

[REDACTED]  
Review Board Chairman  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey GY1 1FH

**Bonamy House  
St. James Street  
St. Peter Port  
Guernsey, GY1 2NZ**

[REDACTED]

11th December 2023 (by email)

Dear [REDACTED]

**In the matter of a complaint by James Collings Against the Development and Planning Authority of the States of Guernsey**

I write in response to the Board's findings dated 23/11/2023 concerning my complaint.

- 1) At the 15/08/2023 hearing, I was allocated only 30 minutes<sup>1</sup> at the end to present my detailed 37-page case. This time constraint and scheduling were inadequate, compromising the process.
- 2) The Board's initial assertion during the hearing that all documents had been thoroughly reviewed appeared to preclude my need for further elaboration. Your statement at the outset of the hearing: *'Mr. Collings. The Review Board has very carefully read everything you have provided..and more than once the outline of the points that you made..so we don't need any further information from you.'*, suggested the Board understood the case and were cognizant of all essential evidence.
- 3) [REDACTED] re-review / investigation, commissioned by the Civil Service, and as directed by the Board, suffers from irrefutable shortcomings which are illustrated in the marked-up copy that I provided the Board with. The scope of this investigation, its apparent disregard for key evidence, and factual inaccuracies compounded by perceived reviewer bias, all cast serious doubt about its validity.
- 4) Mr Moriarty will be aware of the deficiencies in this third review, given our correspondence - particularly my letter to him of 17/05/2023. I still await an explanation from him about the Director of Planning's conduct as requested in that letter.
- 5) Of particular concern is the **consistent omission of consideration of the existing usage of the Office before 2009**. This critical point was not only neglected by the Director of Planning but also overlooked in all three reviews and by the Board itself, even though I have consistently and repeatedly brought it to the attention of the Board in writing and even did so in my last letter to you of 9/11/2023.
- 6) This point meant that the Certificate **had to be issued at the outset**. The 4 or 10-year periods were irrelevant. Existing use before 2009 is the primary pathway by which most properties in Guernsey would qualify for a Certificate.
- 7) By failing to examine or by evading this pivotal issue, each of the three reviews is fundamentally flawed and in particular [REDACTED] investigation as this point was then within clearly defined terms of reference from which he was working.
- 8) The Board's statement in your letter to me of 23/11/2023 *"..the Review Board has decided: .. ii that **the investigation did consider all relevant matters** directly relating to the decision of the DPA regarding the issue of the CLU to Mr Collings in the period of 28 November 2019 to 11 February*

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<sup>1</sup> <https://stateofguernsey.com/clu/2023-08-15%20Review%20Board%20Agenda.pdf>

2020, whether raised in the original complaint, or subsequently presented in correspondence or at the Review Board's sitting on 15 August 2023." is therefore at odds with the facts.

The Board is well aware that an explanation for disregarding the pre-2009 primary pathway has not been provided in the reviews. If such an explanation had been offered, the findings of 23/11/2023 would have inevitably been different.

- A. Was the Board's decision unanimous?
- B. Has there been any undisclosed communication between the civil service and the Board that I am not aware of?
- C. Why was the pre-2009 pathway not followed by the Director of Planning or his subordinate?
- D. Where is the explanation of this pathway, in each of the reviews?
- E. Why did the reviews ignore this pathway?
- F. Why did the Board ignore this pathway?

It is customary for a Board's findings to include an evidential explanation, ensuring transparency, fairness, and a clear understanding of the decision-making process based on the reviewed evidence. However, such an explanation is noticeably missing from your letter of 23/11/2023; with respect, where there should be reasoned judgement, there is none. The reason seems evident: the Board cannot provide this because doing so would expose the inadequacy of its decision.

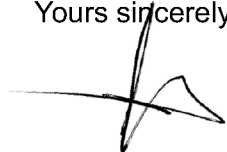
**Summary.** It is impossible to reconcile the Board's findings with the facts of the matter - to do so simply because those critical facts were conveniently omitted from the reviews is unacceptable; the process has not satisfactorily tackled the key concerns of my complaint, falling short of the standards required for a fair and just administrative review.

Whilst it is not illegal to make findings that are against or knowingly disregard the facts, it is against any principles of natural justice. It defeats the stated purpose of a Review Board.

Accordingly, I cannot consider the matter to be closed. At the least, I expect questions A to F to be answered.

As an aside, I noted [REDACTED] BBC article the other day<sup>2</sup> regarding Policy & Resources' proposition to the States against adopting a Public Services Ombudsperson<sup>3</sup>, citing 'cost concerns'. Given that my case appears to be the first in five years and carries considerable public interest, especially now, I have included him in the correspondence.

Yours sincerely,



James Collings

Cc: Mr J Moriarty, Chief Operating Officer, States of Guernsey  
[REDACTED] BBC Guernsey

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<sup>2</sup> <https://www.bbc.com/news/world-europe-jersey-67630060>

<sup>3</sup> <https://www.gov.gg/CHttpHandler.ashx?id=173582&p=0>