Planning - appeal on point of law - decision and reasons

[2026]JRC235

ROYAL COURT
(Samedi)

10 September 2026

Before : M. H. Temple, Esq., Deputy Bailiff

Between	**John Gordon Rice**	**Appellant**
And	**The Minister for the Environment**	**Respondent**

Advocate O. A. Blakeley for the Appellant.

Advocate J. P. Rondel for the Respondent.

JUDGMENT

THE DEPUTY BAILIFF:

1. On 1 September 2026, I heard an appeal on a point of law pursuant to Article 116(5) of the Planning and Building (Jersey) Law 2002 ("the Planning Law") and reserved my decision. I now give my decision and reasons.

The site

2. The appeal related to planning application P/2024/0660 for the reconstruction of Egypte Farm, La Rue D'Égypte, Trinity ("Egypte Farm"). Egypte Farm is within the coastal national park ("CNP") and the protected coastal area ("PCA") as defined in the Bridging Island Plan adopted by the States Assembly. The site is reached by an unmade access track running eastwards from La Rue D'Égypte for a distance of about 150 metres, leading to an irregular square shape containing the remnants of a group of ruined buildings. The site is surrounded by a network of fields owned by the Appellant which are let for agricultural purposes and on which the Appellant's family have paid agricultural rates and continue to do so. Buildings existed on the site since the late 18th century.

3. Egypte Farm entered the Appellant's family ownership in 1936 when the buildings and surrounding family land were acquired by Alfred Rice (the Appellant's great-grandfather) for his son, Gordon

(the Appellant's grandfather). However, on the outbreak of World War II, the Rice family was evacuated to England as Gordon was a military officer who was seconded to the 11th Hampshire Regiment.

4. On 14 July 1943, Egypte Farm and neighbouring farms were taken over by the occupying German forces who gave the occupants twenty-four hours' notice to leave their homes. The buildings were then deliberately destroyed to create a training facility for German troops for street and house-to-house fighting.

5. After the war, the Rice family returned to Jersey and lived in a property in St Peter, which had also been damaged by the occupying German forces. In 1947, Gordon Rice and his family left Jersey and went to live in South Africa, where the Appellant (who is the son of one of the current legal owners of the site) still lives. Only limited compensation was offered by the Government for the damage to the buildings and to reconstruct the farm in 1949. No work took place and it is understood that no compensation was paid. Egypte Farm has not been used as a residential dwelling for approximately 82 years.

Summary of planning history

6. There has been a lengthy planning history in relation to Egypte Farm. There was correspondence from the Appellant's family in relation to the reconstruction of Egypte Farm with the Island Development Committee from 1984 at the latest and, starting in 2006, there were four applications seeking planning permission for residential purposes at the site, three of which were refused and one of which was withdrawn.

7. The fourth application for planning permission (P/2015/0978) was refused following an appeal and was similar to the application which is now the subject of the Appellant's current appeal. After the refusal of this application by planning officers, the Planning Committee did not agree with the officer recommendation and resolved to grant planning permission. However, a third-party neighbour appealed the Planning Committee's decision and the third-party appeal was considered by Inspector Roy Foster at an appeal hearing held on 7 August 2019. Inspector Foster produced an undated report recommending the refusal of the third-party appeal ("Foster 1"). The Minister at that time asked Mr Foster for a supplementary report concerning specified matters relating to abandonment of Egypte Farm and to ecology which resulted in a supplementary report dated 27 February 2020 ("Foster 2"). As regards abandonment, Foster 2 "*narrowly*" reached the conclusion that residential use had not been abandoned. However, the Minister did not accept either Foster 1 or Foster 2's findings, allowed the third-party appeal and refused planning permission. Apparently on advice, the Appellant did not appeal the Minister's decision.

