

MEETING OF THE HERITAGE WESTERN CAPE, APPEALS COMMITTEE

Minutes of a Meeting of the Appeals Committee of Heritage Western Cape held on Tuesday, 19 January 2016, at 09H00 in the 1st Floor Boardroom at the offices of the Department of Cultural Affairs and Sport, Protea Assurance Building, Greenmarket Square, Cape Town

1. Opening and Welcoming

The Chairperson Mr Richard Summers opened the meeting at 09H10 and welcomed everyone present.

2. Attendance

Appeals Committee

Mr Richard Summers
Dr Nicolas Baumann
Dr Antonia Malan
Mr Trevor Thorold
Dr Piet Claassen

Chairperson Appeal Committee
Appeal Committee member
Appeal Committee member
Appeal Committee member
Council Member

HWC Staff

Dr Errol Myburg
Ms Colette Scheermeyer
Ms Penelope Meyer
Ms Katherine Robinson
Ms Heidi Boise
Mr Jonathan Windvogel
Mr Olwethu Oz Dlova

Chief Executive Officer
Deputy Director
Legal Advisor
Heritage Officer
Heritage Officer
Heritage Officer
Admin Officer (Secretariat)

Visitors

Ms Claire Abrahamse
Mr Ashley Lillie
Mr Antony Arvan

Mr Patrick Labrosse
Mr Russel Baker

Observers

3. Apologies

3.1 None

4. Approval of agenda

The Committee resolved to approve the agenda dated 19 January 2015.

5. Approval of minutes of the previous meeting

The Committee resolved to approve the minutes without additions.

5.1 Dated 8 December 2015

6. Disclosure of interest

None

7. Confidential Matters

7.1 None

8. Administrative Matters

8. Matters Arising

8.1 Outcomes of the Tribunal Committee

Ms Meyer noted that there is nothing to report.

8.2 Procedural matters relating to Appeals

The workshop is to be held with staff and Appeals Committee members on Tuesday, 26 January 2016 at 09H00 till 12H00.

8.3 Recent Court Decisions

Ms Meyer noted that there is nothing to report.

8.4 Site Visits

None

9. Matters Arising

9.1 Proposed Alterations and Additions, Erf 14363, Lodge Laan 1, Wellington: Section 34

In discussion it was noted that:

- Mr Jonathan Windvogel updated the Committee about recent interactions with the applicant who appears to have engaged with a consultant to procure the additional information requested by the Committee.
- The Committee noted, however, concern that there has been some miscommunication or some misunderstanding on the applicant's part, as the Committee had made it abundantly clear on several occasions that the additional information required was quite specific and limited in scope. The Committee reiterated that a comprehensive report would not be necessary in order to satisfy the Committee's concerns.
- The scope of work and amount quoted appears to indicate that the matter has been blown out of proportion which is of concern to the Committee.
- Mr Trevor Thorold undertook to obtain the contact details of the consultant in question from Mr Windvogel and to provide guidance and clarity regarding the precise scope and anticipated costing of what is in fact required by the Committee.

DECISION

The Committee resolved that the appeal is held over as pending until the next meeting of the Appeals Committee.

Jonathan Windvogel

9.2 Proposed Total Demolition, Erf 303, 26 Scott Street and Erf 304, 28 Scott Street, Cape Town CBD: Section 34

Ms Katherine Robinson made a power-point presentation.

Ms Claire Abrahamse and Mr Patrick Labrosse were present and took part in discussion.

In discussion it was noted that:

- Ms Abrahamse, in connection with the query regarding retention of existing trees, indicated that the trees located between 24 Scott Street and the site would be retained as part of the proposed mitigation. Ms Abrahamse would be willing to engage with the development and design team to ascertain whether, if the trees cannot be retained, that they can at least be replaced by landscaping with trees of height.
- The Committee noted that there is a significant difference between retaining and replacing existing trees. Ms Abrahamse concluded that in reality there is likely to be a bit of both (i.e. replacing some and retaining others).
- Ms Abrahamse clarified that the height of the lowest beam would be visible.
- CIBRA noted that it had nothing to add in connection with its appeal. Mr Labrosse indicated that No. 26 Scott Street is very much part of the row of houses on Scott Street and that their position effectively remains the same as elucidated in their appeal.
- Mr Labrosse further noted that he did have a concern regarding the elevations as seen from a distance. The structures on the roof will protrude substantially above the roof level.
- Dr Baumann raised several concerns about the roof and in particular the sense of scale and massing and the footprint occupied by the structure on the roof. Ms Abrahamse responded that it is a light-weight and open structure and the visual impact associated with that structure would be less than a solid one or enclosed element. The only solid structure on the roof is that enclosing of the staircase.
- Dr Malan raised a concern about what happens if structures on the roof become permanently enclosed for practical considerations (for example in response to a need to block prevailing wind from the pool).
- The City of Cape Town had explained the extension of the HPOZ in the area and based on the City's very recent interventions in that regard Scott Street did not fit into any clear type of architectural style apart from being representative of workers' houses of that particular era.
- The City of Cape Town has made it quite clear that even with the extended HPOZ and recent initiatives to consider heritage resources in this area in finer detail that this did still not justify the retention of the subject-buildings.
- It was noted that the design team have made marginal tweaks to the design in order to strive towards something more contextually appropriate.

