

## **MEETING OF THE HERITAGE WESTERN CAPE, APPEALS COMMITTEE**

Approved Minutes of a Meeting of the Appeals Committee of Heritage Western Cape held on Wednesday, 19 September 2018, at 09H30 in the 1st Floor Boardroom at the Protea Assurance Building, Greenmarket Square, Cape Town

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### **1. Opening and Welcoming**

The Legal Advisor, Ms Penelope Meyer, noted the apology of Ms Corlie Smart and therefore called for a nomination of an Acting Chairperson. The Committee nominated Dr Antonia Malan as an Acting Chairperson for the meeting. She opened the meeting at 09H38 and welcomed everyone present.

### **2. Attendance**

#### **Appeals Committee**

Dr Antonia Malan (AM)	Acting Chairperson
Dr Nicolas Baumann (NB)	Appeals Committee Member
Mr Rowen Ruiters (RR)	Appeals Committee Member
Mr Tseliso Leshoro (TL)	Appeals Committee Member

#### **HWC Staff**

Ms Penelope Meyer (PMe)	Legal Advisor
Mr Andrew September (AS)	Heritage Officer
Ms Heidi Boise (HB)	Heritage Officer
Ms Waseefa Dhansay (WD)	Heritage Officer
Ms Stephanie Barnardt (SB)	Heritage Officer
Ms Yolanda Moya (YM)	EPWP Intern

#### **Visitors**

Ms Anja Lareman (AL)  
Mr Zwelibanzi Shiceka (ZS)  
Mr Ewald De Villiers-Jansen (EDVJ)  
Mr Max Hollcs (MH)  
Ms Beryl Kleynhans (BK)  
Mr Peter Robertshaw (PR)  
Mr Martyn Trainor (MT)  
Mr Oliver Callaghan (OC)  
Mr Stephan De Kock (SdK)  
Ms Jennifer Whitehead (JW)  
Mr Thabang Tladi (TT)

#### **Observers**

None

### **3. Apologies**

Ms Corlie Smart (CSm)  
Dr Andre van Graan (AvG)  
Ms Colette Scheermeyer (CSc)

#### **4. Approval of agenda**

The Appeals Committee resolved to approve the agenda dated 19 September 2018 with a minor addition.

#### **5. Approval of minutes of the previous meeting**

##### **5.1 Dated 18 July 2018**

The Committee resolved to approve the previous minutes dated 18 July 2018 with a minor amendment.

##### **5.2 Dated 22 August 2018**

The Committee resolved to approve the previous minutes dated 22 August 2018 with a minor amendment.

#### **6. Disclosure of interest**

6.1 None

#### **7. Confidential Matters**

7.1 None

#### **8. Administrative Matters**

##### **8.1. Outcomes of the Tribunal Committee**

PM reported back.

##### **8.2 Recent Court Decisions**

Nothing to report back.

##### **8.3 Site Visits**

##### **Proposed additions and alterations to the existing Pioneer Outbuilding and a new garage on the PHS, Farm 709-1, Landskroon Farm, Agter-Paarl**

RR, NB, AvG and TL reported that they conducted a site inspection. See item 9.1.

##### **8.4 Drafting of Approval of Minutes**

In summary it was noted in discussion that:

- Draft minutes are circulated to members for comment. After they are amended (or simply endorsed), the Committee member must save the file ('Save As'), *adding their initial to the file name*, and return the file by email.
- Reasons for decisions must be prepared timeously. Where specific heritage-related details, e.g. height, are being contested, justification for the imposition of limitations must be provided.
- It was noted that Committees can make their own rules for managing minutes. It was suggested that a discussion document is taken to the forthcoming Strategic Planning Session for discussion. This document is to highlight issues and recommend actions.

## 9. Matters Arising

### 9.1 Proposed Additions and Alterations to the existing Pioneer Outbuilding and a new garage on the PHS, Farm 709-1, Landskroon Farm, Agter-Paarl

Case No: 17091408KR1004E

Mr Rowen Ruiters reported back on the site inspection (report compiled by AvG).