8. In 2024, the Appellant brought a fresh, current application which has the reference P/2024/0660, which is similar to the proposal refused by the Minister in 2021 but was accompanied by a comprehensive ecological survey as regards which the planning authority is now satisfied. The current proposal is to create a house at the site, with an outbuilding to provide a garage and shed. At the hearing, I was shown by Advocate Blakeley an image of the proposed house in the form of a three bay window Jersey farmhouse, which was premised on an authentic re-creation of the farm and appearance of the house as it stood on 14 July 1943 when it was severely damaged by the German occupying forces.

9. On 10 April 2025, the Planning Committee refused application P/2024/0660, holding that residential use of the site had been abandoned and that the proposal was a new dwelling within the CNP and could not therefore be supported. On appeal of that decision by the Appellant, the Minister appointed Inspector Philip Staddon to consider the appeal. Inspector Staddon conducted a site visit on 11 August 2025 and a hearing on 12 August 2025, following which he produced a report dated 12 September 2025 recommending dismissal (the "Staddon Report"). At paragraph 65, Inspector Staddon concluded that:

> *"My objective assessment is that the residential use of [Egypte Farm] has been abandoned, and it cannot be regarded as an existing dwelling."*

10. On 8 October 2025, the Minister for the Environment decided to dismiss the appeal and to refuse planning permission in accordance with the recommendation in the Staddon Report. The Minister's decision under reference MD-ENV-2025-711 stated:

> *"Having considered all aspects of the appeal the Minister decided to give effect to the Independent Planning Inspector's recommendation and was satisfied that there were no reasons not to do so."*

11. The Appellant has pursued the appeal on a point of law from this decision and attended the appeal hearing in person.

Appeal on a point of law

12. Articles 116(5) and (5B) of the Planning Law provide as follows:

> ***"(5) No further appeal shall lie from the Minister's determination under this Article except to the Royal Court on a point of law.***

….

(5B) On hearing the appeal the Royal Court may –

(a) confirm the determination of the Minister wholly or in part;

(b) quash the determination of the Minister wholly or in part;

(c) remit the determination, wholly or in part, to the Minister to be retaken."

13. As regards the Royal Court's approach to appeals on a point of law pursuant to Article 116(5) of the Planning Law in Therin v Minister for the Environment and Warwick [2018] (2) JLR 1, Bailhache, Bailiff, stated at paragraph 9:

"9 As far as I am aware this is the first occasion on which there has been an appeal to the court under the new appeal arrangements which were adopted in 2014. As provided by art. 116(5), the appeal to the court is on a point of law. It is not only not a full merits appeal, which was the appeal to the Minister carried out by the inspector, but it is not even an appeal along the lines of Planning & Environment Min. v. Hobson (5), an appeal brought under the previous procedure which required the Royal Court to form its own view of the merits of the application before, allowing the Minister a margin of appreciation, it considered whether the Minister's decision had been unreasonable. The revised appeal provisions which allow an appeal to the Royal Court on a point of law only therefore now classically engage the GCHQ principles of illegality, impropriety and irrationality (Council of Civil Service Unions v. Minister for Civil Service (2))."

14. Paragraph 11 of Therin stated:

"…the court should be astute not to allow a point of fact to fly under the false flag of a point of law, and one should realize that an error of fact has to become quite fundamental if it is to become an error of law."

15. In Pallot v Minister for the Environment (Somerleigh Farms) (1996) Limited as Third Party) [2019] (1) JLR 30, Birt, Commissioner, stated at paragraph 47:

"47 Advocate Mills reminded me of the need not to adopt an unduly strict linguistic approach to planning decisions. He referred me to the observation of the Bailiff in Therin (4), where the Bailiff said (2018 (2) JLR 1, at para. 56): "I am also very conscious of the need to avoid what has been described in South Lakeland D.C. .. . ([1992] 2 A.C. at 148), namely 'Excessively legalistic textual criticism of planning decision letters.' As Lord Bridge said, that is a course to be strongly discouraged. One needs to look, of course, at the ordinary and natural meaning of what the inspector has said in his report, but that report is not a piece of legislation by a law draftsman."