Whether or not it achieves that objective falls beyond the scope of this appeal.

- With regard to the nature of the significance of No. 26 Scott Street, it is difficult to argue for the retention of either of the buildings on heritage grounds.
- Due to the fact that the demolition does not appear to impact significantly and adversely on existing heritage resources, any design-related imperatives with regard to the proposed development are primarily a consideration for the City of Cape Town to deal with in the context of building plan approval.
- The Committee recognises and understands the objection raised by CIBRA but also notes that much of the area has been (and is being) transformed. There is, however, no significant heritage quality regarding the individual buildings making them worthy or special or rare or evidencing some public quality which would warrant retaining those buildings.
- The Committee suggested that the mitigation measures contained in the report “Analysing the potential adverse impacts of the proposed future development on identified resources and the context (24 Scott Street and the streetscape”, prepared by Claire Abrahamse, undated, be considered by the City of Cape Town as a condition of approval. The mitigation measures include that: At least two trees located on the site to be either retained or replaced by appropriate trees of similar stature; and any solid structure on the roof to be restricted to the covering of the stairwell only. Any fencing of the swimming pool area to be visually permeable and restricted in height.

DECISION

The Committee resolved that:

- The application for demolition is approved by the Committee on the basis that there are no individual elements of overwhelming significance.
- Although there is some collective significance in the streetscape, there is insufficient merit or significance to warrant the retention of the buildings in question.

Katherine Robinson

9.3 Proposed Alterations and Additions, Erf 10373, Glen Dirk, Klaassens Road, Constantia: Section 34

The matter was postponed and removed from the agenda.

Katherine Robinson

9.4 Proposed Total Demolition, Erf 827, 216 High Level Road, Sea Point: Section 34

Ms Heidi Boise made a power-point presentation.

Mr Ashley Lillie, Mr Russel Baker and Mr Antony Arvan were present and took part on discussion.

In discussion it was noted that:

- The appellant's representatives noted that the City of Cape Town had supported the demolition application. The relevant ratepayers association had also supported the demolition, whereas the BELCom decision had graded the building as IIIB because of its intrinsic value, i.e. the building's historic core and aesthetic qualities were still legible.
- It was noted that BELCom also felt that the building was recoverable which was disputed by the appellant's representatives.
- Mr Arvan noted that the core of the building is hardly visible from the exterior. In any event Mr Arvan noted that the argument that the historic core was largely intact is not the case.
- It was recognised that there is some joinery which is relatively intact but the remainder of the fabric (and the turret) were dilapidated and that there is nothing really special about the property.
- It was suggested by the appellant that the building was of relatively minor importance and that the building would be graded IIIC at best.
- Mr Arvan indicated that there was no reference to BELCom's views in their decision and that there was no basis on which to interrogate the reasons for the refusal of the application. It was argued that the absence of minutes places the appellant in an invidious position. Mr. Arvan also felt that there should have been a reference to the views of the City of Cape Town which recorded that the building in the City's opinion was beyond retention. Mr Arvan also indicated that there was no reference in the BELCom decision to the comments of those two bodies which supported the application. There was also no evidence of how BELCom grappled with the detailed representations made by the applicant (dated 13 July and 25 August, respectively). Mr Arvan noted that the site visit was also only undertaken by three members of BELCom.
- With regard to the issue of whether or not the building is recoverable, Mr Arvan motivated that the building is simply not recoverable and referred to the inspection by KFD and the quantity surveyor estimate of an approximate amount of R4 million to recover the building. The notional amount allegedly mooted by BELCom (of approximately R600,000) is way off the mark. Mr Arvan argued that recovery is simply not a feasible prospect for the owner. Mr Arvan also referred to the feasibility of retaining the house and developing a portion of the property and indicated that this had been dealt with in the submissions made by the appellant.
- In summary, it is the appellant's contention that the building is not worthy of protection on various grounds, the recoverability of the building is not feasible and it is not possible for development to simply proceed on the remainder of the property. It was requested that further deliberation of the specific issues including the significance and heritage qualities of the building would be undertaken after the Committee has undertaken its site inspection.
- Mr Lillie noted with regard to Trafalgar Square that spatially it has no relationship to the site.
- Mr Lillie submitted that the recording of the building as Grade IIIB was largely a mechanical consequence of how the City's old grading system operated and it is not clear how the building in question morphed into a Grade IIIB. Mr Lillie suggested that the City had not yet commenced with re-grading sites which are situated outside existing HPOZs.

