

**APPROVED MINUTES OF THE MEETING OF  
HERITAGE WESTERN CAPE,  
APPEALS COMMITTEE**  
**Held on Friday, 4 December 2020 via Microsoft Teams,  
scheduled for 09:00**

---



**1. Opening and Welcome**

As the Chair had connection difficulties, the Committee elected Ms Kathy Dumbrell to act as Chair for the meeting. The Acting Chairperson Ms K Dumbrell officially opened the meeting at 09:00 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)  
Adv Mandla Mdludlu (MM)

**Members of Staff:**

Ms Aneeqah Brown (AB)  
Mr Olwethu Dlova (OD)  
Ms Cathy-Ann Potgieter (CAP)  
Ms Nosiphiwo Tafeni (NT)  
Ms Colette Scheermeyer (CS)

**Visitors:**

Mr Johan Cornelius  
Mr Moir Scholtz  
Mr Ian Mathison

**Observers:**

None

**3. Apologies**

Ms Penelope Meyer (PM)  
Adv Mandla Mdludlu (MM) joined the meeting at 10.24 due to technical difficulties.

**Absent**

None

**4. Approval of Agenda**

**4.1 Dated 4 December 2020**

The Committee resolved to approve the Appeals Agenda dated 4 December 2020.

## **5. Approval of Minutes of Previous Meeting**

### **5.1 Appeals Minutes dated 18 November 2020**

The Committee resolved to approve the minutes of the Appeals Committee meeting which was held on 18 November 2020.

## **6. Declaration of 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**

CAP reported on the tribunal ruling of 23<sup>rd</sup> November 2020 for 4 Smithers Road, Kenilworth, in which the Appeal was dismissed, and the development was approved, subject to conditions.

The Committee noted that the Athlone Power Station matter is still ongoing.

There are court matters ongoing, but there has been no progress since the last meeting.

The Committee noted that the River Club matter is expected to go to the High Court at a future date

### **8.2 Report back from HWC Council**

The Committee noted that Michael Van Rensburg will be acting director of HWC until a new CEO is appointed in 2021.

### **8.3 Site Visits Conducted**

The Committee noted the site inspection report undertaken by Drs N Baumann and A van Graan on the 29<sup>th</sup> of November 2020, which was prepared and tabled by the latter on the 30<sup>th</sup> of November and is attached to the minutes.

### **8.4 Potential Site Visits**

None

### **8.5 Minutes Process**

NB raised the issue of minutes procedure, in particular, the issue of sequencing of the members in the draft process, and the receipt afterwards of the edited minutes by the Chairperson. NB noted the importance of selecting a sequence according to alphabet initials of the Committee members. The Committee supported the sequence protocol of sending the minutes out in alphabetical order. The Committee also stressed the

importance of ascertaining which email address the Chairperson generally uses, with reference to his two different accounts. Secretariat confirmed that two email addresses are generally used in correspondence with him. Secretariat would confirm these with the Chairperson.

The Committee confirmed that the process is that AB records the decisions and CAP gathers discussion points during the meeting. AB's draft then goes to CAP to combine, which then goes to PM for endorsement, after which it is sent to the Committee, where all comments have to be resolved by the Committee before the Chair submits them to the Secretariat. The draft minutes are submitted by the Secretariat to the legal team for final endorsement, and then further re-submitted at the Appeals Committee meeting for final approval.

## **9 Matters Arising**

**9.1** None

## **10 New Matters**

### **10.1 Proposed Total demolition on Erf 164592, 48 Riverside Road, Fernwood, Newlands HM/CAPE TOWN METROPOLITAN/NEULANDS/ERF 164592**

**Case No: 20020411LB0205E**

This Appeal is against the decision of the HOMs Committee to approve a demolition application. The Committee noted that the Appeal was lodged in October 2020 against a February 2020 decision. The first issue before the Committee was whether the matter can be heard.

Mr Johan Cornelius (Heritage Practitioner) and Mr Scholtz (Appellant and Chairperson of Fernwood Residents' Association (FRA)) were present and took part in the discussion. Mr Ian Mathison was present but did not participate in the discussion.