16. Similarly, paragraph 54 of Pallot stated:

"54 However, I bear in mind the warning against construing a planning decision as if it were a statute or a decision of the court and the emphasized passage in the extract from de Smith (Judicial Review, 7th ed., paras. 7-085 - 7-113, at 441-462 (2013)) referred to at para. 48 above."

17. In view of this guidance Commissioner Birt stated at paragraph 55 of Pallot, that the approach he took to the inspector's report was "***a fair reading of the inspector's report as a whole***".

18. The parties were agreed that the key policy in issue in this case was paragraph 5 of Policy H9 – Housing Outside the Built-Up Area, which states as follows:

"5. In the case of the redevelopment of existing dwellings, involving demolition and replacement, the replacement dwelling:

a. Is not larger than that being replaced in terms of gross floor space, building footprint and visual impact, except where any increase can be justified having regard to functional needs or necessary improvements to the standard of accommodation; and

b. Gives rise to demonstrable environmental gains, contributing to the repair and restoration of landscape character."

19. The proposed floor space of the proposed dwelling is apparently considerably less than the cumulative total floorspace of the buildings that had been at present on the site immediately prior to 17 July 1943 and, unlike in application P/2015/0978, the environmental aspect of the proposed development was no longer in issue. The key difference between the parties was whether the

proposed redevelopment was of an "*existing building*" as contended by the Appellant, or whether it was no longer an existing building because residential use of Egypte Farm had ceased or been abandoned long ago, as contended by the Respondent.

20. Advocate Blakeley invited me to quash the Minister's decision of 8 October 2025 wholly or in part and to remit the determination, wholly or in part, to the Minister to be retaken pursuant to paragraphs (b) and (c) of Article 116(5B) of the Planning Law.

Grounds of appeal

21. In written and oral submissions at the hearing Advocate Blakeley pursued three grounds of appeal (other grounds had been abandoned) which may be summarised as follows:

    (i) Ground 1 – that the Respondent Minister had misdirected himself in law by importing or conflating the English common law doctrine of abandonment (as particularly set out in a decision of the Civil Division of the Court of Appeal of England and Wales in the case of Hughes v Secretary of State for the Environment, Transport and the Regions [2000] WLR 366), with Jersey's customary law guidance for assessing the "existing dwelling" test.

    (ii) Ground 2 – that the Minister had failed to consider "*all the relevant circumstances*", including involuntary war time destruction, exchange controls imposed by South Africa, the continued ownership of Egypte Farm by the Rice Family and their documented intention to redevelop or reconstruct Egypte Farm from 1984 onwards.

    (iii) Ground 3 – that the Minister unlawfully relied on the previous Ministerial Decision under reference MD/PE-2021-0065 in relation to application P/2015/0978, treated it as determinative and failed to exercise independent judgment in relation to the application in P/2024/0660.

22. Given that the Minister's decision dated 8 October 2025 adopted the recommendation of Inspector Staddon, all three grounds required detailed consideration of the Staddon Report. Further, as the Staddon Report had included reference to Foster 1 and Foster 2, the appeal also involved consideration of the contents of Foster 1 and Foster 2. Advocate Blakeley submitted that Foster 1 had adopted the correct legal test but that Foster 2, whilst it had recommended the right result (i.e. that planning permission should be granted), had done so on the basis of the incorrect test.

Appellant's submissions

23. As regards Ground 1, Advocate Blakeley submitted that the Staddon Report had applied the wrong legal test by importing English legal principles derived from the case of Hughes which did not form part of the law of Jersey. In Hughes, the Court of Appeal of England and Wales had focused on four relevant planning criteria, namely:

    (i) The physical condition of the building;

    (ii) The length of time for which the building had not been used for residential purposes;

    (iii) Whether it had been used for any other purposes; and

    (iv) The owner's intentions.

