
STATES OF JERSEY



**STATES OF JERSEY COMPLAINTS
BOARD: FINDINGS – COMPLAINT BY
MR. T. BINET AND MS. R. BINET
AGAINST THE MINISTER FOR THE
ENVIRONMENT REGARDING THE
PROCESSING OF PLANNING
APPLICATIONS BY THEM AND THE
VARIOUS COMPANIES IN WHICH
THEY HAVE SIGNIFICANT INTERESTS
(R.125/2019) – RESPONSE OF THE
MINISTER FOR THE ENVIRONMENT**

**Presented to the States on 5th December 2019
by the Minister for the Environment**

STATES GREFFE

RESPONSE OF THE MINISTER FOR THE ENVIRONMENT

States of Jersey Complaints Board

On 19th June 2019, a Complaints Board Hearing constituted under Article 9(9) of the [Administrative Decisions \(Review\) \(Jersey\) Law 1982](#) was held to review a complaint by Mr. T. Binet and Ms. R. Binet against the Minister for the Environment regarding the processing of Planning applications by them and the various companies in which they have significant interests.

On 27th September 2019, the Privileges and Procedures Committee presented to the States the findings of the Complaints Board Hearing (*see* [R.125/2019](#)).

The Minister for the Environment's response

The key issue in this case is the restrictive policy framework regarding the creation of staff accommodation and large agricultural buildings in the countryside.

Unfortunately for the complainants, most of their proposals are for development in the countryside and, with the current policies adopted by the States Assembly in 2014, they are faced with having to justify why their development is appropriate when most development in the countryside is not.

One of the fundamental aims of the Island Plan, and the Law, is to protect the countryside. In addition to policy NE7 (Green Zone) which the Board has highlighted, other policies such as H9 (Staff and key agricultural worker accommodation) and ERE6 (Agricultural buildings, extensions and horticultural structures), discourage development in the countryside.

There is, however, a difficult balance between protecting the countryside, which is what the public expect officers to do, and supporting the rural economy. The West Point Farm case illustrates this, as whilst the applicant clearly feels that permission should be granted, there were also a number of objections from individuals who felt that it definitely should not be allowed.

The review of the 2011 Island Plan (revised 2014) is now underway. An initial review of key strategic issues identified one of these as 'planning for a sustainable economy'. Discussions will be held with key stakeholders and professionals in order to ensure that the policies of the new Island Plan can help maintain and strengthen a sustainable local economy into the future.

The Board have correctly identified how the decision-making process has changed in recent years, with the Minister now excluded from deciding applications, and as a result more decisions rest with the Planning Committee. Although it has been suggested that the Department played down the weight that the Committee gives to the Department's reports, the Committee are not afraid of going against recommendations, and the Committee meetings allow both objectors and applicants to address the Committee to make their own cases. The written submissions from objectors and applicants are also made available to the Committee ahead of the meeting. The Committee therefore has the whole picture, and an applicant has every opportunity to contest a Department's recommendation. The applicant's agent in this case did just that.

Moreover, if an applicant is still unhappy with a decision he can also make an appeal which is then considered by a wholly independent UK inspector. The application process as a whole is therefore very open and robust.

This case does however question whether pre-application advice should be offered in the way it has been in the past. The Complainants have clearly relied heavily upon advice given by a former Minister and Director, as if it were a binding permission. Having made the application process so transparent it would be inappropriate to give any sort of guarantee of permission before an application is made and opened up for public engagement. We may need to consider altering the way the Department gives advice to avoid any misunderstanding.

I am confident that in recommending refusal that my officers did what they thought was right. I also note that the Department has taken a consistent approach to such development on other sites, (from other applicants), based on the policies in place.

I do however accept the Board's view that the application took too long to be decided. I cannot therefore guarantee that "Major" applications will be given priority as the Board suggests. The Board has in a previous report suggested that retrospective applications should be given priority, and I would like to see householder applications accelerated. Clearly not everything can be a priority. The Department has however commissioned a study of its Development Control service to help it decide its priorities for the future. The Complainants were specifically invited to address the organisation which undertook that study. As a result of that study the Department is already taking action to improve the turnaround of applications.

The Board considered that the Department's report was substandard. As I understand it this is a reference to the type of accommodation, the assessment of the environmental and traffic impacts and whether the Beach Hotel was sold. I do not however feel that the report was "mostly inaccurate" as the Board alleges. It is a lengthy report running to 21 pages. It includes statements of fact, summaries of other parties' views and the Department's assessment. I cannot see that the majority of this is inaccurate.

As regards the Beach Hotel, it has been accepted that this was not sold as the report suggests. It was demolished which had the similar effect of taking it out of the agricultural accommodation supply.

The type of accommodation was relevant, as established managers potentially have access to the local housing market and so can live within the Built-Up Area which is what the Island Plan seeks to achieve. Other, often seasonal, workers do not have the same opportunities and for economic reasons cost effective accommodation may be provided by the employer. As part of the last Island Plan review the RJAHS noted that manager accommodation should be assessed separately to other accommodation. As noted above, the policies in question are now under review.

The Board have suggested that occupation could be controlled by a POA. That is true, but the first decision must be whether it is right to allow new buildings in the countryside. If there is a case for doing that then a POA can be applied to control the occupation or use of it.

The environmental and traffic assessments are typical of those which officers frequently have to make. These were detailed matters, as opposed to matters of principle, and I am confident that they could be addressed in a new application.

I do however take a different view to the Board on the issue of how much weight was attached to the applicant's personal circumstances. I have already said that there has to be a balance between protecting the countryside and supporting the local economy. Under the current Island Plan the onus is upon the applicant to demonstrate why their application should be approved notwithstanding the presumption against development in the countryside. This invariably relies upon the applicant's individual circumstances, and agricultural development can only be justifiable where it is essential for the agricultural business. In this case the applicants and complainants were not the agricultural business. The agricultural business, which the Board viewed at Peacock Farm, is the Jersey Royal Company (JRC). If the Department and the Committee are to be convinced that a development in the countryside should be allowed, they need compelling evidence that it is needed for the business. The value and professionalism of JRC is readily accepted but the case submitted was not considered adequate to justify the development.

The Group Director (Regulation) has met with the Complainants on a number of occasions since the refusal of the West Point Farm application although they have not submitted a new application or pursued their appeal which was on hold for over 12 months.

In conclusion, whilst I do not agree from the Board's findings that the report was mostly inaccurate, I accept that the application took too long to be decided and that the report was incorrect in referring to the Beach Hotel having been sold. However, the Department is already looking to improve the turnaround of applications, and the applicant had, and took, the opportunity to correct any perceived errors at the Committee meeting before the Committee made its decision. The applicants also had the chance to make their case for approval to the Committee direct and to appeal the decision.

Most importantly, I accept the Board's findings regarding the need to review the policies of the Island Plan, and I hope that the Complainants and the JRC will engage with the Island Plan review process.