planning Dept

Appendix 4: Correspondence concerning ADAS report



Lammas' attempts to see a copy of the ADAS brief.

23rd October 2008


Paul Wimbush
Lammas project coordinator

In July 2008, whilst considering the Lammas planning application, Pembrokeshire County Council (PCC) employed the services of ADAS to write an agricultural assessment of the planning application.

I made two telephone requests to see the ADAS brief on the 9th and 11th September to various members of PCC planning department. I have previously dealt with many people from PCC planning department and had found Chris Wilks to be very efficient, so I then approached him.

First Written request:

Subject: lammas request

Sender: paul.wimbush@lammas.org.uk 

Recipient: Wilks, Christopher 

Date: 12.09.2008 10:55

Hi Chris.

Found out why there was that e-mail hiccup - lammas has two m's.

Wondering if you could send me a copy of the brief that was sent to ADAS sometime in June/ July 2008 when our plans were sent off for assessment?


With thanks,


Paul

This was then followed up with 2 phone requests to David Popplewell. Then an e-mail:

Second written request:

Subject: Lammas

Sender: paul.wimbush@lammas.org.uk 

Recipient: Popplewell, David 

Date: 30.09.2008 14:04

Dear Mr Popplewell.

You repeatedly promised me that you would get back to me on the subject of supplying us with the ADAS brief by Friday 26th September.

I have heard nothing from you.

I do not understand why your department is taking issue with this matter of supplying us with this document.

Neither have I had any response to my e-mail to you requesting copies of the consultation reports on our application. This was sent over 10 days ago.

Would you please supply us with these documents.

With regards,

Paul Wimbush
on behalf of Lammas low-impact initiatives ltd

This again was followed up with a phonecall, in which I was promised the brief by 2nd October. This did not happen and so I e-mailed again:

> From: paul.wimbush@lammas.org.uk [mailto:paul.wimbush@lammas.org.uk]
> Sent: 08 October 2008 11:47
> To: Popplewell, David
> Subject: lammas
>
> Dear Mr Popplewell.
>
> This will be the seventh request that I have made asking to see a copy of
> the brief as sent to ADAS.
>
> I first asked for this on September 9th. When we last spoke you promised
> me
> that you would send it to me on the 2nd October.
>
> It is now 8th October and I have heard nothing.
>
> Could you please send me a copy of the ADAS brief, or a letter explaining
> why you are unable to.
> Could you also send me copies of the consultation responses to our
> application.
>
> With regards,
>
> Paul Wimbush

With a reply from Mr Popplewell:

On Thu, 9 Oct 2008 14:51:22 +0100, "Popplewell, David" <DavidP@pembrokeshire.gov.uk> wrote:
> Dear Mr Wimbush,
>

> Apologies for the delay but the documentation you require is being
> prepared
> and will be emailed shortly.
>
> Regards
>
> David Popplewell
>

It is now 23rd October and I have still not received either the ADAS report, nor any explanation.

This clearly constitutes a violation of the Freedom of Information Act and is wholly unacceptable.

Paul Wimbush

Appendix 5: Letter from Planning Inspectorate

Yr Arolygiaeth Gynllunio

Adeilad y Goron, Parc Cathays,
Caerdydd CF10 3NQ
Uniongyrchol: 029 2082 3796
FFacs: 029 2082 5150
<http://www.planning-inspectorate.gov.uk>



The Planning Inspectorate

Crown Buildings, Cathays Park,
Cardiff CF10 3NQ
Direct Line: 029 2082 3796
Fax: 029 2082 5150
susan.bayliss@pins.qsi.gov.uk

Lammas Low Impact Initiatives
Tegfan
Tan Y Rhin
St Dogmaels
Pembrokeshire
SA43 3HB

Your Ref / Eich Cyf

Our Ref / Ein Cyf APP/N6845/A/08/2086949/WF

Date / Dyddiad 17 October 2008

Dear Sir

**Town and Country Planning Act 1990
Appeal by Lammas Low Impact Initiatives
Site at Pont-y-gafel Farm, Glandwr, Whitland , SA34 0YD**

I refer to the above appeal.

As you are aware, when the appeal was received the Planning Inspectorate requested a copy of the Access Statement that was submitted at application stage. We were subsequently informed, by both the appellant and the LPA, that one had neither been requested nor submitted.

The requirement for an Access Statement to be submitted with most types of applications for planning and listed building consent came into force on 30 June 2007¹. Section 42 of the Planning & Compulsory Purchase Act 2004, which came into force on that date in relation to Wales, substitutes a new section 62 of the 1990 Act and amends section 10 of the Listed Buildings Act 1990 so as to provide that a statement covering access issues is submitted with certain applications for planning permission and listed building consent.

Section 42 of the 2004 Act also inserts new section 327A into the 1990 Act. It states amongst other things that the local planning authority must not entertain an application that does not comply with any requirements imposed by the Act. It follows that applications not accompanied by an Access Statement, where one is required by the Regulations, should not be accepted by local planning authorities, since to do so would be contrary to S327A.