Ms Heidi Boise gave a PowerPoint presentation.

Ms Anja Lareman and Mr Zwelibanzi Shiceka were present and took part in the discussion

In summary it was noted in discussion that:

- The site visit report described the existing landscape and context of the identified heritage elements and is attached to these minutes as SI1.
- It was also noted that many alterations and insertions and an inappropriate sub-division have previously taken place.
- The appellant considered the BELCom decision of 27 June 2018 to be unreasonable in terms of the requirements for a broader landscape study as the application was for alterations and additions to the historical core.
- The appellant also pointed out that they were willing to supply further information but the iterative requests became unreasonable.
- The site visit confirmed that the landscape context (especially the slope) is an important element of the heritage value of the site; however twentieth century interventions in the foreground have already compromised the original fabric and appearance and therefore its significance.
- Whilst the Committee in principle endorses comprehensive analysis of heritage-worthy sites and their broader setting, in this particular case, given the existing changes, the new interventions will not further compromise heritage significance.
- It was agreed that new plantings and the more extensive landscaping would require a separate application to HWC.

#### **DECISION**

The appeal is upheld with the following conditions:

1. The requirement that steel windows and late 20th century doors be retained is withdrawn, with the proviso that steel windows within the front gable must be retained.
2. The architect is to submit a monthly progress report to HOMS followed by a close-out report within 30 days after practical completion.

#### **Further condition:**

3. New plantings and hard landscaping treatment proposals to be submitted to HWC.

**HB**

## **10. New Matters**

### **10.1 Proposed Replacement of coloured glass with stained glass based on art of the late Peter Clarke in St. Francis Church, Simons Town**

Case No: 18040324ZK0405E

Ms Waseefa Dhansay gave a PowerPoint presentation.

Mr Ewald De Villiers-Jansen, Mr Max Holcs, Ms Beryl Kleynhans, Mr Peter Robertshaw and Mr Martyn Trainor were present and took part in the discussion.

In summary it was noted in discussion that:

- Unauthorised work at St Francis Church, Simon's Town was reported. BELCom conducted a site inspection to assess whether the installation of new windows negatively impacted on the heritage resource.
- BELCom decided that the application for a permit should be approved and recommended that protocols for future memorialisation must be put in place by the church.
- The appellant submitted that the purpose, design and alterations to the windows is a significant intervention that can negatively impact a heritage resource such as a church. Windows with traditional religious motifs are an integral part of Anglican Church architecture. Contemporary events such as Apartheid era removals, even though directly linked to the church's history, are inappropriate in the long term. Further, they can be memorialised in another way.
- The appellant recommended that the application should revert back to the community and include expert opinion on liturgy, aesthetics and church designs. The Committee noted that extensive consultation has previously taken place.
- The church representative submitted that the purpose of the windows was to acknowledge the contribution of the foundational congregation and that they acknowledge the need for reconciliation in terms of forced removals, and that the design supplements the heritage significance of the building itself.
- The Committee discussed the role of the church as a structure that serves its community, today and in the future. It has wider significance than as a historic architectural element in the streetscape. In this case, it is a heritage resource that represents social, architectural, aesthetic, historical and contextual significance.
- Both parties acknowledged that the purpose of submitting an application for a permit to make interventions in an acknowledged heritage resource is in order to assess the extent of, and to reach agreement on the nature and acceptable impact of, such interventions.
- The Committee regards the BELCom decision as being reasonable, informed, lawful in terms of the NHRA, and procedurally fair.

#### **DECISION**

The appeal was dismissed.

**Waseefa Dhansay**

## 10.2 Proposed Landscaping and extension of the existing house on erf 2298, Noordhoek

Case No: 18071006SB0801E

Ms Stephanie Barnardt gave a PowerPoint presentation.

