

**APPROVED MINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**
**Held on Tuesday, 15 June 2021 via Microsoft Teams, scheduled for
08:30**



Opening and Welcome

The Chairperson, Ms Katherine Dumbrell officially opened the meeting at 08:30 and welcomed everyone present.

Attendance

Committee Members:

Ms Katherine Dumbrell (KD)
Dr Andre van Graan (AvG)
Dr Antonia Malan (AM)
Dr Nicolas Baumann (NB)
Mr Stuart Hermansen (SH)

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Aneeqah Brown (AB)
Ms Cathy-Ann Potgieter (CAP)
Ms Zikhona Sigonya (ZS)

Visitors:

Item 9.1

Ms. Alicia Beetge (Lijn Interior Architects)
Mr. Graham Jacobs (Heritage consultant)
Mr. Stuart Burnett (GPRRA)

Apologies

Ms Penelope Meyer (PM)

2. **Absent**
None

Approval of Agenda

4.1 **Dated 15th June 2021**

The Committee resolved to approve the Appeals Agenda dated 15th June 2021 with minor changes.

The withdrawal of appeal of item 10.2 was noted:

**ERF 3083, 226 Buitengracht Street, Bo-Kaap
HM/CAPE TOWN METROPOLITAN/BO-KAAP/ERF 3083**

The Committee resolved to add item 9.2 to the agenda:

**Erf 68058, 4 Smithers Road, Kenilworth
HM/CAPE TOWN METROPOLITAN/KENILWORTH/ERF 68058**

Approval of Minutes of Previous Meeting

5.1 **Appeals Minutes dated 12th May 2021.**

The Committee resolved to approve the minutes dated 12th May 2021. Proposed by AM and seconded by AvG.

6. Disclosure and Conflicts of Interest

None

Confidential Matters

None

Administrative Matters

8.1 Outcome of the Tribunal Committees and Recent Court Decisions

CAP reported that the 130 Sir Lowry Road, Sir Lowry Square matter appeared before the Tribunal on Monday 14th June 2021. PM to report back at the next meeting.

CAP reported that the 30 Bradwell Road, Vredehoek matter has been appealed to the MEC.

The Committee raised concerns regarding the discrepancy between the Act providing for a 30 calendar days period for appealing to the MEC, while the regulations and the HWC Records of Decision state 21 working days. The Committee requested that the legal team raise the matter with the MEC's office as they are not complying with the regulatory 21 days, but rather with the NHRA 30 days. The Committee requests that the two offices come to agreement on the matter so that process is clear and is consistent with all legislation for all prospective appellants.

8.2 Report back from HWC Council

The most recent Council meeting was on 21st May 2021. KD reported that there has been no feedback from the issues raised before Council in her Chairman's Report. Council has not received the review of legislation and functioning of HWC report (title: The legal Review of implementation of the NHRA in the Western Cape prepared by Peter Kantor in consultation with Vida Memorial Heritage Consultant, March 2021) submitted to Department of Economic Development & Tourism, which was verbally reported on by the Acting CEO at the Council meeting, but it is believed that it is important that the report be circulated to Council and all HWC Committees. The report is in the process of being finalized. The Appeals Committee requests that its Chair carries this request through to Council.

The Committee welcomed the prospect of Committee workshops and requested that setting them up be addressed as a matter of urgency.

8.3 Site Visits Conducted

Erf 768, Clydebank Road, Green Point.

8.4 Potential Site Visits

ERF 1444, 24 Davenport Road, Vredehoek. NB and AvG to undertake the site inspection on 5th July 2021. The Committee noted that an interior inspection is not necessary as the key issues relate to the context and the streetscape.

8.5 Discussion of Agenda

The Committee noted the withdrawal of item 10.2:

ERF 3083, 226 Buitengracht, Bo-Kaap HM/CAPE TOWN METROPOLITAN/BO-KAAP/ERF 3083

The Appellant withdrew the Appeal on 14th June 2021. Having changed ownership, the Appellant no longer needed to approach this forum to contest the Section 51 letter.

The Committee noted the addition of item 9.2:

ERF 68058, 4 Smithers Road, Kenilworth

HM/CAPE TOWN METROPOLITAN/KENILWORTH/ERF 68058

The Committee had concerns with aspects of item 9.1:

Proposed Alterations and Additions, ERF 768, Clydebank Road, Green Point

HM/CAPE TOWN METROPOLITAN/GREEN POINT/ERF 768

The Committee discussed the issues raised by this Appeal. The grounds of Appeal were two discussion points recorded in the minutes issued after the decision was taken, as opposed to the actual decision. The grounds were:

- An evident error in the minutes.
- The inference of bias in the phrasing of the minute.
- There was also a lack of clarity as to whether the GPRRA was in support of the revised proposal or not.

8.6 IRP5 from Finance

The Committee reported that, as last year, they had difficulty accessing the documents. Concerns were flagged with the HWC administrative team. The Committee awaits receipt of a register acknowledging members' receipt of the IRP5s from HWC Finance that has to be signed.

9 Matters Arising

9.1 Proposed Alterations and Additions, ERF 768, Clydebank Road, Green Point. CT. S 34•A&A HM/CAPE TOWN METROPOLITAN/GREEN POINT/ERF 768 Case No: 2103020780303E

Ms. Cathy-Ann Potgieter introduced the case.

Ms. Alicia Beetge (Lijn Interior Architects), Mr. Graham Jacobs (heritage consultant), and Mr. Stuart Burnett (GPRRA) were present and took part in the discussion.

The site inspection report was read into the record by AvG and is attached to these minutes.

