

**APPROVED MINUTES FOR THE MEETING OF HERITAGE WESTERN CAPE,
APPEALS COMMITTEE
HELD ON WEDNESDAY, 12TH JULY 2023, 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)
Dr. Andre van Graan (AvG)
Dr Nicolas Baumann (NB)
Mr Stuart Hermansen (SH)
Mr Graham Jacobs (GJ)- (co-opted)

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Penelope Meyer (PM)
Ms Naushina Rahim (NR)
Ms Waseefa Dhansay (WD)
Ms Muneerah Solomon (MS)
Ms Ayanda Mdludlu (AM)
Ms Khanyisile Bonile (KB)
Ms Sneha Jhupsee (SJ)
Ms Corne Nortje (CN)
Ms Chane Herman (CH)
Mr Yaseen George (YG)

Visitors:

Item 8.1

Mr Hannes Krynauw and Ms Lize Malan

Item 10.1

(No attendance as the matter was postponed pending the site inspection)

Item 10.2

Ms Nellie Yang (Neri and Hu Architects, Shanghai),
Mr Neil Schwartz (V&A Waterfront)
Mr Mark Nobel (V&A Waterfront)
Ms Kirsten Goosen (V&A Waterfront)
Ms Samantha Dyer (V&A Waterfront)
Mr Tony Brook (V&A Waterfront)

Item 10.3

Mr Reinier Visser (CIFA, Cape Institute for Architecture)
Mr Richard Summers (Applicant attorney)

Item 10.4

Nomzamo Mlungu (City of Cape Town)

Ute Kuhlmann and Marise Grobler (WRA)
Bridget O'Donoghue (Heritage Practitioner)

Item 11.1

(No attendance as the matter was noted only)

Item 11.2

(No attendance as the matter was noted only)

3. Apologies

4. Approval of Agenda

4.1 Dated 12th July 2023.

The Agenda dated 12th July 2023 was approved. AvG moved to adopt the Agenda and NB seconded.

5. Approval of Minutes from previous meeting

5.1 Appeals Minutes dated 14th June 2023

The Committee unanimously resolved to approve the Minutes dated 14th June 2023. AvG moved to adopt the Minutes and NB seconded.

6. Disclosure and Conflicts of Interest

Item 10.3 – The Appellant raised a potential conflict of interest by AvG. The matter was held over to be discussed when the item is dealt with.

6.1 Recusals- General

Dr. Nicolas Baumann (NB) recused himself from the discussion of item 10.2. (Dr. Graham Jacobs is coopted in his place).

7. Confidential Matters

None.

8. Administrative Matters

8.1 SDP amendment from previously approved HIA - Erf 2189, 8 Granger Bay Boulevard, Green Point.

HM / CAPE TOWN METROPOLITAN / GREEN POINT / ERF 2189

Case No: 14052809GT0530E

Ms. Corne Nortje (case officer) introduced the item.

The Applicants (Mr Hannes Krynauw and Ms Lize Malan) were present and took part in the discussion.

DISCUSSION

In response to points raised by the Appellants, the following was discussed by the Committee:

- The Committee needs to determine if the SDP is in accordance with the HIA approved in 2015.
- The height restriction was set at 25m, they indicated that the current height in the application is 24,5m.
- The only elements which protrude above the highest point are the two lift shafts, situated in the middle of the building, which are 2m above the 25m height restriction,
- The shafts need to be higher because the lifts need to reach the maintenance points for the solar panels. 3 out of 11 lifts are at the proposed height.
- When the HIA was undertaken there was no detailed plan. The main concern was whether the historic view lines would be impacted by the building.
- The 25m height restriction was only brought in as the SGB standard at the time.
- Therefore, the height of the lifts can be considered a minor deviation.

Decision

The Committee decided that the SDP with drawing numbers 1100, 1200, 1300, 1400, 1500, 1600, 1700, 1800, 1900, 2000, 2100 and 2200 – Revision 0 and dated 10 March 2023, is substantially in accordance with the original HIA dated 19 August 2015, as per the approval dated 11 December 2015.

CN

8.2 Appointments

Item 10.1 appointment for 09h30 is cancelled due to matter being postponed.

8.3 Outcome of the Tribunal Committees and Recent Court Decisions

None

8.4 Report back from HWC Council

None

8.5 Site Visits

8.5.1 Site Visits Undertaken on 3rd July 2023:

- a. Proposed Hotel, Quay 7, East Pier Precinct, V&A Waterfront, attended by SJ (case officer), GO (Committee Chair) and AvG (committee member).
- b. Earl street, Woodstock (park and hospital), attended by MS (case officer), GO (Committee Chair), NB and AvG (committee member).
- c. Proposed construction of a temple, administrative unit and utility building on Erf 160695, 80 Liesbeeck Ave, Observatory, attended by AM (case officer) and GO (Committee Chair), NB and AvG (committee member).

