

**APPROVED MINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**



**Held on Wednesday, 18 September 2019 in the 1st Floor
Boardroom at the Offices of the Department of Cultural Affairs and Sport,
Protea Assurance Building, Greenmarket Square, Cape Town scheduled for 09:30**

1. Opening and Welcome

The Chairperson, Ms Corlie Smart, opened the meeting at 09:36 officially and welcomed everyone present.

2. Attendance

Committee Members:

Ms Corlie Smart (CSm)
Dr Andre van Graan (AvG)
Dr Nicolas Baumann (NB)
Mr Rowen Ruiters (RR) arrived 9:57

Members of Staff:

Ms Penelope Meyer (PMe)
Ms Stephanie Barnardt (SB)
Ms Waseefa Dhansay (WD)
Mr Andrew September (AS)
Ms Aneeqah Brown (AB)
Mr Lwazi Bhengu (LB)

Visitors:

Dr Stephen Townsend (ST)
Ms Jacqui Perrin (JP)
Mr Alexander Geh (AG)
Mr Robert McGiven (RMc)
Mr Johan Cornelius (JC)
Ms Jenna Lavin (JL)
Mr Chris Murphy (CM)
Dr Anna-Marie Bruver (AMB)

Observers:

None

3. Apologies

Mr Tseliso Leshoro (TS)

Absent

None

4. Approval of Agenda

4.1 Dated 21 August 2019

The Committee approved the agenda dated 18 September 2019 with minor amendments.

5. Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 17 July 2019

The Committee reviewed the minutes dated 17 July 2019 and resolved to approve the minutes with minor amendments.

6. Disclosure of Interest:

6.1 None

7. Confidential Matters

7.1 None

8. Administrative Matters

8.1 Outcome of the Tribunal Committees and Recent Court Decisions

PM reported back.

8.2 Report back from HWC Council

PM reported back.

8.3 Site Visits Conducted

8.3.1 ERF 55148, 16 Osborne Road, Claremont

8.3.2 Erf 1600, 122B Kloof Street, Gardens

8.4 Potential Site Visits

- Item 10.4 : Proposed Alterations and Additions to Existing Structure on Erf 183, 5 Crown Crescent, Camps Bay
- Item 10.6: Proposed development and consolidation 1,3 and 5 Struben Road, Mowbray

8.5 Ou Hoof Gebou, Stellenbosch

PM's report back was noted.

8.6 Item Headings on the agenda

- Add the sections the NHRA of the original application which is appealed to the agenda items.
- Add the relevant Committee associated with the appeal.
- Case officer to indicate appellant and other parties for items.

9. Matters Arising

9.1 Proposed demolition and replacement structure on Erf 55148, 16 Osborne Road, Claremont: Section 34 Appeal from BELCom

Case No: 19040205AS0403E

Mr Andrew September introduced the case.

Dr Andre Van Graan presented the site inspection report.

Dr Stephen Townsend [ST], Ms Jacqui Perrin {JP}, Mr Alexander Geh , Mr Robert McGiven and Mr Johan Cornelius [JC]were present and took part in the discussion.

In summary, it was noted in discussion that:

- ST on behalf of neighbours submitted:
 - Whether the property is situated within an HPOZ is irrelevant.
 - Zoning Scheme Regulations do not afford an owner a right but only restrict development parameters.
 - JC acknowledges the presence of a heritage resource in his report.
 - Referred to the Gees judgement and that the character, scale and texture must be preserved to protect the heritage resource.
 - The design of the development must be amended to soften the impact on heritage resource.
- JP submitted:
 - She agrees with ST's submissions.
 - Re-iterated that the mass and form of the development will be detrimental to the heritage resource.
 - Requests that the committee looks at the criteria to mitigate the mass and form of the development.
- Johan Cornelius submitted:
 - Identification of a heritage area needs to follow a proper process and the status quo cannot be changed if a community requests it.
 - Heritage resources are not under threat due to the development.
 - The surrounding area should be taken into consideration.
 - HWC will have no input on the process of development of the adjoining sites.
 - Smaller development by the Applicant will not be sustainable.
 - The particular site is encircled by modern structures.
 - The area cannot be considered to be a heritage area.
 - In terms of the Gees judgement if conditions are imposed by HWC, the conditions need to have a conservation objective. In the absence of this, the imposition of conditions would be unlawful.

- In reply ST submitted:

- The current heritage resource has been damaged, but the damage to heritage resources should not continue.
- A very important building adjacent to the site is graded Grade IIIB but in his opinion could be a Grade IIIA.
- Osborne Road is the divider between higher density developments and what the heritage resource is.