DECISION

It was resolved that the Committee would first undertake a site inspection of the subject-building and the matter would be placed on the agenda for the next

Appeals Committee meeting during February 2016 for further deliberations based on the appellant's submissions.

Heidi Boise

10. New matters

10.1 Proposed Alterations and Additions, erf 186, Van der Stel Street, Leroux and Kie, Tulbagh: Section 34

Mr Jonathan Windvogel made a power-point presentation.

Mr Jayson Clark and Mr Antony Silberberg were present and took part on discussion.

In discussion it was noted that:

- Mr Silberberg raised a host of issues in the appeal documentation. Although some of the issues raised touch on heritage-related concerns, none of those appear to relate directly to the matter at hand which is an application for the alteration of a building protected in terms of section 34 of the National Heritage Resources Act.
- The concerns raised by Mr Silberberg regarding the lawfulness of the alleged encroachment of the building on the road reserve and the alleged unlawful construction of the rear boundary wall do not form part of the application and therefore this appeal.
- Properly considered those issues are to be dealt with by the local authority and possibly by Heritage Western Cape's Council insofar as the requirements of the National Heritage Resources Act have not been complied with.
- Mr Silberberg was requested several times to indicate and expand on his grounds of appeal relating to the proposed alterations to the front façade.
- Mr Silberberg had failed to motivate or substantiate any heritage grounds for contesting the proposed alterations to the front façade of the building. With regard to the objection to the BELCom approval on the basis of the lack of clarity regarding the condition imposed on the colonnade the Committee felt that the condition imposed was clear and that there was no misunderstanding with regard to what was required in this regard. Mr Clark confirmed that this was the case and the applicant understood what was required in that regard. The applicant also indicated that the other unrelated issues raised by Mr Silberberg would be taken up with the Municipality regarding both the boundary and alleged safety issues from an engineering and construction perspective.
- Mr Silberberg failed to motivate any heritage-related concerns and instead had sought to burden this appeal with a host of other issues that Mr Silberberg has with the building and which do not relate to the application at hand.

DECISION

The Committee resolved to dismiss the appeal for the reason that the appellant has failed to demonstrate or substantiate any heritage-related grounds of appeal in connection with the alterations which are the subject of the application in terms of section 34 of the National Heritage Resources Act. The

appeal instead raises a host of other issues unrelated to the application and which fall outside of the mandate of the Committee.

Jonathan Windvogel

10.2 Proposed Total Demolition, Erf 2668, Short Street, Wellington: Section 34

In discussion it was noted that:

- The appeal submitted by the appellant fails to demonstrate any balanced view of heritage resources in general or what constitutes the heritage of Wellington.
- The Committee would be extremely hard pushed to retain the existing building on heritage grounds and the proposed demolition is supported. The documentation prepared by Henry Aikman Associates does adequately demonstrate the qualities of the building.
- The precedent referred to by Mr Gerber which he refers to in support of this case is not comparable to this appeal as it refers to established heritage-worthy and graded buildings.
- HPOZs were identified in the extensive Drakenstein survey which was undertaken recently and there is no reason to query the grading allocated to the building in question.
- The appeal is accordingly dismissed on the basis that heritage-related grounds of appeal have not been adequately substantiated or motivated in the appeal. Having regard to the characteristics of the building there is no basis to argue for the building's retention on heritage grounds.

DECISION

The Committee resolved to dismiss the appeal for the reason that the appellant had failed to demonstrate or substantiate heritage-related grounds of appeal with specific reference to the perceived characteristics or heritage significance of the subject-building, or its identified grading. The Committee therefore resolved to uphold the decision by BELCom and to approve the application for demolition.

Heidi Boise

10.3 Proposed Total Demolition, Re-erf 5396, 15 Contour Road, Hermanus: Section 34

The matter was postponed until 23 March 2016 due to the request of the applicant.

Heidi Boise

11. Other matters

None

12. Adoption of decisions and additions

The Committee resolved to adopt the decisions.

13. Closure of the meeting

The Chairperson closed the meeting at **11H45**

14. Date of next meeting

17 February 2016

Chairperson's Signature.....

Date.....

Dr Errol Myburg
Interim Chief Executive Officer
ACCOUNTING AUTHORITY
For Head of Department

APPROVED