

**APPROVED DMINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**
**Held on Wednesday, 13 October 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 Penelope Meyer (PM)
Mr Reagon Fortune (RF)

Visitors:

Item 9.1

Mr Richard Summers
Mr Brian Swart and Ms Elma Hamman
Mr Mike Scurr
Ms Sarah Winter

Item 9.2

Ms L van Riet

Item 10.1

Ms Louise van Riet
Ms Di Haiden
Mr Andrew Wolff
Mr Philip Cavaney
Ms Ntombi Nkoane

Mr Andre King and Mr Andre Vercuil (**observers**)

Item 10.2

Mr Anton Slabbert
Ms Sandra van der Merwe

Apologies

none

3. Absent

None

4. Approval of Agenda

5.

4.1 Dated 13th October 2021

The Committee resolved to approve the Appeals Agenda dated 13th October 2021.

6. Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 8th September 2021.

The Committee resolved to approve the minutes dated 8th September 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.

8.2 Report back from HWC Council

Nothing to report, no recent Council meetings. The Committee requested that a follow up be made to establish whether the DEDAT report has been circulated.

8.3 Site Visits Conducted

Erf 334, 21 Victoria Road, Camps Bay

8.4 Potential Site Visits

Item 10.2: Proposed Total Demolition Erf 2291, 21 Dal Road, Camps Bay

HM/CAMPS BAY/ERF 2291

Case No: 220071608KB0303E

Item:10.3: Proposed Total Demolition on Erf 53936, 24 Claremont Avenue, Claremont

HM/Claremont/ERF 53936

Site Inspection to be held 2 November 2021, AvG, AM and SH to attend. Internal access to both sites required.

8.5 Discussion of the Agenda

Item Item 10.2: Proposed Total Demolition Erf 2291, 21 Dal Road, Camps Bay

HM/CAMPS BAY/ERF 2291

Case No: 220071608KB0303E

The Committee noted that the Heritage Consultant had sent an email in which he required that the matter be removed from the Agenda as an appeal in terms of Regulation 12(7) of the Regulations to the NHRA published in PN 336 had been lodged to the Ministerial Tribunal. Given the date of the hearing and the set date of the Appeals Committee, the Committee is of the opinion that it is still within the purview of the committee and that it can hear the matter. PM furthermore advised that it would be desirable to hear the matter as the Tribunal will take into consideration whether HWC had taken reasonable steps to cure the defect complained of.

9 Matters Arising

**9.1 Proposed Total Demolition, Erf 334, 21 Victoria Road, Bantry Bay.MA
HM/CAPE TOWN METROPOLITAN/BANTRY BAY/ERF 334
Case No: 21030408XM0422E**

The appeal pack was tabled.

A site inspection report was tabled.

Ms Xola Mlwandle introduced the case.

The following were present and participated in discussions:

- Mr Richard Summers (Attorney), Mr Brian Swart and Ms Elma Hamman (owners), Mr Mike Scurr and Ms Sarah Winter (Heritage Consultants) for the Appellants.
- Mr Anton Slabbert (Attorney), Dr Stephen Townsend (Heritage Consultant) and Ms Anthea Leonsis for the Respondents.

AvG read the site inspection report into the record.

APPELLANT presented, amongst others, the following arguments:

- BELCom had erred in deciding that the building and context lacks heritage significance.
- The matter is not that straightforward as the building is significant enough to warrant retention
- Grade III heritage resources are accepted heritage resources, both the building and the context have a measure of cultural significance.
- Total demolition will give rise to unacceptable heritage impacts
- The previous decision was taken in 2016, prior to the Gees case and does not bind HWC in limiting its discretion.
- Given the above, the Appeals Committee should reassess the application.
- Spatial interplay between 23 and 21 Victoria Rd is relevant.
- Scaling and corner location is also important.
- Curved design corner form is positive and worthy of retention.
- The palm trees are not of enough intrinsic significance to be retained.
- Applicants' consultant acknowledges that the site is graded IIIC.
- The loss of the building will significantly degrade the heritage context.
- Applicant has not given any information on the replacement structure. A blank canvas approach is inappropriate as it will negatively impact on the adjacent building.
- Differ from Dr Townsend on the nature and extent of controls required.