24. Adopting reasoning from previous judgments, the Court of Appeal in Hughes decided that the overall approach was an objective one. At paragraph 17, Kennedy LJ stated:

> ***"What matters is the view of a "reasonable man" and the wishes and intentions of the site owner are not, on that formulation, as it seems to me, to be regarded as decisive."***

25. Advocate Blakeley and Advocate Rondel were agreed that the overall assessment was an objective one, namely that of a reasonable man equipped with the knowledge of all the relevant circumstances, including the intentions of current and previous owners.

26. Advocate Blakeley submitted that Foster 1 had followed the correct legal test, which was to focus on whether there is an "*existing building*" based on an objective test, rather than whether an existing use had been abandoned by reference to the four criteria set out in Hughes. Paragraph 55 of Foster 1 stated that "*The disputed matter here is whether or not buildings A and E are to be regarded as "existing"*", and Advocate Blakeley submitted that this showed that Inspector Foster was focused on the right legal test and was not applying the four criteria concerning abandonment set out in Hughes.

27. Advocate Blakeley submitted that Mr Foster had then become unfocused in Foster 2, following the then Minister's request for a supplemental report. Paragraph 1 of Foster 2 stated that a Ministerial

Decision dated 10 December 2019 had deferred determination of the appeal and requested him to prepare a supplementary report and recommendation upon the case after further consideration of, *inter alia*:

> *"(a) a comprehensive and objective assessment, informed by judgments of the Royal Court of Jersey and any other legal precedents of (a) whether the residential use of the site has been abandoned; and (b) if it is concluded that residential use has not been abandoned, whether a dwelling exists on the site."*

28. Advocate Blakeley submitted that Inspector Foster was "railroaded" by this Ministerial Decision which had caused him to consider the wrong legal test - i.e. whether residential use of the site had been "*abandoned*". This had resulted in Inspector Foster stating at paragraph 20 of Foster 2:

> *"However, as stated in my original report [i.e. Foster 1] relevant Court judgments provide some guiding principles concerning abandonment in planning cases. In Jersey the leading case of Maletroit v Minister for Planning and Environment [2012] JRC 027A drew upon the English case of Hughes…. The latter judgment set out a 4-test approach for considering whether abandonment has occurred."*

29. Paragraph 26 of Foster 2 then stated:

> *"Applying the Hughes test I narrowly reached the conclusion that residential use of building A has not been abandoned. Consequently it should be regarded as an "existing dwelling" for the purposes of Island Plan (IP) policy in NE6(2)."*

30. Advocate Blakeley submitted that the correct legal test was not concerning abandonment as set out in Hughes but on whether there was an "*existing dwelling*", which had to be decided on a case-by-case basis having regard to all relevant circumstances.

31. After receiving Foster 2, the then Minister had decided not to follow Inspector Foster's recommendation, allowed the third-party appeal and refused to grant planning permission. The record of the Ministerial Decision in 2021 recorded that the Minister's reasons included:

> *"Having regard to the fact that Egypte Farm has not been in residential use for over 75 years, with no interim use or clearly proven intention to re-use the site for residential purposes within that time, the Minister considers that the use of the site for residential purposes has been abandoned. In reaching this conclusion the Minister*

further notes that the farm buildings have been in a ruinous state for a substantial period of time and that the vestiges of structures remaining do not reasonably constitute a dwelling house….

Given the substantial length of time that the site has been left unoccupied and not maintained and the fact that only ruins of the former farmhouse now remain, the Minister considered that there was insufficient evidence to prove that the residential use of the site had not been fully abandoned."

32. Advocate Blakeley submitted that these statements showed that the Minister in 2021 had not applied the correct legal test, in that he was overstating the requirement on what the Applicant had to prove. He submitted that this was important because the Staddon Report had erroneously relied on the Minister's Decision.

