

**APPROVED MINUTES OF THE MEETING OF
HERITAGE WESTERN CAPE, APPEALS COMMITTEE
HELD ON WEDNESDAY, 17TH MARCH 2021 VIA MICROSOFT TEAMS,
SCHEDULED FOR 08:30**



1 Opening and Welcome

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

2 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 Aneeqah Brown (AB)
Mr Olwethu Dlova (OD)
Ms Cathy-Ann Potgieter (CAP)
Ms Zikhona Sigonya-Ndongeni (ZS)
Ms Nosiphiwo Tafeni (NT)
Ms Penelope Meyer (PM)
Ms Khanyisile Bonile (KB)
Mr Thando Zingange (TZ)
Ms Stephanie Barnardt (SB)

Visitors:

Item 9.1

Ms Claire Abrahamse
Mr Mark Callaghan

Item 9.2

Mr Christopher Purcell
Ms Lucy Brennan
Mr Richard Summers
Mr Coenraad de Jager
Ms Nicole Rintoul
Ms Irene Noval
Ms Natasha Lamb
Mr Andre Pentz

Item 9.3

Ms. Samantha Baron
Ms. Bridget O'Donoghue

Observers:

3 Apologies

None

Absent

None

4 Approval of Agenda

4.1 Dated 17th March 2021

The Committee resolved to approve the Appeals Agenda dated 17th March 2021.

5 Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 17th February 2021.

The Committee resolved to approve the minutes of the Appeals Committee meeting which was held on 17th February 2021.

6. Disclosure and Conflicts 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

Nothing to report.

8.2 Report back from HWC Council

None

8.3 Site Visits Conducted

AM and NB conducted the site inspection at the Maitland site on Monday 15th March 2021. The site inspection report to be tabled during the item.

8.4 Potential Site Visits

Vineyard Road Site – AvG & NB - Monday 29th March 2021
Somerset West Site – AM & SH – Monday 29th March 2021

8.5 Discussion of Agenda

The Committee noted that item 9.1 is not a *de novo* hearing of the matter.

8.6 Adjournment

The Committee decided to adjourn at 11:45 reconvene at 14:30 due to load-shedding.

9 Matters Arising

9.1 Proposed redevelopment of Erven 45530 and 45531, Nursery Road. HM/CAPE METROPOLITAN/ROSEBANK/ERVEN 45530 & 45531 Case No: 21020206

Ms Stephanie-Ann Barnardt introduced the case.

Ms Claire Abrahamse and Mr Mark Callaghan were presented and took part in the discussion.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee previously endorsed the heritage indicators but issued further requirements regarding the roofscape.
- The Applicant presented the revised proposal.

- The Committee reiterated that it cannot re-hear the matter as the Tribunal did not give a directive to do so. As such, the Committee is *functus officio* and can only approve the revised plans as directed by the Tribunal.
- The Committee noted that the revised proposal has sufficiently addressed the further requirements issued on 17th February 2021.

DECISION

The Committee resolved to approve the revised proposal, with drawings no 1 REV 11, 2 REV 11, 3 REV 11, 4 REV 11 dated March 2021.

9.2. Erf 905 and Remainder Erf 904 Vredehoek for Calgro M3 Developments HM/CAPE TOWN METROPOLITAN/VREDEHOEK/ERVEN 904 and 905 Case No: 18071104AS0713M

Mr Christopher Purcell (Appellant), Ms Lucy Brennan (GVAC), Mr Richard Summers, Mr Coenraad de Jager (Applicant Developer), Ms Nicole Rintoul (Observer), Ms Irene Noval (Attorney for Nazareth House), Ms Natasha Lamb, and Mr Andre Pentz (Heritage Practitioner) were present and took part in the discussion.

APPELLANT

- It was submitted that I&APs were not given proper notice to attend the IACom meeting.
- The Appellant submits that HWC erred in proceeding despite the lack of adequate notice, and that this prejudiced the I&APs.
- As such, IACom approval of the HIA is submitted to have been made in error.
- The request that, should the approval be granted, conditions must be put in place for the replacement structure.
- The Appellant seeks clarification on the process regarding the implementation of conditions, considering that HWC has stated before that there is not capacity for the monitoring of projects.
- The bulk of the development and the required rezoning is a concern.
- It is submitted that the proposed underground parking will change the character of the surrounding area of the site.
- The Appellant also raised concerns over the risk of inability to regreen the site after development.
- It is submitted that the height of the elevation is not reflected accurately in the plans. There is particular concern around the ambiguity of the actual proposed height.
- The proposed development is argued to risk obscuring the chapel and change the character of the area.