RESPONDENT presented, amongst others, the following arguments:

- Not going to dispute the grounds of appeal.
- Is the building significant enough to be protected in and of itself?
- The point of s34(2) is that it is easy to argue that just about any site has some heritage significance. You can only intervene when there is sufficient heritage significance.
- Significance here is very low, IIIC at best. There is a small amount of significance and it is mainly contextual.
- There is some interest in the original builders, but there is insufficient significance in that aspect to sway a decision.
- The surrounding environment is not formally protected, accordingly the context is not sufficiently significant.
- Environment is mixed and undergoing change.

- Scenic drive argument inappropriate. It generally refers only to what is below the site, on the seaward side. The only scenic impact in this area is down or up the cross streets.
- Town planning controls will sufficiently control the replacement building.
- If the Committee considers that the adjacent property is significant enough to warrant protection and consideration, setback can be considered.

DISCUSSION

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

- The existing house has been substantially changed by the enclosure of the verandahs.
- The house is not significant enough to warrant retention. However, the adjacent house (23 Victoria Road) does have heritage significance.
- The buildings in the surrounding area step up towards the south; the mountain is read behind these developments.
- In order to preserve the entrance experience to the scenic drive, a setback is required, and building height should also be controlled, as this gateway experience is also a heritage resource.
- The issue of scenic drives has not been properly explored by the CoCT. There is a need for appropriate policy, as the experience of landscape from scenic routes forms part of the cultural landscape.
- In this case, the scenic elements are both above and below the Scenic Drive.
- Given the issues involved in this case, the Committee expected that the consultant would have drafted heritage indicators for the site.
- The adjacent III B building could be severely impacted by an insensitive development on the site.

DECISION

The appeal is dismissed, and the following decision is substituted for the decision of the BELCom:

The application for demolition is approved subject to the following conditions:

1. That the height of the replacement building not exceed the ridge height of No. 23 Victoria Road.
2. That the replacement building be set back in line with no 23 Victoria Road.
3. The palm trees are to be retained.

9.2 Erf 2911, 38 Huguenot Road, Franschhoek

The Committee was satisfied that the Franschhoek Heritage Trust had been consulted and notified that the matter would be considered on 13 October 2021. They did not, however, attend the meeting.

Ms L van Riet (heritage consultant for the applicant) was present and took part in the discussion.

FOR THE APPLICANT

- The heritage consultant referred to the amended plans and demonstrated the amendments made in response to the further requirements of the Committee.

DISCUSSION

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

- The reduction in the size of the dormers has significantly improved the reading of roofscape, as intended by the Committee requesting this amendment.

- The railing stepped back from the front facade is acceptable, but it returns and intersects the building facade too close to the 1930 gable.

DECISION

The appeal is dismissed. The Committee substituted the following decision for the decision of BELCOM:

- a. The committee resolved to approve plans tabled PL101, PL102, PL103, PL104 & PL 105 Rev D dated 19/08/2021 subject to the following condition:
- b. That the 1st floor balcony balustrade be set back 300mm from the 1930 gable.

10. New Matters

10.1 Proposed Total Demolition Erf 1713, 55 Cearn Drive, Knysna. NM HM/KNYSNA/ERF 1712

Case No: 21050506XM0526E

The appeal pack was tabled.

The appeal is against a HOMS decision.

Ms Xola Mlwandle introduced the case.

Ms van Riet (heritage consultant for the owners), Ms Di Haiden (owner), Mr Andrew Wolff and Mr Philip Cavaney (Knysna Historical Society) (1st and 2nd appellants) and Ms Ntombi Nkoane (Knysna Municipality) were present and took part in the discussion.