APPELLANTS presented, amongst others, the following arguments:

- The Appeal is against BELCom's decision to approve the application but is related to procedure.
- The minutes of the BELCom meeting erroneously stated that the CoCT supports the revised proposal. The decision was therefore based on incorrect information.
- The fact that the Committee "commended" the applicant for the quality of the presentation raises a perception of bias, considering that the heritage consultant is the Chairperson of BELCom (despite his recusal from the matter).
- The Committee should consider the Appeal based on these two issues.

APPLICANT presented, amongst others, the following arguments:

- The Appeal is not based on any heritage grounds, but rather on procedural concerns.
- The initial CoCT comment was submitted out of time, but it was nevertheless included in the proposal for the sake of transparency.
- The second proposal was not responded to by the CoCT, despite a request from the heritage consultant. CoCT confirmed to have not provided further comment despite being aware of the revised proposal. The lack of CoCT comment for the revised proposal is not unusual considering their workload.
- It is not an unusual comment for an applicant submission to be 'commended' by BELCom. The reason for this is that Committees receive a number of applications

that are not to standard and therefore the intention is to encourage good practice.

- Generally, when applications involve members of HWC Committees, they are held to a higher standard due to their assumed knowledge of the process.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee noted concerns regarding the lack of CoCT comment.
- The Committee noted that there appeared to be a conflation between bias and due commendation for comprehensive proposals.
- It was noted that minutes are vitally important, and it must be ensured that they are correct as there are legal ramifications to incorrect minutes.
- The perception of bias is of real concern to the Committee. While it was agreed that there should be recognition of good reports, it was felt that doing so within the minutes was not appropriate, despite the good intentions behind such a commendation. The Committee noted the necessity of publishing a code of good practice. The form this should take, as well as whether it should come within the heritage sector or from HWC Committees, was not detailed in discussion.
- The Committee is of the opinion that the proposal is sympathetic to the context and appropriately responds to heritage concerns.
- The Committee also noted that the Appellant did not raise sufficient heritage grounds to justify upholding the Appeal.

DECISION

The Appeal is dismissed. The decision of BELCom is upheld.

9.2 Tribunal: Proposed Alterations and Additions, Erf 68058, 4 Smithers Road, Kenilworth HM/CAPE TOWN METROPOLITAN/KENILWORTH 68058 Case No: 19110410WD1106E

Tribunal directive dated 23rd November 2020 dismissed the Appeals and approved the proposed development subject to the following conditions:

- The proposed development shall be undertaken in terms of the sketch plans submitted to the tribunal.
- The Second Respondent shall employ the services of an experienced heritage architect to oversee the development undertaken to the main house; and
- The landscape plan for the garden, including the retention of the mature trees where applicable, shall be included in the package of plans submitted to the First Respondent for consideration and approval, within 3 months from the date of this ruling.

Approved Sketch Plan (prepared by Rennie Scurr Adendorff Architects) submission dated 3rd March 2021 in response to the tribunal ruling was tabled.

DISCUSSION

Amongst other things, the following was discussed:

- The set of sketches provided does not amount to a local authority submission plan.
- The local authority submission plan will still need to be returned to HWC for stamping in order to fully comply with the ruling.
- At this stage, the committee endorsing the supplied set of plans, and those are to be developed into the local authority submission drawings.

DECISION

The Committee resolved that the directive of the Tribunal has been complied with. The Committee endorses the proposal in the document dated 3rd March 2021 by Rennie Scurr

Adendorff Architects – drawings numbers 19-009_SK001, 19-009_SK002, 19-009_SK003, 19-009_SK004, 19-009_SK005, 19-009_SK006, 19-009_SK007, and 19-009_SK08. These drawings are to be developed into the local authority submission drawings and returned to HOMs for stamping.

10. New Matters

**10.1 Proposed Alterations and Additions, ERF 1444, 24 Davenport Road, Vredehoek, CT 34•A&A HM/CAPE TOWN METROPOLITAN/VREDEHOEK/ERF 1444
Case No: 21020115 80202E**

The appeals pack had been circulated.

The Committee resolved to undertake a site inspection. NB and AvG to undertake the site inspection on 5th July 2021. The Committee noted that an interior inspection is not necessary as the key issues relate to the physical context.

**10.2 Letter Issued in terms of Section 51(1)(C) of the NHRA regarding illegal work on ERF 3083. 226 Buifengracht, Bo-Koap
HM/CAPE TOWN/BO-KAAP/ERF 3083
Case No: 2102261IMS0429E**

The Committee noted that the appeal was withdrawn by the Appellant on 14th June 2021.

**10.3 Proposed Alterations and Additions, ERF 55, 850 Church Street. Elm. S27
HM/OVERBERG/CAPE AGULHAS/ELIM/ERF 55
Case No: 19102941LB1126E**

Interim Appeal Pack for noting only. PM to provide clarity on the matter before the next meeting.

**10.4 Notification of Intent to Develop: Proposed Rezoning on ERF 7614. Knysna. S38(11)
HM/EDEN/BITOU/KNYSNA/ERF 7614
Case No: 21030213SB0316E**

Interim Appeals Pack for noting only. The Committee requested that the advice of the APM Committee be obtained before the next Appeals Meeting. The Committee wishes to know whether a Desktop PIA would suffice for this site.

13. Proposed next date of the meeting: 14th July 2021

14. Adoption of decisions and resolutions
The Committee resolved to adopt the decisions and resolutions dated 15th June 2021.

15. Closure: The meeting was adjourned at: 11:34

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON_____

DATE_____

SECRETARY_____

DATE_____