RESPONDENTS

- The height is stated to be clear in the presented plan and is argued to respond sympathetically to the surrounding built environment.
- The maximum pitch heights are also explicitly stated.
- The issues relevant to the Act have been assessed and responded to accordingly.
- The proposals are argued to be sensitive to the heritage character of the area.
- The impact on identified heritage resources is therefore argued to be minimal.
- It is also argued that the correct procedure has been followed and that the IACom appropriately responded to a comprehensive HIA.
- The refusal of I&APs to engage does not amount to their not being given an opportunity to be heard.

- The appeal is therefore argued to be unsubstantiated – most of the concerns raised by the Appellant does not fall within the scope of the NHRA.
- At the time of lodging the Appeal, the Applicant had access to all the necessary information to which they could have responded.
- The proposed development and the HIA is argued to be compliant with the Act.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee noted that the area falls within a proposed HPO.
- The Committee notes that many of the issues raised by the Appellants have been appropriately addressed in the revised proposals.
- The issue raised of "accelerated process" is believed by the Committee not to be of real merit, as the I&APs chose not to comment in the January 2021 meeting despite being given the opportunity to do so.
- The issues raised by the Appellants relate more to process than to heritage issues.
- Issues of aspects of view lines before the church is acknowledged as a key-issue regarding the development, but that this has been sufficiently addressed by the proposed development.
- WD submitted that the agenda for the January 2021 meeting was provided to the I&APs in December 2020, which provided them with sufficient notice.
- The Committee referred to the IACom decision and reiterated that the HIA complies with the NHRA. However, the Committee noted that the HIA and SCP must be read together and are together sufficiently detailed to guide the development further. Further approvals will be required through the City of Cape Town (CoCT), whereby there will be further opportunities for comment from I&APs.

DECISION

The Appeal is dismissed.

9.3 Proposed Total Demolition of Erven 24514 and 24515, 10 Parow and Milner Streets, Maitland HM/CAPE TOWN METROPOLITAN/MAITLAND/ERVEN 24514 AND 24515 Case No: 20100602KB1127E

Ms Khanysile Bonile introduced the case.

Ms Samantha Baron (MRRA) and Ms Bridget O'Donoghue (Applicant) were present and took part in the discussion.

NB presented the site inspection report.

APPELLANT

- It is claimed that there was never a call for community members to participate.
- The Appellant noted that the area has had a few similar developments that are not maintained afterwards.
- Privacy concerns were also raised – the height of the development will have an impact on the privacy of community members who have resided in the area for over 30 years.
- The area is stated to have heritage value for the community.

RESPONDENT

- Ms O'Donoghue noted that the initial developer is no longer part of the project, which will affect the proposal. As such, there is no applicant for this matter.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee took note of the site inspection report.
- The Committee noted that the owner of the building was not present.
- The Committee noted as a concern that there is no replacement building planned at this point since the initial developer has withdrawn from the project. As such, there is no replacement structure for the Committee to consider.
- The Committee noted that the Appellant did not raise heritage issues.
- The Committee noted that receiving environment does have some heritage value. The Committee recommends that heritage indicators are formulated for any future development. The heritage indicators presented in the heritage statement provide a good base for future work.
- The Committee stressed the need for bodies to register as conservation bodies with HWC as well as with CoCT. Because the body was not registered with HWC, HOMs was not required to inform them of the application.
- The Committee was of the opinion that there are insufficient heritage grounds to uphold the Appeal. However, the Committee remains concerned that future development on the site should be sensitive to the receiving environment.
- The Committee discussed the historical value of the area.
- The Committee noted that CoCT supports the proposal.

DECISION

The Committee resolved to dismiss the Appeal.

10. New Matters

**10.1 Proposed Restoration, Erf 55307, 43 Vineyard Road, Claremont, CT. S34-A&A
HM/CAPE TOWN METROPOLITAN/CLAREMONT/ERF 55307
Case No: 20101305SM1013E. This item is for noting only**

The item was noted, and a site inspection is planned for Monday 29th March 2021 by AvG and NB. The Committee requested that the legal team of HWC provide clarity regarding whether the Committee has jurisdiction over the matter. The Committee noted that the site falls within a proposed HPOZ.

**10.2. Response to NID: The Proposed Residential Development Located on
HM/CAPE TOWN METROPOLITAN/SOMERSET WEST/ERVEN 3135, 2750 & 7115
Case No: 20042805SM0429E. This item is for noting only**

The item was noted, and a site inspection is planned for Monday 29th March 2021 by AM and SH.

11. Adoption of decisions and resolutions

The Decisions and Resolutions of the meeting were unanimously adopted by the Appeals Committee. Mr. AvG proposed and Dr NB and Dr AM supported the adoption

13. Proposed next date of the meeting: 21st April 2021

14. Closure: The meeting was adjourned at: 15:49

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____

DATE _____

SECRETARY _____

DATE _____