Mr Oliver Callaghan was present and took part in the discussion

In summary it was noted in discussion that:

- The property comprises a Cape Dutch style dwelling (Grade IIIB) set in terraced grounds on a slope with an upper interface with TMNP (with a no building zone restriction in the Title Deed).
- The site is part of an Estate administered by a Trust which has strict guidelines for developments and a system of architectural approval and stamping of plans (Noordhaven Design Manual).
- The applicant asserted that an EIA, with an HIA, was apparently conducted before subdivision of the properties. The HIA was not made available to the Committee. It is not known whether the recommendations of the HIA refer to the need to apply for approval from HWC for interventions in the precinct and to a Grade IIIB structure.
- The appellant said that design conditions from the HIA were incorporated into the Trust guidelines. There is a string of email correspondence between Ms O'Donoghue (heritage consultant) and the appellant regarding the proposed alterations and additions to the Grade IIIB precinct and whether they will meet the architectural test of the Trust (Mr Doel).
- In September 2017 an application for alterations and additions to the existing structure was approved by BELCOM, and the plans were approved by CoCT in December 2017.
- DEADP (July 2018) stated that there were no requirements for the proposed landscape plans in terms of NEMA, but *only* with regard to the clearing of indigenous vegetation as part of the landscaping proposal.
- The unauthorised insertion of water tanks on an upper terrace resulted in CoCT South Peninsula recommending a Stop Works Order. A Section 38(8) application was submitted in August 2018 to HWC for approval. The site is over 5000 square metres in extent and the character may be affected by alterations, additions (including commercial structures) and extensive landscaping. (See also undated memo (?May 2018) from EHMB.)
- HOMS concurred that an HIA is required to assess impacts to the related built environment and sensitive landscape. Advice was given to the appellant on the procedures that should be followed (Response to NID 7 August 2018).
- The appellant does not agree that an HIA or VIA is necessary, as all necessary requirements and conditions were previously, or are in the process of being, met. There are no NEMA conditions and the Trust has approved the landscaping plan. The original house plans were approved by HWC and the new house plans will be submitted to the Trust for approval.

### FURTHER REQUIREMENTS

The matter is postponed until full information is made available.

**Stephanie Barnardt**

**10.3 Proposed Additions and Alteration at Portion 6 of Farm 1121, Farm Klein Constantia, Klein Constantia Road, Constantia**  
Case No: 18080203HB0808E; 18060424HB0704E

Ms Heidi Boise gave a PowerPoint presentation.

Ms Anja Lareman was present and took part in the discussion

In summary it was noted in discussion that:

- The site is Grade IIIA but is recommended to be Grade II. No nomination as a PHS has been received. The application was therefore submitted in terms of Section 34.
- The decision of BELCom was that the proposed alterations and additions are not supported as they detract from the simplicity of the overall form of the house. The accumulated combination of the new elements constitutes visual clutter.
- This attitude, towards retaining simplicity, was expressly articulated and carried through during previous works on the building, such as the roof windows and flat-roofed corridor addition.
- The basis of the appeal was that the proposal complies with the requirements of the NHRA, the alterations and additions are reversible and in a private courtyard, and significance is not adversely impacted.
- It was noted that CoCT endorsed the proposal following changes to the original design.
- The Committee agrees with BELCom that the concept of simplicity is compromised. The insertion of doors instead of windows changes the roof profile and the proportions of solid to void, and the addition of steps, deck and balustrade impacts the form, and changes the use, of the 1980s interventions.
- The cumulative impacts of the proposal referred to above are likely to have a negative impact on the form and spatial relationships of the existing structure and courtyard.

**DECISION**

The appeal is dismissed.

**Heidi Boise**

**10.4 Proposed Total Demolition of 25 Hofmeyer Road, Sea Point East, Erf 156**  
Case No: 18021401SB0611E

Ms Stephanie Barnardt gave a PowerPoint presentation.

In summary it was noted in discussion that:

- A request to postpone the appeal was agreed between the appellant and I&APs.

**DECISION**

The notice of appeal is noted by the Committee and will be heard in October.

**Stephanie Barnardt**

## 10.5 Proposed Redevelopment of the Tygerberg Hospital Estate on Erf 15350 (Remainder of Erf 14298), Parow

Case No: 16060607AS0606M

Mr Andrew September gave a PowerPoint presentation.

