

**APPROVED MINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**
**Held on Wednesday, 12 January 2022 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 Waseefa Dhansay (WD)
Ms Aneeqah Brown (AB)
Ms Penelope Meyer (PM)
Mr Reagon Fortune (RF)
Ms Stephanie Barnardt (SB)
Ms Come Nortje (CN)
Ms Muneerah Solomon (MS)
Ms Khanyisile Bonile (KB)
Ms Ayanda Mdludlu (AM)

Visitors:

Ms Katherine Robinson
Mr Ron Martin
Ms Tasneem Higgins
Ms Cindy Postlethwayt
Mr Stefan de Kock
Mr Richard Summers

Apologies

Ms Nosiphiwo Tafeni (NT)

3. Absent

None

4. Approval of Agenda

4.1 Dated 12 January 2022

The Committee resolved to approve the Appeals Agenda dated 12 January 2022.

5. Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 7 December 2021.

The Committee resolved to approve the minutes dated 7 December 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

The Committee noted that the Vidamemoria report on the implementation of the NHRA by HWC had now been added to the 19 November 2021 post that had Adv Kantor's specialist report, but not the report by the main consultant. The Committee requested that a notice be sent out to inform people of this, as adding to a post does not cause a new notice to be generated automatically. WD undertook to discuss the matter with the CEO and suggested that a general notice would be the best option. The Committee supported this suggestion.

8.3 Site Visits Conducted

8.3.1 None

8.4 Potential Site Visits

8.4.1 Item 13.1- Appeal against the decision of BELCom: Proposed Total Demolition of Erven 977 and 978, 11 and 13 Virginia Avenue, Vredehoek, S34-TD – Matter to be heard at the meeting of 9 February 2022

Case No.: 21061711KB0728E

The Committee resolved to undertake a site inspection on the 01 February 2022 at 10 h 00. (AM, NB & AvG)

8.5 Discussion of the Agenda

Item 11.1 was discussed.

8.6 Compilation of Agenda Packs

The Committee raised concerns over the access to items on the SharePoint. It was also noted that some information was being distributed at a later date, either uploaded or e-mailed. This can cause confusion as Committee members must be confident that they have received all the information for consideration. It was agreed that a way to resolve this was a firm cut-off date of one week before the meeting, by which time all information is to be uploaded. Case officers are to advise appellants and respondents accordingly.

9 Matters Arising

9.1 MEC Tribunal Directive: Proposed Partial Demolition, Alterations and Additions, Erven 2544 and 2456,

Corner Joubert Street and Merriman Avenue, Stellenbosch – S34, A&A

Case No.: 18080605HB0807E

The appeal pack was tabled.

Ms Waseefa Dhansay introduced the case.

As no parties to the Appeal were present at the meeting, the Committee relied entirely on the written submissions made.

DISCUSSION

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

- The apparent inclusion of these two properties into the proposed Stellenbosch University Transport Hub confused the Committee as that project was not under consideration.

- Documentation provided by the Appellant was not clear in articulating how the directive of the Tribunal is being met, which related specifically to the two properties being erven 2544 and 2456.

FURTHER REQUIREMENTS

The Committee requires that the Tribunal appellant (represented by Mr Smuts) provide a clear summary of the ways in which the proposal meets the conditions contained in the Tribunal Directive dated 18 May 2020. Furthermore, clear documentation of the impacts of the broader proposal on the subject properties must be provided.

WD

9.2 Appeal against decision of BELCom: Proposed Additions and Alterations on Erf 12563, 26 Coronation Road, Walmer Estate, Revised Proposal to be tabled – S34, A&A Case No.: 21081111MS0816E

The appeal pack was tabled.

Ms Muneerah Solomon introduced the case.

The following were present and participated in discussions:

- Mr Ron Martin
- Ms Tasneem Higgins

APPELLANT presented, amongst others, the following arguments (1.39)

- The design responds in height to the context and indicators.
- The second design indicator is contextual response.
- The design response to the interface with Coronation Road was considered, despite the new entrance being in Duke Street.
- The Duke Street elevation is broken up, fulfilling identified residential character requirements.
- Boundary wall is stepped and is designed to complement the Duke Street interface.
- Although a hipped roof is not being used, the introduction of the parapet roof picks up on buildings in the neighborhood.
- There is still a strong sense of symmetry on the Coronation Street facade despite the removal of the former front door, which is replaced with a central window.
- It is hoped that the revised proposals have addressed the Committee's concerns.

DISCUSSION

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

- The issue of the dominance of the roof has been addressed by the introduction of the parapet roof.
- The boundary wall is not necessarily an issue, as the visible portion of the house is more important as a response to the context.
- The wrap-around verandah is a positive addition.

