

PEMBROKESHIRE COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACT, 1990

SECTION 78 APPEAL



Appeal by Paul Wimbush,
Lammas Low Impact Initiatives Limited
against the failure of
Pembrokeshire County Council to give a decision within
the prescribed time period in respect of
9 Eco smallholdings, community hub building
and seasonal campsite at land at
Pont-y-gafel, Glandwr, Whitland,
Pembrokeshire, SA34 0YD

STATEMENT OF CASE BY LOCAL PLANNING AUTHORITY

INSPECTORATE REF: APP N6845/A/09/6728/WF

L.P.A. REF: 08/962/PA

INTRODUCTION.

- 1.1 The application (reference 08/962/PA) which is the subject of this appeal was received on 28th November, 2008. The appeal was lodged on the ground that the local planning authority failed to determine the application within the prescribed period.
- 1.2 The appeal proposal refers to the formation of 9 eco smallholdings, a community hub building and a seasonal campsite. In elaboration of this description of the development, the appeal proposal would involve the erection of nine dwellings, four within a terraced building and five detached units with their respective plots. Each of the smallholdings would contain a number of buildings to be used for agricultural, storage and workshop purposes. The community hub building would provide an office, kitchen, hall/café, greenhouse, covered area, trading post and toilets and shower for use by visitors and people using the campsite. The campsite is intended for visitors to the site, would accommodate a maximum of 12 tents and would be open from 1st April to 1st January each year. In addition, the proposal involves the formation of a means of access to the public highway and a new access track to serve the site.

2. THE APPEAL SITE AND ITS LOCATION.

- 2.1 The appeal site comprises 31 hectares of land which lies adjacent to the farm complex of Pont-y-gafel approximately half a kilometre from the village of Glandwr. The land is predominantly used for grazing and with the exception of a strip of woodland which lies in the north western section of the site, consists of fields bounded by hedgerows. A public footpath dissects the site from west to east.

3. PLANNING HISTORY.

- 3.1 Planning permission for 9 eco smallholdings, a community building and a seasonal campsite was refused on 25th October, 2007, under application reference 07/314/PA. A copy of the refusal notice and the Committee report is attached as Appendix 1 to this statement.
- 3.2 A resubmission of the proposal refused under application reference 07/314/PA was refused on 11th September, 2008, under application reference 07/1581/PA. A copy of the refusal notice and the Committee report is attached as Appendix 2 to this Statement. An appeal was lodged against the refusal, however, the appeal was not validated due to the absence of an access statement.

4. PLANNING POLICY.

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act, 2004, states that 'where in making any determination under the Planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.

4.2 The Development Plan for the area comprises the Joint Unitary Development Plan for Pembrokeshire (JUDP) which was adopted on 13th July, 2006. The relevant policies of the JUDP to the appeal proposal are Policies 8 (Development and Local Culture), 9 (Environment and Landscape), 24 (Touring Caravan and Tent Sites), 52 (Low Impact Development Making a Positive Contribution), 62 (Renewable Energy), 63 (Wind Energy Development), 76 (Design), 78 (Amenity), 100 (Access to Development), 126 (Welsh Language) and 132 (Composting). Copies of the relevant Development Plan policies are attached as Appendix 3 to this statement.

4.3 A Supplementary Planning Guidance Note (SPG) Low Impact Development Making a Positive Contribution was adopted by the County Council on 26th June, 2006. A copy of the SPG is attached as Appendix 4 to this statement.

5. **DETAILS OF CONSIDERATIONS LIKELY TO HAVE BEEN RELEVANT TO THE COUNCIL'S DECISION.**

5.1 Policy 52 of the JUDP states that low impact development which makes a positive contribution will only be permitted where 8 criteria are satisfied. Further guidance in respect of meeting the criteria is set out in Supplementary Planning Guidance to the JUDP Low Impact Development Making a Positive Contribution adopted by the County Council on 26th June, 2006. The main issue to be considered in the determination of the appeal is the extent to which the proposal meets the requirements of Policy 52 and the adopted Supplementary Planning Guidance.