33. Advocate Blakeley was also critical of the Royal Court's decision in the case of Maletroit v Minister for Planning and Environment [2012] JRC 027A. Maletroit related to an application for the replacement of a previously demolished cottage in the Green Zone with a new home some eighty metres away from the previously demolished cottage, well outside the domestic curtilage of what may have been there when the former cottage was demolished. The factual position was therefore different from that in the current case in that the proposed application related to construction or reconstruction of a house on the site on which the farmhouse had previously existed.

34. Whilst the Royal Court in Maletroit had correctly applied an objective test, Advocate Blakeley was critical of it for "*jumping*" to the question of abandonment, rather than deciding the question of whether there was an existing building. At paragraph 17 of Maletroit, the Commissioner Clyde-Smith stated:

"17. Useful guidance on abandonment of use can be found in the judgment of Kennedy LJ in Hughes- v-Secretary of State for the Environment, Transport and the Regions and South Holland District Council [2000] 80 P & CR 397, at page 8 :-

"Evaluating all four factors the inspector was, in my judgment, entitled to conclude as she did, that residential use had been abandoned. That may not have been the intention of Mr Giddings any more than it was the intention of Mr Hughes but the intentions of the site's successive owners, although relevant, were not and could not be decisive because, at the end of the day, the test must be the view to be taken by a reasonable man with knowledge of all the relevant circumstances. That is, it seems to me, what the authorities suggest and it is a

conclusion which, as it seems to me, accords with common sense, otherwise a labourer's cottage, in which an immigrant and his family left forty years ago, which has been in ruins for years, cannot cease to be regarded as a residence so long as its owner in America or Australia cherishes the dream that some day he will return to live there. There has been in such a situation, in my judgment, a clear abandonment.

Contrast the situation where, for example, there has been a fire and the owner is simply getting together the means to replace the dwelling over a limited period of time or to restore it to its former glory. The objective observer in the latter situation not knowing that the owner's intentions might temporarily conclude that the use of property as a residence had been abandoned where in reality it had not because the intention factor would be to determinative the other way.

In the former situation, it seems to me, the outcome must in reality be obvious. The place of an objective assessment in this branch of the law is an important one and having regard to what was said by the Master of the Roles in the case of Hartley-v-Minister of Housing and Local Government [1970] 1 QB 413."”

35. Advocate Blakeley was also critical of the Staddon Report for applying the incorrect test by focusing on "*abandonment*", rather than whether or not there was an existing building. For example, paragraph 3 of the Staddon Report stated:

"3. There is a significant amount of background context and planning history associated with the proposal and the refusal decision. Much of this centres on the concept of 'abandonment', and differing views adopted by the site owners, planning authority's officers, an appeal Inspector, and successive Ministers, over a considerable period of time, concerning whether the former residential buildings should or should not be treated as 'abandoned'. This is a fundamental issue given the site's location where planning policies seek to resist most forms of new development and only allow for very limited exceptions."

36. Similarly, paragraphs 41 and 42 of the Staddon Report stated:

"41. The appeal proposal is, in essence, a request for reconsideration of the outcome of the P/2015/0978 proposal refused by the Minister in 2021. A key difference is that the ecology related reason has now been addressed, such that the single main

issue is now whether or not the residential use has been abandoned. This is fundamental, as a finding of abandonment would be fatal to the appeal, because the proposed house would amount to a new build development, in a location where BIP policies provide some of the highest levels of development restraint, i.e ., it is not a location where a new dwelling would normally be permitted.

42. In reconsidering the issue of abandonment, I have reviewed and have given significant weight to the analysis undertaken by Inspector Foster, and the Ministerial Decision that informed and followed on from his 2 reports, which I refer to hereon as Foster 1 (the main report) and Foster 2 (the supplementary report)."