Mr Stefan de Kock, Ms Jennifer Whitehead and Mr Thabang Tladi were present and took part in the discussion.

In summary it was noted in discussion that:

- A Phase 1 HIA in terms of Section 38(3) for a mixed used development of the Tygerberg Hospital precinct was considered by IACom. Their comment was that the HIA was in principle endorsed in terms of socio-historical and development analysis but an assessment of the Modernist architectural elements was further required. This assessment was submitted as an Addendum to the Phase 1 HIA. The Phase 1 HIA was duly endorsed by IACom.
- The appellant lodged two main objections to Recommendations in the Phase 1 HIA:
  - a. The width of the laundry precinct buffer;
  - b. Memorialisation required in the new hospital precinct (Precinct 6).
- The appellant submitted that the 'insistence' on memorialisation in Precinct 6 could compromise the operational efficiency of the new hospital.
- It was noted that the future of the old hospital building (Precinct 5), which embodies the highest heritage significance (it was designed and operated to enforce racial segregation), is unknown. It could even be proposed for demolition. The heritage consultant recommended that memorialisation should be directly embedded in the new hospital.
- The appellant submitted that socio-historical significance resides in other buildings and is not restricted to the old hospital. The entire site represents an Apartheid installation. IACom also noted that all the precincts are inter-related.
- In a Responding Statement to the appeal (4 September 2018), the heritage consultant proposed a revision to Recommendation 8.2 to reduce the buffers on two sides of the laundry. This was agreed to by the appellant and endorsed by the Committee.
- In a Responding Statement to the appeal, the heritage consultant proposed a revision to Recommendation 8.6.2, by removing specific options for memorialisation. The Committee was satisfied that the amendment addressed the concerns of the appellant regarding potential impacts on the new hospital.
- The Committee endorsed the recommendation that a Phase 2 HIA must be conducted, to further explore the impacts of proposed developments and identify mitigations. Appropriate memorialisation must form part of the study.

### DECISION

1. The Phase 1 HIA with Addendum is approved with the following conditions:
  - a. Recommendation 8.2 to be amended as per Table 2 of the Responding Statement which reads as follows: Detailed planning within this precinct must incorporate and maintain a 20m buffer along the northern and southern sides, and an 8m buffer along the eastern and western sides of the rectangular floor plate of the Laundry building.

- b. Recommendation 8.6 to be amended as per Table 4 of the Responding Statement which reads as follows: Detailed planning within this precinct must be informed by a Phase Two HIA focussing on the socio-historic themes identified as part of the Phase One HIA and thus to:
  - 8.6.1) Investigate appropriate options for memorialising this theme within the new hospital precinct and/or hospital building; as well as
  - 8.6.2) Investigate appropriate options to ensure that the new public facility does not again divide people but rather facilitate integration between the remainder of the TGB HE (future residential area) with the adjoining urban areas and movement routes.
- 2. A Phase 2 HIA to be submitted, as heritage resources will be impacted.
- 3. The Phase 2 HIA to include an analysis and assessment of memorialisation across the whole site.

**Andrew September**

**10.6 Proposed Total Demolition on ERF 172877, 199 Main Road, Wynberg**

Case No: 18052812WD0513E

Ms Waseefa Dhansay gave a PowerPoint presentation.

In summary it was noted in discussion that:

- The response time period to the notice of appeal was too short for the item to be put on the September agenda.
- The appeal is noted by the Committee and will be heard in October.
- WD suggested that the Committee conduct a site visit prior to the next meeting in October.

**DECISION**

Members of the Committee resolved to undertake a site inspection on the 15<sup>th</sup> of October 2018 at 10:00 (TL, NB and RR).

**Waseefa Dhansay**

**11. Other Matters**

11.1 None.

**12. Adoption of decisions and additions**

The Appeals Committee resolved to adopt the decisions.

**13. Closure of the meeting**

The Chairperson closed the meeting at: 15:03PM

**14. Date of next meeting: 17 October 2018**

Chairperson's Signature.....

Date.....