

**APPROVED MINUTE FOR THE MEETING OF HERITAGE
WESTERN CAPE, APPEALS COMMITTEE
HELD ON WEDNESDAY, 17TH JULY 2024, MICROSOFT TEAMS,
SCHEDULED
FOR 08:30**

1. Opening and Welcome

The Chairperson, Mr Gregory Ontong, officially opened the meeting at 08:30 and welcomed everyone present.

2. Attendance

Committee Members:

Mr Gregory Ontong (GO)
Ms Corlie Smart (CS)
Mr Dave Saunders (DS)
Dr Nicolas Baumann (NB)
Dr Andre van Graan (AvG)
Mr Stuart Hermansen (SH)

Members of Staff:

Ms Penelope Meyer (PM)
Ms Aneeqah Brown (AB)
Emily-Jane Vowels (EJV)
Ms Waseefa Dhansay (WD)
Ms Sneha Jhupsee (SJ)
Ms Stephanie Barnardt (SB)
Ms Aneeqah Brown (AB)
Ms Chiara Singh (CSI)
Ms Corne Nortje (CN)

Visitors:

Ms Tamar Shem-Tov

Item 10.1

Mr Ashely Lillie

Item 11.1

Mr James Low
Ms Katie Fisher
Ms Alison Louw
Mr David Friedman

Mr Chris Snelling
Ms Tamar Shem-Tov
Mr Riaan Meintjies
Mr Richard Summers

Item 11.2

Ms Elaine Deiner
Mr Ron Martin
Mr Neil Horne
Mr Randall Meyer
Ms Katie Smuts

Mr Neil Horne
Ms Elize Mendelsohn
Mr Klaus Weihe
Ms Berendine Irrgang

Item 12.1

None

3. Apologies

4. Acceptance of the Code of Conduct

Members re-affirmed their commitment to the Code of Conduct

5. Approval of Agenda

5.1 Dated 17th July 2024.

The Agenda dated 17th July 2024 was approved. The Committee unanimously resolved to adopt the agenda.

6. Approval of Minutes from previous meeting

6.1 Appeals Minutes dated 13th June 2024

The Committee resolved to approve the Minutes dated 13th June 2024. NB moved to adopt the Minutes and AvG seconded.

7. Disclosure and Conflicts of Interest

7.1 Recusals- General

None.

8 Confidential Matters

None.

9. Administrative Matters

9.1 Erven 567 and 568, 31 Belvedere Avenue, Oranjezicht

A permit cannot be issued until a suitably qualified architect with appropriate heritage experience is appointed to oversee the project. This is a SACAP requirement for a building of this grading. The proposed architect does not have the required local experience in heritage buildings.

The current drawings do not resolve the following:

- The existing roof structure is not indicated, i.e. trusses and joists.
- The actual ceiling configuration fixed to the existing roof structure.
- The bearing capacity of the walls to receive nylon anchors.
- Waterproofing details of the proposed dormer cheek walls to the existing roof finish.

This list is not comprehensive but rather indicative of the issues in the drawings. The drawings are also inconsistent with each other, for example the balustrade details.

9.2 Outcome of the Tribunal Committees and Recent Court Decisions

PM updated the committee on recent Tribunal Rulings:

9.3 Report back from HWC Council

GO.

9.4 Site Visits undertaken/Site Inspection Report(s)

9.4.1 Appeals:

Erf 357, 6B Devonport Road / 8 Signal View Close, Tamboerskloof
Erven 1107, 1113, 672, 669. 18, 20, 22, and 24 Wisbeach Road, Sea Point

9.5 Potential Site Visits

None.

9.6 Discussion of attendance at any upcoming Tribunal meetings

9.6.1 **Upcoming** Tribunal site inspection and hearing for matter: None

9.7 Discussion of the Agenda

9.7.1 None

9.9 Guidelines

Guidelines are problematic as each case should be considered on its own merits. There will be committee workshops to deal with committee decision making and relationships between committees.

9.10 Appointment

9.10.1 None

10 Matters Arising

**10.1 Appeal submission Erf 357, 6B Devonport Road / 8 Signal View Close, Tamboerskloof
HM / CAPE TOWN METROPOLITAN / TAMBOERSKLOOF / ERF 357
Case No: HWC24020103KB0201**

A site inspection was undertaken.

Appeal against BELCom's decision.

The case officer, Ms Sneha Jhupsee (SJ) introduced the item.

AvG presented the site inspection report which is attached to these minutes as SI1

Mr Lillie made the following submissions on behalf of the appellant:

- Disagrees with the grading and interpretation of the City's Environmental & Heritage Management section
- The garden is going to be sub-divided.
- The house is clumsy, and the proportions are wrong.
- The architect is not a notable architect.
- The house is not a prime example of its typology.
- There has been a lot of re-fenestration.
- The building is currently in good condition; however, many elements are new.
- Extensive alterations have been done to the rear of the building, which are not in keeping with the original building.
- It is not a good example of the Arts and Crafts movement building.
- For the grading of IIIB to be defensible, it must be a good example of its type and must be intact.
- The rear elevation which is now the front elevation is what is experienced now and has no relation to the original building.
- Proximity to the HPOZ is not relevant. The HPOZ ends where it does for good reason.
- The context across the road does not contain the qualities that would qualify as a heritage reason.
- Argued that the building should not be placed on the heritage register and so the demolition should be permitted.