37. Paragraphs 55 to 58 of the Staddon Report had then applied a more detailed analysis of the four tests drawn from Hughes that had been set out in Foster 2. Paragraph 61 of the Staddon Report had stated, *inter alia*, that "*Applying the Hughes principles, the physical condition of the building and its inordinate period of disuse point very strongly to abandonment*". At this point the Staddon Report recorded that as regards the fourth test in Hughes, that the Inspector had read and listened to the evidence, including submissions from family members that Egypte Farm "*runs in their blood*" and that he had treated these passionately made assertions as relevant, but not necessarily decisive, and that also he had considered the unique circumstances arising from the Occupation. However, Advocate Blakeley submitted that these factors were merely "*bolted on"* at the end of the report, rather than occupying centre stage as one of the most relevant circumstances that the inspector should have considered.

38. As regards Ground 2, Advocate Blakeley relied on the contents of Foster 1 which, on the same evidence base, had found that the Rice family's stated constraints were "*credible*" and had concluded non-abandonment. There were prolonged exchange control constraints in South Africa, and the Rice family could show a documented intention since at least 1984 that they intended to reconstruct Egypte Farm.

39. As regards Ground 3, Advocate Blakeley submitted that the Staddon Report had recorded that (at paragraph 60), the Minister was "*entitled*" to reach a different view from the recommendations in Foster 1 and Foster 2 and that the Minister's present decision in October 2025 thereby treated the earlier decision as effectively determinative, rather than exercising an independent fresh assessment on the correct legal test.

Decision

40. Following the hearing, I re-read Foster 1 and 2 and the Staddon Report adopting a fair reading of the reports as a whole and not adopting an overly legalistic approach to them in accordance with the approach in Pallot. My decision in this case is to dismiss the appeal on all of Grounds 1 to 3. Whilst I agreed with many of Mr Rondel's submissions in relation to Grounds 1 to 3 it is not necessary for me to summarise them.

41. Dealing first with Foster 1, in my judgment Advocate Blakeley was incorrect to submit that Foster 1 took a different and correct approach to the legal test, as opposed to the approaches in Foster 2 and in the Staddon Report. Foster 1 also focuses on the question of whether "*abandonment*" has occurred as well as whether there is an existing dwelling. For example, paragraph 42 of Foster 1 states:

> *"42 The [Hughes] case endorses a 4-test approach to determine whether abandonment has occurred, ie (1) the physical condition of the building, (2) the length of time for which the building has not been used for residential purposes, (3) whether it had been used for any other purpose, and (4) the owner's intentions. The judgement makes clear that the relevant judgement is that of a reasonable man with knowledge of the relevant circumstances."*

42. Paragraphs 43 and 44 of Foster 1 then set out a detailed consideration of the four-test approach in Hughes, before stating that "*the only conclusion that a reasonable man could reach in the light of the [Hughes] case is that residential use has been abandoned*".

43. Whilst the above paragraphs appear to have been part of Inspector Foster's summary of the position of the third-party appellant, under the heading "*Inspector's consideration of the appeal*" at paragraphs 54 onwards Inspector Foster sets out his own consideration of the appeal. Included within this, paragraph 56 expressly states:

> *"56 As covered earlier in this report, determining whether 'abandonment' has occurred requires consideration of the principles and tests flowing from the Court decisions in the cases of Maletroit (Jersey 2012) and [Hughes] (UK 2000). From my site visit I consider that a 'reasonable man' inspecting the physical state of the buildings would conclude that abandonment had indeed occurred, judging only by the extent of their ruinous appearance amidst the invading vegetation."*

44. Similarly, as regards Foster 2, I also do not consider that the Inspector adopted any different approach to that which he adopted in Foster 1. There is no evidence in Foster 2 that Inspector Foster was "*railroaded*" as suggested by Advocate Blakeley. On the contrary, he maintained his recommendation to the Minister that planning permission should be granted. Before doing so, he quite fairly drew attention to several evidential factors which ran against his overall conclusion which he summarised at paragraphs 22 to 25 of Foster 2.