In summary, the committee noted and took the following into account:

- Osborne Road is characterised by a number of apartment buildings, particularly on the east side of the road.
- The adjacent site has a five-storey apartment building
- There is a seven-storey apartment building on the opposite side of Osborne Road.
- The buildings to the west are mainly single and double-storey residential buildings
- The existing building has been changed both externally and internally.
- The site does not fall within an HPOZ.
- It is difficult to argue that Osborne Road is a heritage resource and development on the site will not impact on Osborne Road itself but it will impact on the bigger area in which the development will take place.
- There is a seven-storey building opposite the site which has already negatively impacted on the heritage resource.
- The previous approval of the seven-storey should not set a precedent for further decisions to approve developments that will negatively impact on heritage resources.
- The submission regarding the economic viability of a smaller scale development is a subjective argument.
- Possible negative impact on the identified heritage resource should be limited.
- The identified heritage resource is Hugon road and the area immediately to west of it.
- The development abuts the heritage resource.
- The development proposal must step down to the heritage resource to mitigate the impact on the heritage resource.

DECISION:

The Appeal is upheld and the decision by BELCom is replaced by the following;

1. The application to demolish the structure is approved subject to the approval of a revised proposal by the Appeals Committee which takes into account the adjacent heritage resource which is identified as Hugon Road and the area immediately to the west, and which would mitigate the impact thereon.

Andrew September

10. New Matters

10.1 Erf 1600, 122B Kloof Street, Gardens: Section 34 Appeal from BELCom

Case No: 18111943HB0307E

Ms Waseefa Dhansay introduced the case.

Dr Andre Van Graan presented the site inspection report.

Ms Jenna Lavin [JL] was present and took part in the discussion.

JL on behalf of the appellant submitted:

- Re-iterated the argument in appeal documents.
- NB: enquired which option the appellant preferred.
- JL indicated option A was preferred.
- It was noted that once a car is inside the premises the gates will not be able to close.
- NB enquired whether the preferred option does not create a barrier between a public building and the public realm.
- The structural stability of the piers were discussed.

In summary, the committee noted and took the following into account:

- The library is experiencing problems with vagrants and trespassing on the property, which allows access to the rear of the site.
- The proposal is to extend the existing masonry pillars of the boundary walls and insert railings in between.
- The adjacent property has an open forecourt that is used for parking
- The library is housed in a single-storey residential-scale building in a Cape Revival style.
- The existing boundary wall is the original wall.
- The ramp and staircase are later additions.
- The wall the Appellant proposed is too high.
- Option A is not acceptable and will negatively impact on the heritage resource and the interface will create a barrier between a public building and the public realm.
- The proposed railings are utilitarian in character and the aesthetics of the proposed railings needs careful consideration.

DECISION:

The Appeal is upheld and the option as per drawing number 0002 dated 4 June 2019 prepared by Joshua Conrad Architects is approved.

Waseefa Dhansay

**10.2 Proposed removal of an historical public memorial, Botmasklook Farm 661,
Riebeek Kasteel: Section 37
Appeal from BELCom**

Case No: 19060612LB0612E

Mr Lwazi Bhengu introduced the case.

Mr Chris Murphy [CM], Dr Anna-Marie Bruwer were present and took part in the discussion.

In summary, it was noted in discussion that:

- CM indicated that the precise route where the memorial is currently erected is unknown.
- The proposed new location of the memorial will be more accessible to the public.

In summary, the committee noted and took the following into account:

- There should be evidence to prove the exact route.
- There is no such evidence.

DECISION:

The Appeal is upheld

Lwazi Bhengu

**10.3 Proposed additions and alterations at Erf 201-204, 22 Le Roux Street, De Rust:
Section 34
Appeal from BELCom**

Case No:18030205HB0319E

Ms Waseefa Dhansay introduced the case.

In summary, it was noted in discussion that:

- Belcom endorsed option 3 and the Appellant indicated that option 2 is preferred.

In summary, the committee noted and took the following into account:

- The wall of option 2 is too high for a rural village setting and its context.
- In the urban context, the street edge should be softened.
- The wall's detailing and height will dominate the PHS and will negatively impact on the heritage resource.

DECISION:

The appeal is dismissed.

Waseefa Dhansay

**10.4 Proposed Alterations and Additions to Existing Structure on Erf 183, 5 Crown Crescent, Camps Bay: Section 34
Appeal from BELCom**

Case No:19060608TZ0702E

DECISION:

The Committee resolved to undertake a site inspection on 8th of October 2019 at 10:00 (NB, RR, AvG)

Thando Zingange

**10.5 Proposed Mixed-Use Development On Erf 16161, Corner Of Jan Van Riebeeck And Bartholomeu Street, Groenheuwel, Dal Josaphat, Paarl: Section 38 (1)
Appeal from HOMs**

Case No: 19070803AS1807E

Mr Andrew September introduced the case.

Mr Andrew September and Ms Waseefa Dhansay recused themselves from the discussion and left the room.

