

**APPROGED MINUTE FOR THE MEETING OF HERITAGE
WESTERN CAPE, APPEALS COMMITTEE
HELD ON WEDNESDAY, 20TH JANUARY 2025, 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.

Passing of Dr N Baumann

The Chairperson reflected on the passing of Dr N Baumann, member of the Appeals committee for many years, and his valued contribution to the committee and the heritage community at large. The members observed a moment's silence.

2. Attendance

Committee Members:

Mr Gregory Ontong (GO)
Ms Corlie Smart (CS)
Mr Stuart Hermansen (SH)
Dr Andre van Graan (AvG)

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Penelope Meyer (PM)
Ms Colette Scheermeyer (CSc)
Ms Waseefa Dhansay (WD)
Ms Corne Nortje (CN)
Ms Stephanie Barnardt (SB)
Ms Xola Mlwandle (MX)
Ms Sofia Vy Menell Briel (SVMB)
Mr Ruan Brand (RB)
Ms Chiara Singh (CSI)

Visitors:

Mr Peter Buttgens
Mr Ashley Lillie
Ms Jessica Blumenthal
Ms Sandra van der Merwe
Mr Andrew September
Ms Cherise Redelinghuys
Mr Bruce Wilson

Ms Lize Malan
Mr Henk Lourens
Mr Chris Heunis
Mr Jayson Clark
Mr 'Shiraaz Hassan
Mr Joné Kros

3. Apologies

None

4. Acceptance of the Code of Conduct

Members re-affirmed their commitment to the Code of Conduct

5. Approval of Agenda

HWC Appeals Committee 20th January 2025

5.1 Dated 20th January 2025.

The Committee resolved to approve the agenda dated 20 January 2025. AG moved to adopt the approval of the agenda and SH seconded.

The agenda dated 20th January 2025 was approved. The Committee unanimously resolved to adopt the agenda with minor additions. AG moved and SH seconded

6. Disclosure and Conflicts of Interest

7. None

6.1 Recusals- General

None

7. Approval previous of Minutes dated 2nd December 2024

7.1 The Committee resolved to approve the Minutes dated 2nd December 2024. CS moved to adopt the approval of the minutes and AVG seconded.

8. Confidential Matters

Appointment of additional member.

9. Administrative Matters

9.1 Outcome of the Tribunal Committees and Recent Court Decisions

PM reported on the outcome of the appeal in respect of 24 Wisbeach Road, Sea Point. The appeal was dismissed by the Tribunal.

None

9.2 Report back from HWC Council

None

9.3 Site Visits undertaken/Site Inspection Report(s)

- 9.3.1 Erf 52671, 20 Stanley Road, Claremont
- Erf 2806, 16 Church Street, Tulbagh
- Farm 610, 612 near Riebeek-Kasteel
- Erf 922, 34 Durbanville Avenue, Durbanville

9.4 Potential Site Visit

- 9.4.1 Erf 1361, 37 Ocean View Drive, Green Point

9.5 Discussion of attendance at any upcoming Tribunal meetings

- 9.5.1 None

9.6 Discussion of the Agenda

- 9.6.1 None

9.7 Appointments

- 9.7.1 None

9.8 Appointment of additional member to the Appeals Committee

The committee discussed the appointment of a new member to the Appeals Committee. PM will circulate the list of proposed committee members who had applied in response to the original advert.

MATTERS TO BE DISCUSSED

10 Matters Arising

10.1 None

11. New Matters

11.1 Erf 2334, 20 Church Street, Prince Albert
HM / CENTRAL KAROO / PRINCE ALBERT / ERF 2334
Case No: HWC24092006SJ1003

Appeal against HOMs's decision.

Ms Waseefa Dhansay introduced the item.

The appellant, the Prince Albert Cultural Foundation, was invited to the meeting but did not attend. The committee had regard to their written submissions.

Mr Peter Büttgens for the owner of the property submitted that:

- Intervention of this type required that they should be functional.
- Real thought has been put into the work.
- Demolition of the old shed was previously approved; however, drawings were not submitted by the previous architect.
- The new buildings were stables which must both function in the landscape and meet the design requirements for safe and comfortable stabling of horses. The hipped roof was more effective to achieve proper ventilation.
- The round window was preferable to a small square bathroom window which was architecturally appropriate.
- The symmetrical façade required that the window not be too small. It would also read as a modern intervention.

DISCUSSION

- The committee agreed with the respondents' submissions that the proposals constituted an appropriate intervention to the PHS.