45. I also disagree with Advocate Blakeley's criticisms of the Royal Court's judgment in Maletroit. The Royal Court in Maletroit considered that the passage set out from Kennedy LJ's judgment in Hughes was "***useful guidance on abandonment of use***", including as regards the four factors set out at paragraph 23(i) to (iv) above. I also consider them to be helpful guidance, whilst accepting that there may be other matters to be taken into account on an objective test on a case-by-case basis, such as the deliberate destruction of the buildings formerly present at Egypte Farm by the German forces during the Occupation and practical difficulties faced by the Rice family including exchange controls in South Africa. Indeed, the fourth Hughes factor, i.e. the owner's intentions, appears to be sufficiently flexible to encompass some of these other considerations which were, in fact, taken into account by Inspectors Foster and Staddon in their respective reports.

46. In the context of this case involving a site that has not been occupied as a dwelling since 1943, it is difficult to see any meaningful distinction between a legal test based on whether a site is an "*existing dwelling*" or whether a site has been "*abandoned*". They appear to be two sides of the same coin. Consideration of whether the site is an "*existing dwelling*" in the context of this particular site is inevitably going to involve consideration of whether it has been abandoned. It is no surprise that Inspectors Foster and Staddon referred to both terms in their respective reports sometimes within the same sentence as in paragraph 65 of the Staddon Report referred to at paragraph 9 above. Both formulations require a fact-specific objective consideration of all the relevant circumstances. The four factors set out in Hughes provide guidance as to how that approach should be structured. Advocate Blakeley did not point to any substantive difference between the two formulations of the legal test, nor did he refer to any other Jersey customary law guidance concerning his preferred "*existing dwelling*" test other than Maletroit.

47. I also disagreed with Advocate Blakeley's criticisms of the Staddon Report. In paragraph 50 of his report, he correctly summarises the Royal Court's decision in Maletroit. Importantly, he went on to state at paragraph 51:

> *"Bringing the consideration of these UK and Jersey cases together is helpful. However, it is important to point out that Maletroit did not (in my view) automatically import UK case law into Jersey. Indeed, the Royal Court specifically referred to*

Hughes as "useful guidance on abandonment of use…" This is important because guidance is simply that, it guides rather than determines prescriptively, and there may be other matters that need to be considered. Ultimately it is a matter of planning judgment for the decision maker."

48. Inspector Staddon was therefore careful not to import UK planning caselaw automatically into Jersey. He applied the correct legal test.

49. Further, paragraph 61 of the Staddon Report expressly states: "*I have reviewed all of this evidence and looked afresh at this complex case.*" Preceding this statement, in paragraphs 58 to 60 Inspector Staddon makes reference to many of the additional factors relied on by Advocate Blakeley, including the family's continuous ownership from 1936 to date, the lack of adequate compensation in the immediate post-war era, South African exchange controls in the period 1961 to 1994 which prevented or restricted the family's ability to return funds to Jersey, and the contacts with the planning authority from at least 1984 onwards.

50. After the statement at paragraph 61 that he had "*looked afresh*" at this complex case, Inspector Staddon also refers to other factors and evidence that he considered, including the passionate submissions at the hearing before him, that Egypte "*runs in their blood*", the unique circumstances arising from the fact that Egypte was forcibly removed from the Rice family in 1943, and that "*the Occupation adds a dimension which needs to be factored into the planning judgment, and provides an element of differentiation from UK case law guidance*".

51. On a fair reading of the Staddon Report as a whole, I disagree that any of the factors relied on by Advocate Blakeley have just been "*bolted on*" by Inspector Staddon. On the contrary, in my view it is balanced, fair and covers all the relevant evidence that was available to him at the time. The fact that it comes to a different conclusion from Foster 1 and Foster 2 is simply a matter of planning judgment which is not sufficient to amount to a point of law.