8.5.2 Potential Site Visits

Item 10.1 (24 Bishopslea, Upper Claremont) is scheduled for a site visit on Monday, 7 August 2023 (time 14h30).

8.6 Discussion of the Agenda

None

9 Matters Arising

None

10. New Matters

10.1 Proposed Total Demolition on Erf 55183, 24 Bishopslea Road, Claremont HM / CAPE TOWN METROPOLITAN /CLAREMONT /ERF 55183 Case No: 22070704KB0704

The matter is postponed to 16 August 2023.

The Committee confirmed that they will undertake a site visit on Monday, 7 August 2023 (time 14h30).

KB

10.2 Proposed Hotel, Quay 7, East Pier Precinct, V&A Waterfront CAPE TOWN METROPOLITAN / V&A WATERFRONT / ERF 149294-RE Case No: HWC23022810SJ0227

Appeal against IACom's decision.

Dr. Baumann recused himself for this item and Mr Graham Jacobs (BELCom) was coopted.

Naushina Rahim (ASD, legal) introduced the item with the case officer, Sneha Jhupsee, present for additional support.

For the Appellant: Nellie Yang (Neri and Hu Architects) made the following submissions:

- The architects apply a sensitive approach when developing heritage buildings.
- The scale and photos of the old warehouse building was studied, and the interpretation done to maintain the heritage memory. The approach taken to the design represents one of reflective nostalgia which, at the same time, prepares the site for the new function of the hotel.
- In designing, they have paid homage to the previous building but the reorientation of the ridgeline and change of roof pitch is to create a unique structure to draw attention to the proposed hotel. The angle of the roof is designed to let sunlight through the highest point, the ridgeline, and in this way addresses the human scale.
- The Appellant have used the texture and grain of the building to align with the local aesthetic in the precinct.
- The triangular roof structure is 80% perforated brick pattern (open weave) to allow for the free flow of air, light, rain and some protection from wind. 20 % of the structure is open.

DISCUSSION

The following was discussed by the Committee:

- The committee considered the points raised by the Appellant's architects.
- The origin of the height of 24m was questioned. It was argued that the 21m height was derived from the precinct plan and, on appeal, the issue of the 24m height was brought up.
- The committee considered the final floor plans. There were various versions of the elevations and some seemed to contradict the 3D views. It was confirmed that the triangular roof space will be unoccupied and made of perforated brick material (80% perforated, 20% open).
- The committee holds that the heritage indicators are prescriptive and not suggestive and that it is important to understand the context from where the heritage indicators are derived.
- The height of the building presents a concern and is not in line with the heritage indicators.
- The committee finds that the design is inappropriate for this site. There is a concern over the overall bulk and form.
- The steep pitch of the roof structure is alien in this context.
- There is also an issue with the interpretation of the structural expression derived from the surrounding buildings. The linearity of the proposed building contradicts the modular structural form of the now-demolished warehouse.
- Any commercial activity will have an economic benefit and such benefit is not dependent on the specific architecture of the structures.
- Dissenting view: It is a linear building, but it is divided into two sections, the building is far enough away from other historical buildings that it does not present a problem and there is a socio-economic benefit that will be derived from its construction.

DECISION

The appeal is dismissed and the decision of the IACom committee upheld (with one member of the committee dissenting).

SJ

10.3 Proposed construction of a temple, administrative unit and utility building on Erf 160695, 80 Liesbeeck Ave, Observatory HM / CAPE TOWN METROPOLITAN /OBSERVATORY/ERF 160695 Case No: 21053105AM0608E

Appeal against IACom's decision.

Naushina Rahim (ASD, legal) introduced the item with the case officer Ayanda Mdludlu present for additional support.

POINT IN LIMINE:

The Applicant raised a possible conflict of interest because the Appellant is the Cape Institute for Architecture (ClfA) and the appeals committee member, Dr. Andre van Graan (AvG), is a member of ClfA.

Dr van Graan explained that he is not a member of ClfA's decision making committees and that comments and decisions relating to heritage applications are beyond his scope.

Mr Summers, on behalf of the Appellant, indicated, on clarification by Dr van Graan, that they agree that there is no conflict of interest. The committee supported that there is no conflict of interest on the part of committee member AvG. It was decided that, while AvG is a member of ClfA, he has not had direct involvement in this matter as a ClfA member.

