

**APPROVED MINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**
**Held on Wednesday, 11 August 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)
Ms Emmylou Bailey (EB) (from 10h45)

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Aneeqah Brown (AB)
Ms Cathy-Ann Potgieter (CAP)
Mr Reagon Fortune (RF)
Ms Penelope Meyer (PM)

Visitors:

Mr Barry Phillips
Ms Louise van Riet
Ms Saira Essa
Ms Stephanie Muller
Mr Henry Aikman
Ms Ute Kuhlmann

Apologies

Mr Stuart Hermansen (SH)

3. Absent

None

4. Approval of Agenda

4.1 Dated 11th August 2021

The Committee resolved to approve the Appeals Agenda dated 11th August 2021.

5. Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 14th July 2021.

The Committee resolved to approve the minutes dated 14th July 2021.

6. Disclosure and Conflicts of Interest

None

7. Confidential Matters

None

Administrative Matters

8.1 Outcome of the Tribunal Committees and Recent Court Decisions

None.

The River Club Development: PM noted that the matter is going to court, but that HWC does not intend to oppose as no relief is sought against HWC.

8.2 Report back from HWC Council

A Special Council Meeting was held on 22nd July 2021 to conclude the May 2021 meeting agenda. Council decided that TRUP was a site of grade I significance and was therefore to be referred to SAHRA.

The Committee raised concerns regarding the tribunal referrals. The Committee noted the Council decision that the Chair will send a letter to the tribunal in this regard.

8.3 Site Visits Conducted

None

8.4 Potential Site Visits

None

8.5 Discussion of the Agenda

The issues of miscommunication and the extent to which they are raised in requests for condonation for late appeals were discussed and it was noted that operational procedures are being developed to address them. The Committee welcomed these initiatives by the staff.

9 Matters Arising

9.1 Proposed Alterations and Additions, Erf 55, 85 Church Street, Elim HM/CAPE AGULHAS/ELIM/ERF 55 Case No: 191024LB11264

Amended plans were tabled for approval.

Ms Cathy-Ann Potgieter introduced the case.

DECISION

The Committee resolved that HWC should lift the Stop Works Order and enter into a heritage agreement with the Applicant, in respect of which the plans prepared by Howard Jacobs, numbered D1_001, D1_100, D1_200, D1_300, and D7_700 and dated 27/07/2021 are approved by HWC as mitigating the illegal work.

9.2 Tribunal referral: Proposed Development and Consolidation of Erven 28900-28902, 1, 3 & 5 Strubens Road, Mowbray HM/CAPE TOWN METROPOLITAN/MOWBRAY/ERVEN 28900, 28901, & 28902 Case No: 18061903ZK0620E

Landscape plans were tabled for approval.

Ms Cathy-Ann Potgieter introduced the case.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee noted that the submitted plan did not clearly indicate the cadastral site boundary.

- The Committee noted that the intention of the Tribunal's decision was to create a green edge and screening device to the street. To best achieve this, the planting should be within the site boundary and the hedge should obscure the fence.
- It was not clear what the height of the indicated new trees will be, or what the definition of a 'mature tree' is.

FURTHER REQUIREMENTS

The Committee requires the following from the landscaping design team:

- A site plan indicating the exact position of the fence and the proposed tree-planting in relation to the site boundary; and
- A brief written response, addressing the Tribunal's requirement in terms of 71.2 of their decision.

10. New Matters

10.1 Proposed Alterations and Additions, Erf 2911, 38 Huguenot Road, Franschhoek HM/CAPE WINELANDS/STELLENBOSCH/FRANSSCHOEK/ERF 2911

Case No: 211250KB1126E

Appeal pack was tabled.

Ms Cathy-Ann Potgieter introduced the case.

Mr Barry Phillips (Franschhoek Heritage & Ratepayers Association - Appellant), Ms Saira Essa (owner), and Ms Louise van Riet (Heritage Practitioner for the Applicant Respondent) were present and took part in the discussion.

APPELLANT presented, amongst others, the following arguments:

- The area has high contextual significance.
- Alterations must be considered in relation to the context.
- Franschhoek is losing authenticity due to densification.
- There is incremental erosion of heritage character which requires a (pre)cautionary approach to alterations in this area.