5.2 Criterion 6 of Policy 52 is particularly relevant as it requires the proposal to provide sufficient livelihood and substantially meet the needs of residents on the site. The SPG states in relation to criterion 6 that the term "substantially meets the needs of the residents on the site" means that 75% or more of basic household needs will be met by means of activities centred around the use of resources grown, reared or occurring naturally on the site. The guidance goes on to state that the local planning authority expect this to be achieved by year 3 of the project. If achieving the target within the required timescale is considered to be unreasonable then the guidance states that this must be explained in the supporting documentation submitted with the application. In the opinion of the local planning authority the application does not contain sufficient information to justify why a shorter timescale is not appropriate.

5.3 Criterion 7 of Policy 52 requires the number of adult residents to be directly related to the functional requirements of the enterprise. This is a consideration which would have been relevant to the Council's decision in respect of the proposal. The plot management plans provide details in respect of the functional requirements of each plot but fail to give a detailed breakdown of the hours associated with the activities. An independent functional need assessment for the plots was submitted with the application and whilst this provides a detailed breakdown for each plot and the scheme as a whole, details were not provided in respect of how the hours are attributed to the activities. Although the Independent Assessment prepared

by Chapter 7, and submitted with the application, reviews aspects of the Lammas application. The section in relation to man hours deals only with a criticism of the ADAS appraisal which applied MAFF standard man hours to assess smallholder labour requirements.

- 5.4 Criterion 8 of Policy 52 requires proposals involving members of more than one family to be managed and controlled by a trust, co-operative or other similar mechanism. Section 9 of the SPG refers to the submission of a Management Plan to show how the proposals meet the criteria in the Plan's policies. The submitted management plan contains a business plan which includes a section in respect of financing the project. The local planning authority has concerns in respect of the financial aspects of the business plan in particular the aspiration to raise funds through the sale of shares. The concerns relate to the ability to raise funds and the timescale that this would take. These concerns are explored further in paragraph 5.5 of this statement.
- 5.5 The aspiration to raise £500K by the sale of shares is considered to be optimistic. The original business plan shows a rate of purchase of shares at £1K per month which suggest a period of 42 years to raise the £500K. In respect of the more conservative figure of £100K the rate of purchase of shares would suggest an 8 year period. The figures in the updated business plan would move the timescales to 69 years and 14 years respectively. The business plan suggests a period of 14 months to dispose of the 9 leases to raise £270K. The business plan refers to the raising of an £80K bridging loan which with no fixed assets and no fixed income may be optimistic in the current economic climate. The business plan expects to have £40K in loans from members and in year 6 aspires to have a turnover of in the region of £22K from its commercial activities.
- 5.6 The business plan would appear to be dependent on grant funding and loans and the uncertainty associated with this raises doubt about the ability of the Lammas proposal to deliver the positive environmental, social and/or economic contribution with public benefit which is required in relation to criterion 1 of Policy 52.

6. **SUMMARY.**

- 6.1 The appeal proposal contains insufficient information to justify why the scheme would fail to meet the requirements of criterion 6 of Policy 52 by year 3 of the project. In addition, the proposal is not considered to contain sufficient information to justify the number of adult residents in relation to the functional requirements of the enterprise as required by criterion 8 of Policy 52. The concerns in respect of the financial aspects of the business plan are such that there is doubt in respect of the ability of the proposal to deliver the positive contribution required in relation to criterion 1 of Policy 52.
- 6.2 For the reasons set out in this statement it is respectfully suggested that the appeal be dismissed.

7. **LIST OF SUGGESTED CONDITIONS.**

1. The use of the site shall be carried out only in accordance with the aims and objectives as set out in Section 2 of the approved Management Plan and the plot business plans unless otherwise agreed in writing by the local planning authority.

Reason: To ensure compliance with the requirements of Policy 52 of the JUDP.

2. The use hereby permitted shall be discontinued, the low impact dwellings, buildings and other structures, car park and hardstanding areas removed from the land and the land restored to its former condition, within a timescale to be submitted to and approved in writing by the local planning authority if the requirements of the approved Management Plan are not implemented or archived within the timetable contained in the plan, or such other timetable as has first been agreed in writing with the local planning authority.

Reason: To ensure compliance with the requirements of Policy 52 of the JUDP.

3. No later than 1st April each year, commencing with the 1st April, 2011, the occupiers of the site shall submit to the local planning authority a written report giving details of the activities carried out during the previous twelve months in compliance with the requirements of the approved Management Plan. Should the report demonstrate a failure to achieve the required 75% or more of basic household needs, details of measures to address the shortfall shall be submitted to and agreed in writing but the local planning authority.