For the Appellant: Mr Reinier Visser, on behalf of the Cape Institute for Architecture (ClfA), submitted:

- The IACom decision was irrational because the development was approved but it was subject to conditions.
- The Valkenberg homestead and buildings adjacent to it are significant heritage sites.
- Erecting a church spire will compete with the hospital's central tower.
- The visual intrusion of the temple will be high. The Heritage design indicators in the HIA states that the site should comprise of a collection of buildings of similar scale and massing to the adjacent buildings on the Valkenburg hospital site.
- The scale and form of the proposed temple is not sensitive to the heritage context.

For the Applicant: Mr Richard Summers (Attorney) submitted:

- The Applicant (the Church) has not had an opportunity to comply with the conditions stipulated in the IACom decision.
- ClfA is relying on its earlier objection and comments to amplify its concerns now.
- ClfA is opposed to the development in principle.
- IACom approved the proposal in terms of meeting the requirements in s38 of NHRA, it was assessed by IACom to the satisfaction of what the Act requires.
- The proposed Temple spire does not negatively impact the visual heritage indicators around Valkenburg and surrounds.
- The riverine setting is retained, and the dominance of the green banks and the mountain is not affected. These were dealt with I&AP's throughout the public participation process.

DISCUSSION

Amongst other things, the following was discussed by the Committee:

- Feedback from the committee site inspection undertaken on Monday 25th June 2023 (attended by Committee Chair), NB (committee member), AvG (committee member).
- Section 38(3) merely sets out the minimum requirements for a HIA and a decision that the HIA meets the requirement of section 38(3) does not mean that the content of the HIA is accepted as correct and/or undisputed. Even when an HIA meets the requirements of Section 38(3) of the NHRA, HWC is empowered by the Act to set additional conditions
- Considered whether IACom had applied itself diligently to the application.
- The design of the gate and gatehouse had a substantial impact on heritage resources as did the tower design to the rear.
- The building in its current layout negatively impacts on heritage resources, particularly, in terms of the impact of the utility building on Liesbeeck Avenue on the Valkenburg homestead complex.

FURTHER REQUIREMENTS (NO DECISION TAKEN AT THIS POINT)

The Committee requires a revised SDP that relocates and fragments the current gatehouse and service building to ensure an unobstructed view cone of the side elevation of the reconstructed baroque parapet of the Homestead from a point midway across the site on Liesbeeck Avenue.

AM

10.4 Proposed redevelopment of Hospital and Park, Earl street, Woodstock (joint appeal) HM / CAPE TOWN METROPOLITAN /WOODSTOCK /ERF Case No: 22020406MS0308E +20201124KB1125E

Appeals against IACOM's decision.

Naushina Rahim (ASD, legal) introduced the item with the case officers Muneerah Solomon & Khanyisile Bonile present for supporting the matters.

For the Appellant: Nomzamo Mlungu for the City of Cape Town (human settlements)

- The City requires more time to prepare for both matters and therefore requests a postponement.

For the Applicant: Ute Kuhlmann (WRA) and Marise Grobler.

- WRA is not available in August 2023.
- The WRA agrees to a postponement by the CoCT.
- Requests the City to share all written responses with the WRA.

DISCUSSION

Amongst other things, the following was discussed by the Committee:

- Feedback from the committee site inspection undertaken on 3rd July 2023 (attended by Committee Chair, NB (committee member) and AvG (committee member)).
- The Committee considered the request to postpone and posed the question to WRA and CoCT whether they agree.
- The CoCT and the WRA have agreed to postpone the matter to the September 2023 appeals meeting.

POSTPONED (NO DECISION TAKEN AT THIS POINT)

The matter is postponed to September 2023.

KB&MS

11. Other Matters which are noted only

11.1 PERMIT ISSUED IN RESPECT OF ERF 576, 21 QUICK STREET, STANFORD HM/OVERBERG/ OVERSTRAND/ STANFORD/ ERF 576 Case No: HWC23032210CH033

NOTED: MATTER WILL BE DISCUSSED AT THE MEETING OF 16th August 2023.

CH

- 11.2 **Erf 82, 11 Blackheath Street, Three Anchor Bay, Sea Point
HM/CAPE TOWN METROPOLITAN/THREE ANCHOR BAY/ ERF 82.
Case No: HWC23011912KB0120**

NOTED: MATTER WILL BE DISCUSSED AT THE MEETING OF 16th August 2023.

KB

12. **Proposed next date of the meeting to be held in person: 16th August 2023**

13. **Adoption of decisions and resolutions**

The Committee unanimously resolved to adopt the decisions and resolutions dated 12th July 2023.

Closure: The meeting was adjourned at 13:25

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____ **DATE** _____ 2023

SECRETARY _____ **DATE** _____ 2023