#### **APPELLANT**

- The Appellant stated that the FRA only received the decision in a registered letter from the CoCT, which referred to the HWC permit. They argued this to be their first notice of the HWC decision. Notice of the decision was reported to be received on 16<sup>th</sup> October 2020, and the CoCT letter is dated 15<sup>th</sup> September 2020.
- The Appellant noted that FRA lodged objections with City Council, but not with HWC.
- The Appellant confirmed that FRA is not a registered body with HWC.
- The Appellant contends that the reason that the Appeal should be entertained despite its late filing is that the time period only started once the decision was made known to the Appellant on 16<sup>th</sup> October 2020.

- FRA states that the Appeal relates to the proposed subdivision and development and not the demolition.

#### **RESPONDENT**

- Mr Cornelius stated that the permit was issued on 25<sup>th</sup> February 2020, and as such the Appeal was lodged many months outside the Appeal period.
- The CoCT process commenced in mid-February 2020, and the FRA participated in that process and knew that the building was older than 60 years at that stage.
- Mr Cornelius contends therefore that FRA could have approached HWC as early as mid-February 2020, but did not do so.
- Mr Cornelius also notes that FRA is not a registered conservation body, and therefore the regulations requiring notice to conservation bodies are not applicable in this case. Mr Cornelius also stated that FRA is aware of the requirement of registration.
- Mr Cornelius notes that the advertising on the site was present since the beginning of 2020, on a busy road, and as such was clear to the neighbours, who did not submit any objections within the given period.

#### **DISCUSSION**

- The Committee questioned whether the matter should be heard despite the late filing of the appeal.
- The Committee noted that it can only hear grounds of appeal relating to the HWC decision to allow demolition.
- Because FRA is not a registered conservation body, the Committee noted that there was no requirement to consult them.
- The Committee noted that the Appeal was received by HWC on 26<sup>th</sup> October 2020. The Appeal was lodged within 14 days of receipt of the notification from the CoCT that the decision had been made.
- The Committee noted concern over the fact that the Appellant submitted an appeal based on a letter received from CoCT.
- The Committee also raised concern over the fact that the Appellant stated that the issue is not with the demolition of the building, but with the replacement structure and 'over-development of the property'.
- As such, the issue before the Committee was therefore an objection to the replacement structure, and not to the demolition permit itself.
- The Committee was concerned that the Appellant was using this process to object to another process that should have been lodged with CoCT.
- Sufficient notice of the heritage process was given to the Appellant (both by an on-site notice and FRA's engagement with the City processes from mid-February) and no comment was given within the adequate time frame provided.
- The Committee stressed to the Appellant the importance of registering the conservation body with HWC.
- The Committee stressed to the heritage practitioner that it is good practice to contact all known civic bodies within an affected area, even those not registered with HWC as conservation bodies.

**DECISION**

The Appeal was dismissed because it had not been duly lodged within the required time-frame and therefore could not be considered by HWC.

**11. Other Matters**

The Committee noted that the case heard under Item 10.1 raised another issue relating to public participation, which builds on the issue raised last month regarding consultation with conservation bodies at the NID stage.

**12. Adoption of decisions and resolutions**

The Decisions and Resolutions of the meeting were unanimously adopted by the Appeals Committee.

**13. Proposed next date of the meeting:**

**20<sup>th</sup> January 2021**

**14. Closure:** The meeting was adjourned at:

11:40am

**MINUTES APPROVED AND SIGNED BY:**

**CHAIRPERSON** \_\_\_\_\_

**DATE** \_\_\_\_\_

**SECRETARY** \_\_\_\_\_

**DATE** \_\_\_\_\_

**Committee Site Inspection Report for: Proposed Total Demolition of 48 Riverside Road, Fernwood Estate, Erf 164592 (S34)**

Submitted by Dr. André van Graan on 30<sup>th</sup> November 2020

Street Address: 48 Riverside Road, Fernwood Estate

Registered Owner:

Nature of Application: Section 34 application.