APPLICANT presented, amongst others, the following arguments:

- The proposed alterations do not derogate from the contextual significance of the area.
- The building itself must still fit into the environment, and the proposed alterations are sensitive to this.
- There is more than sufficient information to make a decision. (A (pre)cautionary approach is not appropriate as there is enough information before the Committee to make a definitive decision).
- Towns cannot remain static but change must be sympathetic.
- Huguenot Street is a very busy street in the area. The presence of potential clutter on the balcony cannot be used to motivate a decision taken on heritage grounds.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee was of the opinion that heritage resources will be impacted by the proposed development.
- The heritage argument of cumulative impact on the heritage environment (identified in the Stellenbosch Study) and the heritage resource (gable) was noted by the Committee.

- The Committee supported the sliding folding frameless glass enclosure of the colonnade.

FURTHER REQUIREMENTS

The glazing treatment of the ground floor colonnade is supported. The dormer windows should be reduced by 50% in size and the accessible portion of the street-facing veranda should be reduced so that no balustrading obscures the 1930 gable.

The Applicant Respondent is required to circulate the revised proposal to the Appellant and submit their comment to the Appeals Committee.

10.2 Proposed Total Demolition, Erf 223, 4 Weir Road, Milnerton HM/CAPE TOWN METROPOLITAN/MILNERTON/ERF 223 Case No: 21040706MS0428E

Appeal pack was tabled

Ms Stephanie Muller (Friends of Blaauwberg Conservation Area for the Appellant) and Mr Henry Aikman (for the Applicant Respondent) were present and took part in the discussion.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee noted BELCom's opinion that the subject building is not of sufficient heritage significance to warrant being included in the heritage register.
- The Committee considered BELCom to have complied with Section 34(4).
- The Committee noted that the site does not fall within an HPOZ, nor can the receiving environment be considered a heritage resource.

DECISION

The Appeal is dismissed.

10.3 Proposed Alterations and Additions, Erf 12255, 230 Victoria Street, Woodstock HM/CAPE TOWN METROPOLITAN/WOODSTOCK/ERF 13355 Case No: 21051806SM06064E

Appeal pack was tabled.

Ms Cathy-Ann Potgieter introduced the case.

Ms Ute Kuhlmann (Woodstock Residents' Association - Appellant) and Mr Henry Aikman (for the Applicant Respondent) were present and took part in the discussion.

APPELLANTS presented, amongst others, the following arguments:

- The lack of proper public participation process being undertaken was raised.
- The Applicants were directed to share further proposals with I&APs, which they did not do.

APPLICANT presented, amongst others, the following arguments:

- The circulation of documentation to I&APs beyond the BELCom meetings is not standard practice.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee noted that the Applicant was instructed by BELCom to share revised proposals with the I&APs.
- The Committee noted that the appellant's argument is largely related to fair process.

LATE FILING: DECISION

The Committee resolved to condone the late filing of the Appeal.

MERITS: FURTHER REQUIREMENTS

The Committee requires that the proposal as approved by BELCom be circulated to the Woodstock Residents' Association. The comment of the Woodstock Residents' Association is to be submitted to the Appeals Committee by the 1st September 2021.

The Committee requires that the Applicant inform City of Cape Town Land Use Department of the Appeal process under way and that the permit issued in terms of Section 34 is therefore on hold until the Appeal is decided.

10.4 Proposed Minor Works, Erf 88273, 14 Main Road, St James HM/CAPE TOWN METROPOLITAN/ST JAMES/ERF 88237 Case No: 21051806MS06064E

Appeal pack was tabled.

Ms Cathy-Ann Potgieter introduced the case.

Ms Penelope Dreyersmith (Appellant) and Mr Ashley Lillie (for the Applicant) were present and took part in the discussion.

APPELLANTS presented, amongst others, the following arguments:

- The contested ownership renders the decision of HWC *ultra vires*.
- The Appellant owns the structure in question by operation of prescriptive rights.
- There was no opportunity to participate in the matter as there was no notice given.
- The Appellant challenges the lack of transparency.

APPLICANT presented, amongst others, the following arguments:

- The owner holds title to the land.
- Suggestion that the ownership was acquired by prescription is without merit.
- The Appellant had enough time to submit arguments timeously, and the submission of extra information on the morning of the meeting cannot be considered.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee notes that this was an application for minor works, and therefore the requirement of public participation is waived in terms of the Heritage Western Cape Consultation Guidelines.
- The commenting process does not include that of neighbours where conservation bodies are present in the area.
- The contention in terms of consultation is therefore without merit.
- The Appellant has not provided proof of heritage significance.

DECISION

The Appeal is dismissed.

13. Proposed next date of the meeting:

8th September 2021

14. Adoption of decisions and resolutions

The Committee resolved to adopt the decisions and resolutions dated 11th August 2021.

15. Closure: The meeting was adjourned at 15:45

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON_____

DATE_____

SECRETARY_____

DATE_____