DECISION

The Appeal is dismissed and the decision of HOMs is upheld.

SJ

11.2 Farm 610, 612 near Riebeek-Kasteel
HM / WEST COAST / SWARTLAND / RIEBEEK KASTEEL / FARM 610, 612
Case No: HWC24022712SB0308

Appeal against HOMs's decision.

Ms Stephanie Barnardt introduced the item.

A site inspection was undertaken. and the report was read into the record by SH.

Ms Lize Malan on behalf of the applicant:

- There was a previous HIA,
- HOMs did not ask for an AIA or PIA.
- The proposal does not change the character of the site.

DISCUSSION

- If a more detailed NID had been submitted, it would have assisted HOMs in applying themselves to the application.
- There are no heritage resources that will be impacted by the proposed development.

DECISION

The Appeal is upheld, no further studies are required.

SB

11.3 Proposed Total Demolition on Erf 922, 34 Durbanville Avenue, Durbanville
HM/ CAPE TOWN METROPOLITAN/ DURBANVILLE/ ERF 922
Case No: HWC24072215CH0813

Appeal against BELCom's decision.

Ms Corné Nortje introduced the item.

A site inspection was undertaken. and the report was read into t the record by AvG.

Mr Lillie on behalf of the Appellant submitted:

- It was pointed out that when the Notice of Intention to Develop (NID) was submitted, HOMs did not require an HIA to be conducted, which implied that there was no heritage resource on the site.
- The condition of the building may not affect the grading, but it could influence the management of the resource in the future. There would be fairly large-scale replacement of fabric necessary to restore the house.
- The heritage statement prepared by Lize Malan was thorough.
- The City of Cape Town seemed to have changed the grading.
- The developers proceeded in good faith based on the outcome of the NID.
- Docomomo does not make its list of notable buildings available to the public, and there was no way for the developer to know that there had been recent interest in work of the architect, APS Conradie.
- There are a number of buildings by Conradie which are extant and in better condition.
- The architect's significance against the need to reasonably retain the specific building must be weighed up.

Mr Henk Lourens on behalf of Durbanville Heritage submitted:

- APS Conradie was a noted architect in the area.
- Most of his buildings were not in very good condition.
- The architectural language and spatial qualities of this house were extraordinary. A lot of the building was still intact.
- Unsympathetic additions could be removed.
- It was of value to the community as it speaks to an era of the development of Durbanville.

- NID applications did not require a formal comment from conservation bodies, which was unfortunate as the conservation body could have alerted HWC to the significance of the house.
- The response to the NID not requiring further studies, did not grant a permit for the demolition of the structure. As no HIA was conducted, an application in terms of S34 still had to be done.
- The committee was referred further to the written submissions of the conservation body.

Sandra van der Merwe on behalf of Docomomo:

- Docomomo was not objecting to the demolition of certain parts of the residence.
- A scheme where the core house could be retained in a meaningful way could be supported.
- Docomomo was also not aware of the NID application.
- The house had great architectural significance.
- There were pockets of residential properties where there were examples of the architect's buildings
- There was widespread interest in the work of APS Conradie.

A Lillie response submitted that:

- Appellant believed that their case was solid, and more weight should be given to Lize Malan's heritage statement.
- Did not agree with the alleged significance of the building, it had numerous adaptations and changes over time.
- Restoration or repurposing was not feasible. The retention of the house would prevent the densification of the area which was a City Council imperative.

DISCUSSION

- Regarding the response to the NID of no impact on heritage resources, HOMs could only respond to the information before them. The impression was created that there were no buildings with heritage significance.
- Having experienced the house during the site inspection, its significance in terms of spatial experience and the fabric remains. There is a certain amount of repair work that is necessary, but it would not be as onerous as the appellant claims to repair it.
- It is a good example of APS Conradie's early work, there is a significance to the architect's work in that he was one of the only Cape architects to be influenced by Frank Lloyd Wright, rather than the work of European Modern Movement architects.
- The building is located on the highest portion of the land which is also impactful. The area where it is situated is still residential.
- The sense of space in the interior is notable.
- The unsympathetic changes are not irreversible.
- As regards the argument that there are other examples of the architect's work, this begs the question of how many buildings are enough. It seems arbitrary to justify the demolition of this building because "there are others." The significance of the specific building needs to be the determining factor.
- Modernist buildings may also have heritage significance, and care should be taken that buildings which may not appear to be "traditional heritage" are overlooked and destroyed.