Mr Andre King and Mr Andre Vercuil were observers to the proceedings.

APPELLANTS presented, amongst others, the following arguments:

- The appellants requested condonation of their late submission of the appeal as they were not apprised in writing of the outcome of the application until 4 September and were also not consulted in the original application.
- Mr Philip Cavaney raised the procedural issue that there was no notification to registered conservation bodies of the proposed demolition.
- The historical overview by Mr Cavaney included the following points:
 - the island was bought by George Cearn who laid out the original township.
 - The subject cottage was built by one of the original owners.
 - The core structure of the subject building is the oldest structure on Leisure Island.
 - Nearly all of the other original structures on the island have been demolished.
 - Cottage has relevance to the navigational history of the area.
- Mr Andrew Wolff referred to the presentation he had submitted.
- The old house has an interesting structure and is rare.
- Cypress cottage should be graded IIIB or IIIC.
- Not enough work has been done to identify significance.
- The cottage has landmark status for local residents.

RESPONDENT presented, amongst others, the following arguments:

- It is clear that HWC did not request that the registered conservation body comment.

- The Knysna Historical society is not registered but has commented as an interested party.
- The owner is being prejudiced in that the heritage has been neglected, there is no heritage context left.
- The surrounding developments dwarf the cottage.

Ms Ntombi Nkoane commented on behalf of the Knysna Municipality and pointed out that only registered conservation bodies would be consulted by the Municipality. The Municipality had considered the context of the island in granting its permission.

DISCUSSION

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

- There is no heritage significance in the cottage other than that it is an old structure.
- Most of the fabric of the island has been altered.
- A much clearer statement of significance is required.
- There is very little intrinsic heritage significance left. The original cottage is embedded in accretions.
- The Cypress tree and the position of the cottage are significant, and an identifiable marker of the cottage would be appropriate.

DECISION

The appeal is dismissed and the decision of HOMs is replaced by the following:

The demolition application is approved subject to the following conditions:

1. The retention of the Cypress tree.
2. The inclusion of interpretative signage marking the history and significance of the site, that is visible from the public realm and compiled in consultation with the Municipality, Knysna Museum, Leisure Isle Residents Association and the Knysna Historical Society. The applicant is to co-ordinate and bring the proposed signage design back to this Committee prior to the demolition taking place.

10.2 Item 10.2: Proposed Total Demolition Erf 2291, 21 Dal Road, Camps Bay HM/CAMPS BAY/ERF 2291 Case No: 220071608KB0303E

The appeal pack was tabled

Mr Anton Slabbert (Attorney for the Appellant) and Ms Sandra van der Merwe (DOCOMOMO) were present and took part in the discussion.

- Mr Slabbert stated that the Committee cannot consider the appeal as an appeal had been made in terms of regulation 12(7) against the failure of the Committee to consider the appeal within the time limit provided for in regulation 12(1)(c).
- The Committee advised the parties that it was of the opinion that it had an obligation to proceed with its consideration of the appeal, and that it was further of the opinion that the nature of the application required a site inspection to be conducted.

FURTHER REQUIREMENTS

The Committee requires a site inspection to be conducted on 2 November 2021. (AvG, AM and SH)

10.3 Item:10.3: Proposed Total Demolition on Erf 53936, 24 Claremont Avenue, Claremont HM/Claremont/ERF 53936

The appeal pack was tabled.

FURTHER REQUIREMENTS

The Committee requires a site inspection to be conducted on 2 November 2021. (AvG, AM and SH)

12. GENERAL

An appeal was received in respect of Rowan Street, Stellenbosch. Secretariat will acknowledge receipt of the appeal and it will be placed on the agenda for the November meeting.

13. Proposed next date of the meeting: 10th November 2021

14. Adoption of decisions and resolutions

The Committee resolved to adopt the decisions and resolutions dated 13th October 2021.

15. Closure: The meeting was adjourned at 13:28

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON_____

DATE_____

SECRETARY_____

DATE_____