Reason: To ensure compliance with the requirements of Policy 52 of the JUDP.

4. Prior to commencement of development full details of the proposed vehicular access to the county road shall be submitted to and approved in writing by the local planning authority. The means of access shall be completed in all respects in accordance with the details approved under this condition, and shall be retained as such thereafter.

Reason: To ensure an adequate vehicular access in the interests of highway safety.

5. The car parking area on the approved plans shall only be used in connection with the scheme hereby approved and shall be kept available for such use at all times.

Reason: To ensure that car parking continues to be available within the curtilage of the site in the interests of highway safety.

6. Before the development hereby authorised is brought into use the access driveway and car parking areas shall be surfaced with either bitumen macadam/block paving/porous asphalt/porous block paving or other bound surfacing in accordance with details to be submitted to and approved in writing by the local planning authority and shall be retained as such thereafter.

Reason: To ensure adequate access is provided and prevent loose material being carried onto the highway in the interest of highway safety.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995, (or any Order revoking and re-enacting that Order with or without modification), no development falling within Parts 1, 2, Class B of Part 4, Part 5, Part 6 and Part 7 of Schedule 2 shall be carried out other than those expressly authorised by this permission.

Reason: To ensure compliance with the requirements of Policy 52 of the JUDP.

8. Prior to the commencement of the development details of the number, siting, scale and appearance of any temporary residential accommodation and temporary office accommodation required in connection with the development shall be submitted to and agreed in writing by the local planning authority. Any temporary accommodation shall be removed from the site within 3 years of its provision.

Reason: To ensure compliance with the requirements of Policy 52 of the JUDP.

9. In the event of the number of vehicle trips generated by the project exceeding either of the targets in the Traffic Management Plan for years 1 and 5, a scheme identifying mitigation works shall be submitted to and approved in writing by the local planning authority. The approved mitigation scheme shall be implemented in accordance with a timescale which has first been submitted to and agreed in writing by the local planning authority.

Reason: To ensure compliance with the requirements of Policy 52 of the JUDP.

10. Development shall not begin until details of proposed drainage works have been submitted to and agreed in writing by the local planning authority. None of the dwellings shall be occupied until the drainage works have been completed in accordance with the approved plans.

Reason: To ensure an acceptable means of drainage.

11. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the

local planning authority and these works shall be carried out as approved. These details shall include (proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports, etc.).

Reason: *In the interest of amenity.*

12. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and implementation programme.

Reason: *In the interest of amenity.*

13. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

Reason: *In the interest of amenity.*

14. Details of any engineering works associated with the generation of hydro electric power, any wind turbines and any facilities for the generation of solar power shall be submitted to and agreed in writing by the local planning authority prior to the commencement of such development. Any such development shall be carried out in accordance with the approved details.

Reason: *Details were not submitted with the application.*

15. The occupation of the dwellings shall be limited to persons solely or mainly working in the locality in agriculture or in forestry and to any resident dependants.

Reason: *To ensure compliance with the requirements of Policy 52 of the JUDP.*

16. The campsite shall be used for a maximum of 12 tents only and shall be operated in accordance with a scheme to be submitted to and agreed in writing by the local planning authority prior to its first use. The scheme shall include details of the maximum length of stay of any visitor and the months of the year that it will operate.

Reason: *To ensure compliance with the requirements of Policy 52 of the JUDP.*

DR. S.P. JONES
DIRECTOR OF DEVELOPMENT

LIST OF APPENDICES.

Appendix 1 – Committee Report 07/314/PA
Decision Notice 07/314/PA

Appendix 2 – Committee Report 07/1581/PA
Decision Notice 07/1581/PA

Appendix 3 – Joint Unitary Development Plan Policies:

- Policy 8 (Development and Local Culture)
- Policy 9 (Environment and Landscape)
- Policy 24 (Touring Caravan and Tent Sites)
- Policy 52 (Low Impact Development Making a Positive Contribution)
- Policy 62 (Renewable Energy)
- Policy 63 (Wind Energy Development)
- Policy 76 (Design)
- Policy 78 (Amenity)
- Policy 100 (Access to Development)
- Policy 126 (Welsh Language)
- Policy 132 (Composting)

Appendix 4 – Supplementary Planning Guidance: Low Impact Development Making a Positive Contribution.