¹ SI 2007 No. 1369 (C.58) The Planning & Compulsory Purchase Act 2004 (Commencement No. 10 and Saving) Order 2007 and SI 2006 No. 3390 The Town & Country Planning (General Development Procedure)(Amendment)(Wales) Order 2006



The consequence is that if an appeal is submitted to the Planning Inspectorate in connection with an application that should not have been accepted by a local planning authority because it was not accompanied by an Access Statement required by the Regulations **that appeal will be invalid and will not be accepted**. An appeal cannot be considered valid if the application from which it arose was accepted by an authority contrary to the express provisions of legislation. Any decision on such an appeal would be of doubtful validity.

In conclusion, as the application, the subject of this appeal was registered by the Council after 30th June 2007, the council should have ensured that it was accompanied by an Access Statement before making a decision. The Planning Inspectorate can therefore take no further action on it.

The only course of action available now is for both parties to discuss the options open to them.

Yours sincerely

S Bayliss

Susan Bayliss

211B(BPR)

Rydym yn Croesawu Gohebiaeth yn Gymraeg a Saesneg

We Welcome Communications in Welsh and English

Appendix 6. Letter from Lammas initiating High Court Proceedings

COPY:

Also by FAX to: 01437 776496

Mr Stephen Hurr
Head of Planning
Planning Department
Pembrokeshire County Council
County Hall,
Haverfordwest,
SA61 1TP

07 November 2008

Your Ref:
Our Ref: HJM/L10073-01
Direct Line: 029 20474 470
E-mail: h.marshall@capitallaw.co.uk

Dear Sirs

Our Client and Claimant: Lammas Low Impact Initiatives ('Lammas') Tegfan, Tan y rhiw, St Dogmaels, Pembrokeshire, SA43 3HB
Site at Pont-y-gafel Farm, Glandwr, Whitland, SA34 0YD
Pre-action Protocol Letter for Judicial Review
Planning and Compulsory Purchase Act 2004 (the '2004 Act')
Planning Application References: 07/314/PA and 07/1581/PA (the 'Application')
Pembrokeshire County Council (the 'Council')
Access Statement: as defined in section 42 of the 2004 Act

1. We write further to our letter to you of 28 October ('Our Letter') and note that we (and our client) have not received a response. We attach a copy of Our Letter for further reference as we do not wish to duplicate any aspects of Our Letter.
2. We have numbered the paragraphs of this letter for ease of reference.
3. In accordance with the Overriding Objective in the Civil Procedure Rules, our client is keen to find a suitable way in which to resolve this matter, in our client's favour, although without the use of the court (if possible), in order that our client can obtain a valid planning decision without incurring additional costs for both parties. However, given your lack of response to Our Letter and the deadline for filing a Judicial Review claim, we are compelled (on behalf of our client) to set out herein the details of the matter being challenged, the main issues, details of the points of law upon which our client seeks to rely and the details of the action that our client expects you to take (amongst other things).
4. **Details of the matter being challenged**

- 4.1 As you are aware from Our Letter, the Planning Inspectorate (PI) rejected our client's application for an appeal of your decision of 9th September 2008 (the 'Decision') on the basis that the PI declared it invalid as an Access Statement was not submitted with our client's Application (amongst other things).
- 4.2 Although our client now understands that it should have submitted an Access Statement with the Application, our client is not a planning expert and thus did not know, at the date of its submission of the Application that submission of an Access Statement was necessary and had no knowledge of this statutory requirement until it was informed by the PI via their letter of 17 October 2008. Contrary to the implication of the statement issued by Len Mullins (Pembrokeshire County Council Marketing Dept)¹⁵ there is no statutory onus, as such, on applicants to submit an Access Statement although our client now appreciates that an applicant is required¹⁶ to submit an Access Statement. The onus is clearly on the local planning authority not to entertain a planning application if it fails to comply with the requirements of the 2004 Act¹⁷ (as discussed below).
- 4.3 As you are aware, section 327A of the Town and Country Planning Act 1990 (the '1990 Act') (conferred by section 42 of the 2004 Act) provides that the local planning authority must not entertain such an application if it fails to comply with the requirement to submit an Access Statement¹⁸. It is clear that the relevant planning regulations do require the submission of an appropriate Access Statement and therefore section 327A of the 1990 Act is relevant.
- 4.4 Moreover, the Pembrokeshire County Council's own guidance notes (June 2007) provide comprehensive guidelines on the role of the LPA in this matter¹⁹, including the Additional provision for the Development Control Planning Officer to check that the access statement meets the relevant requirements.
- 4.5 The Welsh Ministers' Planning and Inclusive Design (Access Statements)²⁰ also places the onus on the local authority to ensure that a planning application is not registered if it is not accompanied by an access statement.
- 4.6 As you will note from Our Letter, the Council failed to inform our client that its application was invalid and afford our client the opportunity to submit our Access Statement that would obviously have been a simple matter if our client had been aware of this requirement, at the date the Application was submitted.

