
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
(R.125/2019 Res.) – RESPONSE OF THE
COMPLAINTS BOARD**

Presented to the States on 16th January 2020
by the Privileges and Procedures Committee

STATES GREFFE

RESPONSE OF THE COMPLAINTS BOARD TO THE 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](#)).

Response of the Minister for the Environment

The Minister, having reconsidered the decision as required by the Board under Article 9(9) of the Law, presented his response to the States on 5th December 2019 (*see* [R.125/2019 Res.](#)).

PPC now presents to the States the Complaints Board's response to the Minister's response.

Response of the Complaints Board

In his response, the Minister states that "the key issue in this case is the restrictive policy framework regarding the creation of staff accommodation and large agricultural buildings in the countryside".

With respect, that was not the key issue, nor even an issue as far as the Complaints Board was concerned. The presumption against development in the countryside is a matter of clear and unambiguous policy within the constraints of which applicants have to work.

As applicants have to work within the constraints of the Island Plan, so too must the Department and the Planning Committee. The Complaints Board maintains its view that officers concerned themselves far too much with the ownership of the site in question, the ownership of the business operating from the site, and the applicants' other interests. The Board further maintains its view that the Department's report containing its recommendations to the Planning Committee was marred by what amounted to anecdotal gossip (the occupancy of the proposed accommodation) and unsupported conjecture (the environmental and traffic consequences of an approved development).

The Board notes that, in his Response, as with the Department's report to the Planning Committee, and indeed in the submissions to the Complaints Board hearing, the Minister reiterates –

"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** (my emphasis)".

That is not what the Island Plan requires. Nowhere in the Plan is the test as to whether development in the countryside should be permitted the needs of the business of the applicant. Rather, the Plan expressly refers to the needs of the **industry** (in this case agriculture), thus making the relationship of the applicants with the business operating from the site irrelevant. The strong argument put forward by the business operator in support of the development was an industry argument, but the Department in its report played that down to the extent of ignoring it, preferring instead to dwell on the fact that the applicants were separated from the business – what should have been an irrelevance.

The Board accepts, of course, that the Planning Committee does not slavishly follow the recommendations of the Department, but that does not in any way absolve the Department from its requirement to present a factual and supported report, based on the requirements of the Island Plan. The Department's preoccupation with the applicants' history, their involvement with other sites and their lack of involvement with the business pertains from the site in question was unreasonable and inappropriate in the context of the benchmark test for development in the countryside. The unsupported comments regarding traffic and environmental impact were shoddy and slapdash, but contributed to recommendations which the Planning Committee was hardly likely to ignore.

The Board maintains its findings and its conclusions, notwithstanding the Minister's Response.