DISCUSSION

Amongst other things, the following was taken into consideration and discussed by the Committee *in camera*:

- The building does not warrant a IIIB status, it is a conglomeration of styles.
- The sub-division will enable a cluster of dwellings to be built in the current front garden., the context is going to be completely altered. the heritage impact in terms of context will be negated by this.
- The building is quirky and not a good example of Arts and Crafts, it is architecturally rather clumsy.
- It is contested that it deserves a IIIB heritage grading
- Its current “presence” relies on the projecting front gable.
- As regards the interior, there have been significant alterations, for example the inclusion of moulded ceiling panels, new windows and the removal] of a fireplace.
- The structure is not a good example of Arts and Crafts design.
- The context does not warrant the approval of the replacement structures. There is a distinct difference between west and east sides of Devonport Road which is indicated by the boundary of the HPOZ - this building is outside the HPOZ.
- The demolition is accordingly supported.

DECISION

The appeal is upheld, and the demolition is approved.

11. New Matters

SJ

11.1 Erven 1107, 1113, 672 and 669, No's 18, 20, 22, and 24 Wisbeach Road, Sea Point HM / CAPE TOWN METROPOLITAN / SEAPOINT / ERVEN 1107, 1113, 672, 669 Case No: HWC24050908CSI0409

An appeal against HOMs Decision.
The case officer, Chiara Singh, introduced the item.

AvG presented the Site Inspection report which is annexed as “SI2”

For the Appellants:

Mr R Meintjies obo Mr D Friedman

- The merits of the application were dealt with in the appeals documents.
- S38 of the NHRA was triggered. That step was not taken.
- The applicant should disclose the nature and extent of the proposed development.
- In respect of 38(2) response, that determination cannot be made without considering the nature of the proposed development.
- In the absence of this compliance, it would never have gotten to the S34 application.
- The provisions of PAJA are applicable. One must have regard to S3 and S4 of PAJA.
- Notification of the registered bodies is not sufficient.
- HWC did not give any reasons for the approval of the S34 application. It is not possible for the Appeals committee to take a decision without reasons.
- There is a presumption that if good reasons to take a decision are not given, then those do not exist.

Ms Emma Sheill could not attend and her written submissions were read out by the case officer. The response is annexed to the minutes.

For the respondent, Applicant Mr R Summers:

- The late appeal raises no arguments that have not been addressed. The entire document is premised on the loss of heritage that is disputed.
- The proposed development will not change the character of the site, as the subject buildings and streetscape has no heritage significance that will be impacted as set out in the report by Chris Snelling.
- All concerns are disproportionate to the heritage character, which is negligible.
- The structures older than 60 years have been evaluated properly for heritage significance in the Snelling report. No information has been submitted to counter that.
- Regarding the alleged procedural requirements, a NID was submitted in terms of S38 as required.
- There is no need for HWC to control the development of the site as there is no impact on the character of the site. It is not appropriate or proportionate to do so from a conservation perspective.
- *The Gees judgment* does not give a right to objectors to insist on insight of the replacement building. The condition can only be imposed by the heritage authorities.
- *The Silver Falcon* case is applicable. Persons registered as having an interest [i.e. registered Conservation Bodies], as required, were notified.
- Procedural fairness was raised repeatedly. This appeal is in fact able to cure any regarding procedural irregularities. If there are real issues of merit these need to be submitted.

DISCUSSION

Amongst other things, the following was considered and discussed by the Committee *in camera*:

- The use of S38(1) as an argument is not relevant to this issue. The NID was submitted and it was found that no heritage resources would be affected.
- There is nothing of heritage significance in the buildings or the streetscape as set out in the report by Chris Snelling that would constitute a heritage resource worthy of retention.
- It is noted that most of the objectors come from the Manor House which is a large development behind the site.
- No argument has been made for the heritage significance of the buildings.
- The wide appeal cures any perceived procedural irregularities.
- Certain comments made regarding the SFB and the chairperson of Homs are regarded as unwarranted and contrary to the code of conduct.

DECISION.

The appeal is dismissed, and the decision of the HOMs committee is upheld.

CSI

11.2 Erf 9461, 18B Upper Union Street, Gardens.
HM / CAPE TOWN METROPOLITAN / GARDENS / ERF 9461
Case No: HWC24041204CSI0416

An appeal against HOMs Decision.

The case officer, Chiara Singh, introduced the item.
HWC Appeals Committee 17th July 2024

Mr Neil Horne on behalf of the appellants:

- There is an existing structure attached to both sides of the party wall in question.
- There was illegal work to add a new structure.
- There has been damage to the appellant's structure.
- The subject building was built in 1924.
- The work is damaging the appellants building which is held to be a heritage resource.
- The design of the structure is problematic, the front gable is not consistent with the architecture of the area.

Mr Ron Martin for the respondent.

- South elevation is the product of the long negotiation with EHRMS and CIBRA.
- The structure was seriously damaged in a fire.
- The building is a portion of a house that was subdivided in 2005.
- CIBRA was consulted.
- The report included a structural engineers report.

DISCUSSION

Amongst other things, the following was considered and discussed by the Committee *in camera*:

- There are no apparent heritage issues.
- The designs have been through rigorous processes at the City of Cape Town and HWC.
- The issues being raised are not heritage related.
- The age of the building cannot be the only argument used for to indicate the heritage resource value of a structure,

DECISION.

The appeal is dismissed, and the decision of the Homs committee upheld.

CSI

12. Other Matters: For Noting

- 12.1 **Old Mossel River Post Office, Erf 2225. 56 10th Street, Voelklip, Hermanus.
HM/OVERBERG/ OVERSTRAND/ HERMANUS/ERF 2225
Case No: HWC24042301CSI0430**

Held over to the meeting of 14 August 2024.

CSI

13. Proposed next date of the meeting to be held online: 14th August 2024

14. Adoption of decisions and resolutions

The Committee resolved to adopt the decisions and resolutions dated 17th July 2024. AvG moved to adopt, and CS seconded.

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Closure: The meeting was adjourned at 12: 35

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON  **DATE** 14 August 2024

SECRETARY _____ **DATE** _____ 2024