

MEETING OF THE HERITAGE WESTERN CAPE, APPEALS COMMITTEE

Approved Minutes of a Meeting of the Appeals Committee of Heritage Western Cape held on Wednesday, 15 November 2017, at 09H30 in the 1st Floor Boardroom at the Protea Assurance Building, Greenmarket Square, Cape Town

1. Opening and Welcoming

The Chairperson Ms Corlie Smart officially opened the meeting at 09:45 and welcomed everyone present.

2. Attendance

Appeals Committee

Ms Corlie Smart (CSm)	Appeals Chairperson
Dr Andre van Graan (AvG)	Appeals Committee Member
Mr Tseliso Leshoro (TS)	Appeals Committee Member
Mr Chris Snelling (CSn) (co-opted)	Council Member

HWC Staff

Ms Colette Scheermeyer (CSc)	Deputy Director
Ms Penelope Meyer (PMe)	Legal Advisor
Ms Katherine Robinson (KR)	Heritage Officer
Mr Andrew September (AS)	Heritage Officer
Ms Waseefa Dhansay (WD)	Heritage Officer
Mr Olwethu Dlova (OD)	Admin Officer
Ms Phindiwe Muncu (PMu)	Intern

Visitors

Ms Katherine Hadley (KH)	Mr Richard Summers (RS)
Mr Ashley Lillie (AL)	Ms Geraldine Goncalves (GG)
Ms Melissa Groenink (MG)	Dr Stephen Townsend (ST)
Mr Nicholas Smith (NS)	Mr Byron Cost (BC)
Ms Megan Donald (MD)	Mr Mike Scurr (MS)
Ms Liz Westby-Nunn (LWN)	Mr Dave Dominicus (DD)
Mr Rhys Meredith (RM)	Mr Natalie Sherren (NS)

Observers

None

3. Apologies

Dr Nicolas Baumann (NB)	Appeals Committee Member
Mr Rowen Ruiters (RR)	Appeals Committee Member

4. Approval of agenda

The Appeals Committee resolved to approve the agenda dated 15 November 2017 without amendments.

5. Approval of minutes of the previous meeting

5.1. Dated 18 October 2017

The Appeals Committee resolved to approve the minutes dated 18 October 2017 with minor amendments.

6. Disclosure of interest

6.1 CSn: Item 9.3

7. Confidential Matters

7.1 None

8. Administrative Matters

8.1. Outcomes of the Tribunal Committee

- None

Penelope Meyer

8.2. Recent Court Decisions

PM reported that four cases are pending.

Penelope Meyer

8.3. Site Visits

- Proposed Total Demolition of structure on Erf 1357, 31 High Level Street, Green Point: Section 34
- Proposed Total Demolition, Erf 97471, 4 Lemon Lane, Newlands: Section 34

9. Matters Arising

9.1 Proposed Total Demolition of the Maitland Swimming Pool, Erf 174308, 21A Royal Road, Maitland: Section 34

Awaiting for required documents to be submitted. The matter deferred for the next Appeal Committee meeting.

Katherine Robinson

9.2 Proposed Total Demolition of structure on Erf 1357, 31 High Level Street, Green Point: Section 34

AvG and TL reported back on the site inspection.

In summary it was noted in discussion that:

- The house is largely intact and retains most of its original fabric, including fenestration and internal joinery and fireplaces.
- The CoCT grading of III(B) is fully supported.
- The building forms part of a grouping of buildings which characterize the architecture of the late Twenties and early Thirties in Cape Town and is part of a rare intact grouping of this nature.
- The building clearly has landmark significance in the area despite the high boundary wall as it is elevated and very visible from the west side of High Level Street.
- The building is of a quality and local significance that warrants its protection and retention.

DECISION

The appeal is dismissed.

Parties have a right to request reasons for the decision

Katherine Robinson

9.3 Proposed Total Demolition, Erf 97471, 4 Lemon Lane, Newlands: Section 34

CSn recused himself.

Ms Katherine Robinson gave a brief introduction.

Ms Katherine Hadley, Mr Richard Summers, Mr Ashley Lillie, Ms Geraldine Goncalves, Ms Melissa Groenink and Dr Stephen Townsend were present and took part in the discussion.

In summary, it was noted in discussion that:

- The chair informed all the parties that the committee had read the appeal documents and submissions contained therein should not merely be repeated.
- Mr Summers indicated:
 - that the critical issue pertained to the application of the Gees Judgement on this matter,
 - That the committee must first establish and identify the heritage resource/s, second the significance thereof and third assess the potential impact of a development on the heritage resource/s.
 - Only after heritage resources have been identified and their significance established can a decision to impose restrictions on development be made if it can be shown that a heritage resource will be negatively impacted.
 - The parties to the appeal are in dispute regarding the site and the broader context is of Heritage Significance.
 - Belcom's decision was vague, the context and immediate surroundings have no heritage value, the demarcated Newlands Villiage HPOZ does not include the site or area.
- Both Ms Groenink and Mr Summers requested to provide the committee with additional documents during the meeting.
- Mr Summers introduced a report by Dr Townsend.
- Ms Groenink introduced images of the site and illustrations based on marketing material of the proposed development.
- The matter stood down in order for the parties to peruse the additional documents, to indicate whether they object thereto and to afford the committee to peruse it.
- All the parties involved indicated thereafter that they had no objection to the documents submitted and that the appeal could continue.
- Mr Summers and Dr Townsend were given an opportunity to make further submissions.
- Ms Groenink and Ms Goncalves (on behalf of interested and affected parties) indicated:
 - Dr Townsend's report does not address what specific area of study it was commissioned for.
 - The committee could not access the appeal without the information required by Belcom regarding the heritage study.
 - The building plans inspected at CoCT correlate with the marketing images available.
 - The committee must be provided with information and plans for the development before it can make a decision.
 - The riverbank will be part of excavation and basement.
 - 'Environment' is within the mandate of HWC.
 - Building plans did not form part of the documents that were provided to the I & AP and only were made aware of it at Belcom meeting. That the I & AP's were not provided with an opportunity to comment it.
 - The Appellant now indicate that the plans provided during Belcom meeting are only marketing material.
 - The proposed HOPZ is for Newlands itself and not only Newlands Village.
 - The reports referred to were for Newlands Village and not for the broader Newlands .

- Central the of the proposed HPOZ is streams, green spaces, trees and rivers.
- Mr Summers in reply indicated:
 - Three expert opinions provided by the Appellant provides the committee with information to make a decision regarding the demolition of the structures.
 - Requested to provide the committee with information by introducing proposed plans for the development and invited the committee to look at the plans.
 - That the plans would clarify what the footprint of the proposal will be and the misrepresentation thereof by the I & AP's.
- The I & AP's objected to the introduction of the plans.
- The committee discussed the introduction of the new plans in a closed session.
- In summary, the committee discussed:
 - The uncertainty regarding which documents would be before the committee should the plans be introduced or referred to as the plans were not relied on in the reasons for the appeal.
 - That these plans were not before the Belcom committee but it seems that the Appellant is of the opinion that it would inform the committee and aid the committee in coming to a decision.
 - The new plans (even though Appellant indicated that it was for illustrative purposes only) were not made available to the I & AP's and the committee prior to the Appeals meeting.
 - The documents and photos initially supplied by both the Appellants and the I & AP's could only be perused by the committee during a short break.
 - The committee was of the opinion that the committee and the I & AP's should be given the opportunity to properly interrogate the plans if the Respondent should wish to introduce further information in support of the appeal.
 - The committee was of the opinion that clarification as to which plans / further information would be relied on by the Appellant and the response thereto by the I & AP's would be necessary to apply their minds and to make an informed decision.
 - In the open, session the parties were informed that:
 - The committee is of the opinion that with all the supplementary documents and submissions that were made in support thereof by all the parties, the hearing of the appeal should be postponed in order to provide the committee with the final documents they wish to rely on and to provide the committee with an opportunity to thoroughly study and peruse all material before the committee prior to the next meeting.
 - Mr Summers enquired as to whether the 'decision' can be appealed.
 - The Chair indicated that she could not advise Mr Summers on whether the 'decision' can be appealed and clarified that it is a 'response' by the committee' and not a 'decision' and that the minutes will reflect it as such.

INTERIM RESPONSE:

The Appellant is directed to provide the Respondents with all supplementary information it wishes to rely on in support of their Appeal by the 30th of November 2017, The Respondents are directed to respond within 14 days after the submission of the Appellant's information. The Appellant may respond to the Respondent's comments within 7 days

thereafter. The information submitted by all the parties by the dates mentioned above will be the final submissions that the committee will consider

Katherine Robinson

10. New Matters

10.1 Proposed Total Demolition, Erf 518 - 3 Central Drive, Camps Bay: Section 34

Mr Mike Scurr was present and took part in the discussion.

In summary, it was noted in discussion that:
The committee was of the opinion that a site visit is required prior to hearing the appeal.

DECISION

The Committee resolved to undertake a site inspection.

Waseefa Dhansay

10.2 Proposed Total Demolition, Erf 95029, Lady Hamilton Hotel, Weltevreden Street, Gardens: Section 34

Mr Andrew September gave a PowerPoint presentation.

Mr Nicholas Smith, Dr Stephen Townsend, Mr Byron Cost and Ms Megan Donald were present and took part in the discussion.

In summary, it was noted in discussion that:
The committee was of the opinion that a site visit is required prior to hearing the appeal.

DECISION

The Committee resolve to undertake a site inspection.

Andrew September

11. Other Matters

11.1 None.

Adoption of decisions and additions

The Appeals Committee resolved to adopt the decisions.

10. Closure of the meeting

The Chairperson closed the meeting at: 13:15

11. **Date of next meeting:** 24 January 2017

Chairperson's Signature.....

Date.....

APPROVED