5. Details of the legal grounds upon which our client seeks to rely and the action that the Council is expected to take

¹⁵ Quoted from the Western Telegraph; page 10; 29 October 2008; that stated amongst other things: "There is an onus on an applicant to submit a valid application".

¹⁶ By virtue of the 2004 Act

¹⁷ In this case, in relation to an Access Statement under section 327A (1)(a) & (b) of the 2004 Act

¹⁸ Section 62 of the 1990 Act

¹⁹ Inclusive Design and Access Statements (notably section 6)

²⁰ 2007 – notably section 5

5.1 As a result of your oversight and your subsequent planning decision dated 9 September 2008 ('the Decision') our client has sustained significant economic loss and other losses in respect of the following:

- The collation and presentation of the Application;
- Abortive costs in respect of the preparatory works for the appeal of the Decision;
- Legal costs in respect of the legal advice that our client was compelled to seek in order to resolve this matter including any administrative costs in relation to the preparation of our client's claim for Judicial Review;
- Any fee that the Council may charge in respect of a new planning application;
- The distress caused to the nine Lammas families caused by the unjust delay in the planning process (estimated at 8 months) and the time incurred by our client in dealing with the delay (estimated at 20 hours);
- The distress caused and inconvenience to Lammas as a result of the Council's violation of the Freedom of Information Act 2000 by failing to allow the families the right to view the ADAS brief and the time that our client incurred in dealing with this (estimated to be 8 hours);
- The distress and inconvenience caused to our client as a result of the Council losing 20 letters of support, for the Application, from our client in addition to the time that our client incurred in dealing with the Council's mistake (estimated to be 8 hours);

5.2 Our client takes the view that you have exceeded your powers conferred by virtue of the 1991 and 2004 Act and accompanying relevant regulations by reason of your error of law by failing to:

- advise our client of the statutory requirement to submit an Access Statement;
- by entertaining the Application; and
- for making the Decision in contravention of the 1991 and 2004 Act²¹

5.3 Our client proposes to seek a declaration from the High Court that the Decision was made unlawfully by the Council and that it should be 'quashed' by the court. Our client will also seek damages from the court in respect of the details of loss set out in paragraph 5.1 above and will seek interest thereon at the current Supreme Court rate.

5.4 Without prejudice to the above, our client is interested in resolving this issue amicably with the Council and will only resort to proceedings via the High Court if reasonably necessary. However, given the time limit for lodging a claim for Judicial Review; the time constraints that our client is under; and the predicament of the Lammas families, our client must act decisively and in the correct way in order to mitigate its loss and to ensure that it does not waste time for both parties.

5.5 Accordingly, our client would like to meet with Mr Stephen Hurr (Head of Planning) as soon as practicable in order to find a mutually acceptable and agreeable way forward that would allow the new submission of the Application at no cost to our client whilst ensuring that the Application would be dealt with in a proper manner in accordance with the relevant planning law and public law principles. This proposed course of action could result in a fair and reasonable resolution to this problem without the court's intervention.

²¹ Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374

Please could you provide a substantive response to this letter within 14 days from the date herein?

Yours faithfully

Capital Law LLP

Appendix 7. Letter from Stephen Hurr, Head of Planning

COPY:

HJM/L10073-01

SMH/AL

Stephen Hurr

01437 775366 Fax – 01437 775542

20th November 2008

FAO H Marshall
Capital Law LLP
One Caspian Point
Caspian Way
Cardiff Bay
CF10 4DQ

Also by email

Dear Sirs

Re: Lammas Low Impact Development

I refer to your letters of 28th October and 7th November. It is accepted by this Local Planning Authority (LPA) that section 42 of the Planning and Compulsory Purchase 2004 does require an access statement in relation to applications of the nature submitted by Lammas.

Whilst I apologise on behalf of the LPA for the oversight that subsequently led to the non-submission of an 'Access Statement', I can assure you that internal procedures have been reviewed to ensure that this does not occur in future. PINS have refused to validate the appeal and as a consequence I am keen to find a suitable way to resolve this matter.

Without prejudice to the Council's position, I would advise you that in order to bring about a reasonable resolution to this problem the LPA have in their discretion decided to reimburse the fee that would have been incurred for planning application no 07/1581/PA had that application not been a resubmission. By remitting the fee your clients 'incurred' on submission of their planning application the LPA are acknowledging their role in regards to the procedural irregularities that caused this application to be considered incorrectly processed by PINS.

It is of course entirely a matter for your clients as to whether they wish to submit a fresh application for planning permission. I can assure you, however that lessons have been learned and the LPA will ensure that any such application receives due attention.

If the content of application ref 07/1581/PA is re-presented the only requirement would be the submission of a revised planning application form, an Access Statement, Certificate B and Agricultural Holding certificate. An application could be lodged using the 1APP form through the Planning Portal. As the original material was provided on CD it would be possible for the Council to reproduce that information at no cost to Lammas

If you wish to discuss any issues arising from recent correspondence please do not hesitate to contact me.

Yours sincerely

S M HURR
Head of Planning