52. I therefore conclude that the Minister, in adopting the recommendations set out in the Staddon Report, did not misdirect himself in law by importing or conflating the English common law doctrine of abandonment with Jersey's customary law guidance for assessing whether there is an "*existing dwelling*" for the purposes of paragraph 5 of Policy H9.

53. As regards Ground 2, much of what has been set out at paragraphs 40 - 51 above applies and there is no need to repeat it. Inspector Staddon comprehensively considered all the relevant circumstances, including involuntary war time destruction, exchange controls, continued ownership

and the documented intentions of the Rice family. Having sympathetically set out these factors, paragraphs 63 and 64 go on to set out additional evidential matters which he was entitled to take into account in the exercise of his planning judgment:

> *"63. As well as the very long evidential gaps identified by Inspector Foster, I have also taken into account a lack of tangible physical evidence to support the case that the residential use has not been abandoned. There is no evidence (at all) of any repair, protections or stabilising works for the standing structures in the post WW2 era, and no evidence that fallen building fabric has been kept, stored and protected for reuse, Mr Gibb speculating that much of the fallen materials were either robbed, or are buried under the vegetation.*
>
> *64. The planning authority also highlighted an absence of any structural survey evidence to demonstrate that the Building A shell and its foundations could be capable of being utilised to create a modern dwelling. Notwithstanding Mr Gibb's submissions that any standing building relic could be retained and converted, these are still material considerations that must be factored into a planning assessment of whether the residential use at the site has been abandoned."*

54. Ground 2 is therefore rejected as the Minister did take into account all the relevant circumstances known or available to him at the time and there is no error of law.

55. Finally, as regards Ground 3, much of what is set out at paragraphs 40 – 53 above is also relevant and does not require repetition. It is correct that paragraph 42 of the Staddon Report acknowledges that:

> *"In reconsidering the issue of abandonment, I have reviewed and given significant weight to the analysis undertaken by Inspector Foster, and the Ministerial Decision that informed and followed on from his 2 reports."*

56. However, this paragraph expressly states that Inspector Staddon gave significant weight to the two reports of Inspector Foster which recommended the grant of planning permission, as well as the decision of the Minister refusing it. The Staddon Report goes on to review the planning case law guidance and all the evidence in this case, before stating at paragraph 61 that Inspector Staddon had "*looked afresh*" at this complex case. There is no evidence that Inspector Staddon regarded the previous Ministerial Decision in relation to the 2015 planning application as determinative and that he failed to exercise independent judgment. On the contrary, over the course of two days, he conducted a site visit as well as a hearing where he heard submissions from the Rice family. He was bound to consider Foster 1, Foster 2 and the subsequent Ministerial decision. His report runs

to some sixty-six paragraphs over thirteen pages and refers to matters that were not set out in Foster 1 or Foster 2 or in the Ministerial Decision of 2021.

57. In my judgment the Minister did not unlawfully treat the previous Ministerial Decision in MD-PE-2021-0065 relating to the 2015 planning application as determinative and failed to exercise independent judgment and Ground 3 is rejected.

Conclusion

58. I therefore dismiss the appeal on each of Grounds 1 to 3. For completeness, I record that in reaching my decision, as requested by Advocate Blakeley I ignored and did not read (other than a summary in Advocate Rondel's skeleton) certain additional archival documents that were produced pursuant to an Act of Court dated 10 December 2025, concerning the post-war rehabilitation of Egypte Farm which were not available to Inspector Foster, Inspector Staddon or the Minister.

Authorities

Planning and Building (Jersey) Law 2002.

Therin v Minister for the Environment and Warwick [2018] (2) JLR 1.

Pallot v Minister for the Environment (Somerleigh Farms) (1996) Limited as Third Party) [2019] (1) JLR 30.

Hughes v Secretary of State for the Environment, Transport and the Regions [2000] WLR 366.

Maletroit v Minister for Planning and Environment [2012] JRC 027A