DECISION

The Appeal is dismissed and the decision of BELCom upheld.

CH

11.4 Erf 2806, 16 Church Street, Tulbagh
HM/CAPE WINELANDS/WITZENBERG/TULBAGH/ERF 2806
Case No: HWC24091136CN0912

Appeal against BELCom's decision.

Ms Corne Nortje introduced the item.

A site inspection was undertaken. SH read the report into the record.

DISCUSSION

- The appellant submitted a written opinion that the buildings should not be Provincial Heritage sites.
- The appellant has shown disregard for the correct process in making amendments to the building.
- The entire Church street has been declared a Provincial Heritage Site, and the street has been severely impacted by the fence. It creates a very unsightly intervention which is also out of character for the specific site, but also for the entire street.
- The need for security is acknowledged, but there are other less intrusive ways to achieve this.
- The fact that the building is a PHS was known when the building was purchased, and the owner should be aware of the obligations which came with that.
- The conservation body is opposed to the fence.
- The committee is concerned at the very bad precedent that the fence sets.

DECISION

The Appeal is dismissed and the decision of BELCom upheld. The committee recommends that criminal charges be laid.

CN

11.5 Erf 52671, 20 Stanley Road, Claremont
HM / CAPE TOWN METROPOLITAN / CLAREMONT / ERF 52671
Case No: HWC24060513CN0614

Appeal against BELCom's decision.

Ms Corne Nortje introduced the item.

A site inspection was undertaken and AvG read the report into the record.

The committee considered the written submissions of the parties together with oral submissions made at the meeting.

Jessica Blumenthal for the appellant submitted:

- The neighbours were not objecting to the demolition itself but to the replacement building.
- A great deal was made of the degraded state of the building to justify the demolition, by the applicant.
- The property was graded IIIC, and therefore its Heritage value was in the contribution to the context.
- The developer should retain or mimic the façade.
- The plans submitted by the developer showed that the structure would be pulled forward to the street. This was at odds with the existing properties.
- The appellants took issue with the contention that designs were amended many times in accordance with I & APs inputs.
- The bay window did not mitigate the placement of the building on the site.

- The assessment of whether the proposed development would affect the adjoining properties should be made by HWC.
- They believed that a strong case could be made for the receiving environment being worthy of protection.
- The appellants were merely exercising their rights and objected to be labelled as litigious.

For the respondents Ms Cherise Redelinghuys submitted that:

- The respondent was compliant with the NHRA and all planning by-laws.
- Due process had been followed. There was a public participation process and the plans were revised at least 3 times.
- The demolition permit was granted without conditions, this showed that the decision was not taken lightly.
- Any decision to impose conditions would be *ultra vires*.
- The actions of the appellants were infringing on the property rights of the developer.
- The appellants also ignored the needs of the developing city.
- The buildings would in fact enhance the value of the neighbourhood in general.
- The property has no architectural significance.
- The proposed development was inspired by Victorian architecture.

DISCUSSION

- The building in itself had no heritage value and was not conservation worthy.
- The question was whether the context within which the building was situated was conservation worthy.
- There was a certain consistency of Victorian/Edwardian houses in street, but there was nothing that was notably special or original to it to justify that the area should be deemed to have heritage significance.
- Even if the area could be considered to have heritage significance, all the properties were screened by walls and hedges which would further have detracted from a purported heritage context.
- There was a house in the street, further to the south, which was right on the street boundary.
- Not all buildings in the street conformed to the 5m setback.
- The lack of heritage value of the area and context within which the building was situated accordingly did not justify a condition that the replacement building should be approved by HWC.
- The Gees judgement was therefore not applicable.

DECISION

The appeal is dismissed and the decision of BELCom is upheld.

CN

12. Other Matters: For Noting

- 12.1 Erf 1061 Remainder, 12 Main Road, Hout Bay
HM / CAPE TOWN METROPOLITAN / HOUT BAY / ERF 1061 REMAINDER
Case No: HWC24091804EJV0818

Appeal against BELCom's decision.

HELD OVER

EJV

Appeal against HOMs's decision.
Site inspection by GO and AvG

HELD OVER

XM

13. Proposed next date of the meeting to be held online: 12th February 2025

14. Adoption of decisions and resolutions

Closure: The meeting was adjourned at 13:15

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____ **DATE** 12 February 2025

SECRETARY _____ **DATE** _____ 2025