Date of Site Visit: 29<sup>th</sup> November 2020

HWC Representatives:

Dr. N. Baumann

Dr. A. van Graan

Reasons for Site Inspection: Proposed total demolition

Findings of Site Inspection:

On the site inspection the following items were noted:

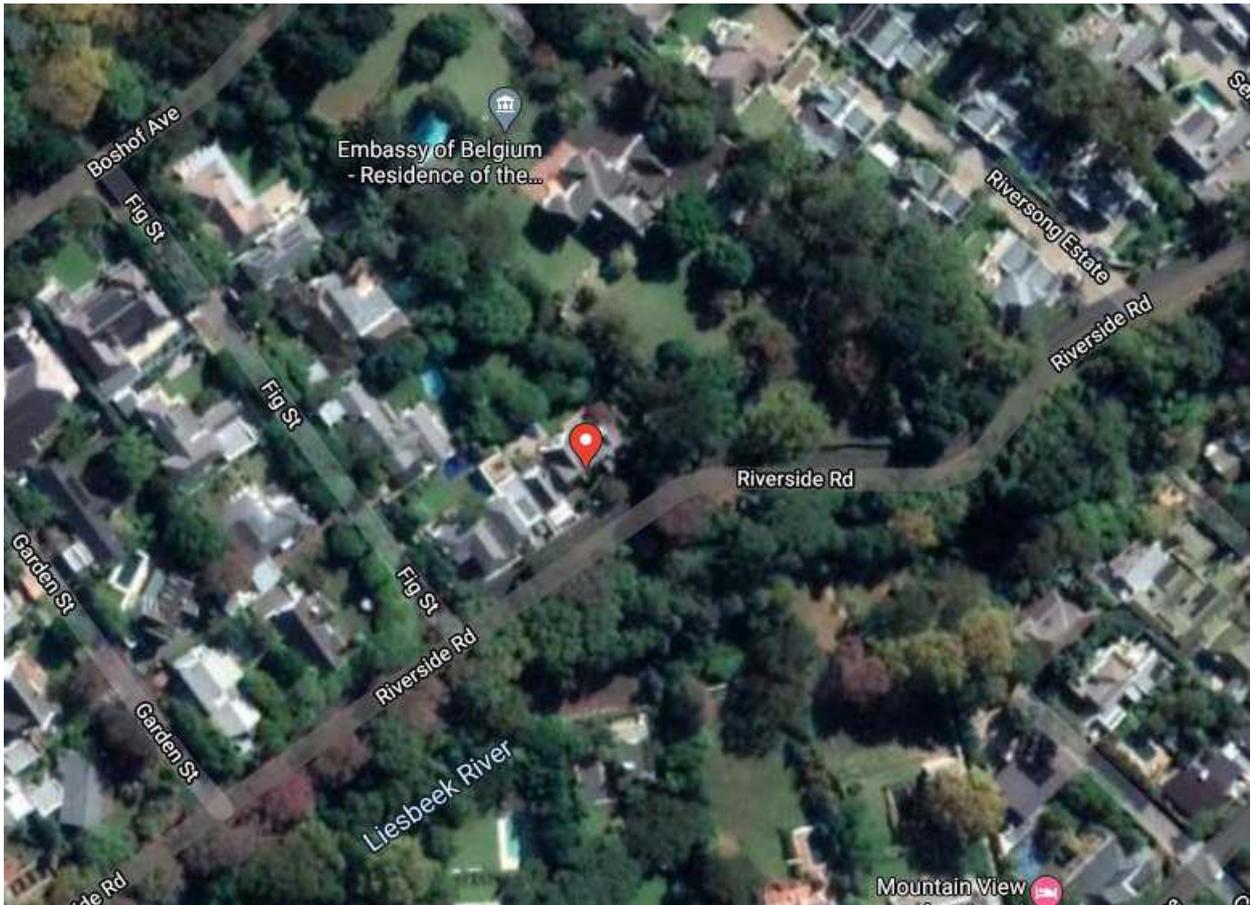
1. The house is visible from the road, set behind a palisade fence.
2. The house is older than 60 years and in a late Arts & Crafts style.
3. The surrounding buildings are residential, with single and double-storey houses.
4. There are two cluster house developments further to the north.
5. On the north side the adjacent property is the Belgian embassy which is set well back from Riverside Road in a large, landscaped garden
6. Number 50 is a modern house and number 52 is currently being reconstructed.
7. Riverside Road is a winding road bound by the Liesbeek River on the east.
8. The character of the road is rural and characterised by a treed and lushly planted landscape, with many houses having hedges on the street boundary.

Recommended Action:

To be considered at Appeals meeting on the 4<sup>th</sup> December 2020

Which committee should this report be submitted to:

**HWC Appeals Committee**



Site plan



48 Riverside Road



48 Riverside Road



Riverside Road to the north of the property



One of the two cluster house developments

APPROVED