In summary, it was noted in discussion that:

- HOMS was of the opinion that the visual corridors towards the mountains form part of the cultural landscape and the development may have a negative impact on the heritage resource.

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In summary, the committee noted and took the following into account:

- The committee did not consider the visual corridors towards the mountains as a heritage resource.
- An HIA would not be required as heritage resources will not be impacted on.

DECISION:

The appeal is upheld.

Andrew September

**10.6 Proposed development and consolidation of erven 28900-28902,1, 3 and 5
Strubens Road, Mowbray (Section 38(4))
Appeal from IACom**

Case No: 18061903ZK0620E

DECISION:

The Committee resolved to undertake a site inspection on 8th of October 2019 at 12:00 (NB, RR, AvG)

Stephanie Barnardt

**10.7 Proposed Total Demolition Of A Structure Older Than 60 Years On Erf 488, 13
Voor Street, Pniel, Stellenbosch: Section 34
Appeal from BELCom**

Case No: 19051414AS0626E

Mr Andrew September introduced the case.

In summary, it was noted in discussion that:

- The appellant was unable to attend the meeting but provided the case officer with written submissions.
- HOMS graded the structure a Grade 3C but was of the opinion that the context of the site had no heritage significance.
- The Appellant submitted that should the committee approve the demolition of the structure the approval should be subject to the approval of the replacement structure.
- The Applicant submitted that the structure does not warrant protection and the replacement building will be in line with buildings in the area.

In summary, the committee noted and took the following into account:

- The structure is situated in an area of the historic townscape.
- Faces onto a scenic drive, situated in an area of heritage significance
- The area is a heritage resource.
- The proposed design of the new structure is out of scale and will be detrimental to the grain, massing and form of the immediate context and the townscape as a whole.
- The proposed structure will be insensitive to the area.
- The double garage door is too wide and out of scale. Two single garage doors would be more in keeping with the scale of the area.
- The balcony across the width of the façade is totally out of character with the scale and architectural grain of the surrounding buildings.
- The relationship between solid and void needs to relate to the surrounding area where the wall element predominates.
- The façade needs to read as a 'wall' architecture with punctured openings.

DECISION:

The appeal is upheld and the demolition is approved subject to the approval of a revised proposal by the Appeals Committee which takes into account the heritage resource which is identified as the surrounding area of heritage significance and the historic townscape. The revised proposal must respond to issues of scale, grain, massing, form and modulation.

Andrew September

11. Other Matters

12. Adoption of decisions and additions

13. Proposed next date of the meeting:

16 October 2019

14. Closure : 1:46

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____

DATE _____

SECRETARY _____

DATE _____

Annexure S11

Committee Site Inspection Report for:

Proposed demolition and replacement structure on Erf 55148, 16 Osborne Road, Claremont

Submitted by Dr. André van Graan on 16 September 2019

Street Address: 16 Osborne Road, Claremont

Registered Owner:

Grading:

Nature of Application: Proposed demolition and replacement

Date of Site Visit: 12 September 2019

HWC Representatives: Dr. N. Baumann

T. Leshoro

R. Ruiters

Dr. A. van Graan

Reasons for Site Inspection: Proposed demolition and replacement structure

Findings of Site Inspection:

In the site inspection the following items were noted:

- Osborne Road is characterised by a number of apartment buildings, particularly on the east side of the road.
- The adjacent site has a five-storey apartment building
- There is a seven-storey apartment building on the opposite side of Osborne Road.
- The buildings to the west are mainly single and double-storey residential buildings
- The existing building has been changed both externally and internally.
- The site does not fall within an HPOZ.

Recommended Action:

To be considered at Appeals meeting on the 18th September 2019

Which committee should this report be submitted to:

HWC Appeals Committee

Annexure SI2

Committee Site Inspection Report for:

Erf 1600, 122B Kloof Street Gardens

Submitted by Dr. André van Graan on 16 September 2019

Street Address: 122B Kloof Street Gardens

Registered Owner:

Grading:

Nature of Application: Proposed new boundary railings

Date of Site Visit: 12 September 2019

HWC Representatives: Dr. N. Baumann

T. Leshoro

R. Ruiters

Dr. A. van Graan

Reasons for Site Inspection: Proposed new boundary railings

Findings of Site Inspection:

In the site inspection the following items were noted:

1. The library is experiencing problems with vagrants and trespassing on the property, which allows access to the rear of the site.
2. The proposal is to extend the existing masonry pillars of the boundary walls and insert railings in between.
3. The adjacent property has an open forecourt that is used for parking
4. The library is housed in a single-storey residential-scale building in a Cape Revival style.
5. The existing boundary wall is the original wall.
6. The ramp and staircase are later additions.

Recommended Action:

To be considered at Appeals meeting on the 18th September 2019

Which committee should this report be submitted to:

HWC Appeals Committee