DECISION

The Appeal is dismissed. The Committee resolved to approve the application as reflected in drawing numbered 6220/1 dated June 2021, with a revision added dated 10 January 2022.

MS

10. NEW MATTERS

**10.1 Appeal against decision of HOMS: Proposed mixed-use development on Erven 1378 and 1379, Paarl, S38(4)-NID
Case No.: 201110503SB1118E**

The appeal pack was tabled.

Ms Stephanie-Anne Barnardt introduced the case.

The following was present and participated in discussions:

- Ms Cindy Postlethwayt (Heritage Consultant for the appellant)

APPELLANT presented, amongst others, the following arguments:

- The land is owned by two different owners and there are therefore separate proposals.
- The sites have previously been assessed in an HIA; no heritage resources were identified.
- The previous HIA and responses were not submitted with the NID.

DISCUSSION

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

- There is no requirement to conduct public consultation in a NID process. (The Committee continues to note this as a concern. The local knowledge this can unlock is potentially very useful to the compiler of the NID and HWC.)
- Concern was expressed about the boundary treatment and setbacks from the R45, which has potential scenic route status.
- The Committee noted that previous work was not included in the NID submission which would have allowed HOMS to be in a better position to make a decision.
- There is an existing response to an HIA which included this site in its assessment. The response was that no further studies were required.

DECISION

The Appeal is upheld and no HIA is required.

SB

**10.2 Appeal against decision of HOMS: Proposed Construction of a Commercial Facility and Parking on Erven 1376 and 1377, Paarl, S38(4) -NID
Case No.: 21120233SB1202E**

The appeal pack was tabled.

Ms Stephanie-Anne Barnardt introduced the case.

The following were present and participated in discussions:

- Ms Cindy Postlethwayt (Heritage Consultant for the appellant)

DISCUSSION:

Amongst other things, it was noted that:

- There is no requirement to conduct public consultation in a NID process. (The Committee continues to note this as a concern. The local knowledge this can unlock is potentially very useful to the compiler of the NID and HWC.)
- Concern was expressed about the boundary treatment and setbacks from the R45, which has potential scenic route status.
- The Committee noted that previous work was not included in the NID submission which would have allowed HOMS to be in a better position to make an informed decision.

- There is an existing response to an HIA which included this site in its assessment. The response was that no further studies were required.

DECISION

The Appeal is upheld and no HIA is required.

SB

10.3 Appeal against decision of HOMS: Proposed Demolition of an existing accommodation facility and redevelopment of the site, Portion 5 of Farm 296, Arch Rock, Keurboomstrand- S38(4)-NID Case No: 21102706AM1027E

The appeal pack which had been reviewed by the Committee was tabled.

Ms Ayanda Mdludlu introduced the case.

The following were present and participated in discussions:

- Mr Stefan de Kock (Heritage Consultant)
- Mr Richard Summers (Legal Advisor to Appellant)

APPELLANT presented, amongst others, the following arguments:

- The issue is whether or not S38 of the NHRA is triggered in respect to this particular case.
- The proposed development does not fall into any of the categories therein.
- The possibility of more extensive groundworks is not a trigger.
- The NID submission came about through the NEMA process. The national screening tool picked up the possibility of archaeological and palaeontological sensitivity.
- One of the screening triggers was the Maatjes River Rock Shelter, a completely different archaeological context.
- The development is essentially a like-for-like replacement proposal.
- The appropriate management mechanism would be protocols required in terms of the NEMA decision conditions.

DISCUSSION

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

- The issues are mainly to do with archaeology and paleontology.
- The EAP should make provision for the inclusion of the standard conditions regarding chance finds in the EMPr

DECISION

The Appeal is upheld. No further studies are required.

AM

11. MATTERS FOR NOTING

11.1 Appeal against the decision of BELCom: Proposed Total Demolition of Erven 977 and 978, 11 and 13 Virginia Avenue, Vredehoek, S34-TD – Matter to be heard at the meeting of 9 February 2022 Case No.: 21061711KB0728E

HELD OVER FOR A SITE INSPECTION

A site inspection to be conducted on 1 February 2022 at 10h00. (AM, NB & AvG)

KB

12. GENERAL

None

13. Proposed next date of the meeting: **9 February 2022**

14. Adoption of decisions and resolutions

The Committee resolved to adopt the decisions and resolutions dated 12 January 2022.

15. Closure: The meeting was adjourned at 13:00.

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON_____

DATE_____

SECRETARY_____

DATE_____