

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

Minutes of a Meeting of the Appeals Committee of Heritage Western Cape held on  
Wednesday, 24 August 2016, at 09H00 in the 1<sup>st</sup> Floor Boardroom at the Protea  
Assurance Building, Greenmarket Square, Cape Town

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**1. Opening and Welcoming**

The Chairperson, Mr Richard Summers opened the meeting at 09H07 and welcomed everyone present.

**2. Attendance**

**Appeals Committee**

Mr Richard Summers (RS)	Appeals Chairperson
Mr Trevor Thorold (TT)	Appeals Committee member
Dr Antonia Malan (AM)	Appeals Committee Member
Dr Nicolas Baumann (NB)	Appeals Committee Member
Ms Quahnita Samie (QS)	Council Member

**HWC Staff**

Mr Mxolisi Dlamuka (MD)	Chief Executive Officer
Ms Colette Scheermeyer (CS)	Deputy Director
Mr Zwelibanzi Shiceka (ZS)	Assistant Director
Mr Jonathan Windvogel (JW)	Acting Assistant Director
Ms Penelope Meyer (PM)	Legal Advisor
Ms Heidi Boise (HB)	Heritage Officer
Mr Olwethu Dlova (OD)	Admin Officer (Secretariat)

**Visitors**

Mrs Sarah Muller (SM)	Mrs A Fick (AF)
Mr Leonard Raymond (LR)	Mr DB Smit (DBS)
Mr Jakes van der Merwe (JvdM)	Ms Louise van Riet (LvR)
Mrs Geraldine Gonsalves (GG)	Mr Chris Brown (CB)
Mrs Lauren Hill (LH)	Mr Marc Turok (MT)

**Observers**

Mr Bewin September (BS) (CoCT)

**3. Apologies**

Mr Dlamuka and Ms Scheermeyer requested that they be excused from 11h00.

**4. Approval of agenda**

The Appeals Committee resolved to approve the agenda dated 24 August 2016.

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

**5.1. Dated 22 June 2016**

The Appeals Committee resolved to approve the minutes dated 22 June 2016.

**5.2 Dated 20 July 2016**

The Appeals Committee resolved to approve the minutes dated 20 July 2016.

**6. Disclosure of interest**

None

**7. Confidential Matters**

None

**8. Administrative Matters**

**8.1. Outcomes of the Tribunal Committee**

Nothing to report

**Penelope Meyer**

**8.2. Recent Court Decisions**

Nothing to report

**Penelope Meyer**

**8.3. Site Visits**

- Proposed Partial Demolition & Additions to existing structure, Erf 224, 2 Claire Street, Vredehoek: Section 34

**Penelope Meyer**

**9. Matters Arising**

**9.1 Proposed Remedial Work, Erf 11306, Klein Constantia Street, Paarl: Section: 27**

In discussion it was noted that:

- The information previously requested by the Appeals Committee had not yet been provided.

**DECISION**

The Appeals Committee resolved that the matter be held over until the requested information is received.

**Jonathan Windvogel**

**9.2 Proposed Partial Demolition & Additions to existing structure, Erf 224, 2 Claire Street, Vredehoek: Section 34**

Members of the Appeals Committee being Ms L Robinson (Acting Chairperson), Dr L Webley and Mr T Thorold attended the site inspection on 25 July 2016; apologies had been received from member Dr P Claassen.

Case officer Ms H Boise was present as was the architect Mr M Wagner.

Mr Wagner presented drawings (untitled and undated) illustrating the proposed work, some of which had been partially completed and was unauthorised. After inspection of the property the Appeals Committee noted that:

- A small portion of the roofed structure on the slab of the section facing onto Claire and Roodehek Streets had been previously approved by HWC.
- A steel skeletal structure had been erected over the concrete slab as had some cladding to the rear of the slab facing onto the service lane; these additions are unauthorised.
- The unauthorised work and the proposal to roof over the external staircase and a portion of the concrete slab as indicated on the drawings presented are considered to be visually intrusive and inappropriate in terms of the surrounding environment and could not be approved.

#### **DECISION**

The appeal is dismissed and all unauthorised building work is to be removed from the area over the concrete slab.

**Heidi Boise**

### **10. New Matters**

#### **10.1 Proposed Alterations and Additions, Erf 8988, 22 Plein Street, Paarl: Section 34**

Mr Jonathan Windvogel made a power-point presentation.

Mrs Sarah Muller, Mrs A Fick, Mr Leonard Raymond and Mr DB Smit were present and took part in discussion.

In discussion it was noted that:

- In the appeal submissions the argument was made that the application is essentially the same application that served previously before the MEC's Appeals Tribunal which had upheld the appeal against the decision to approve the building plans.
- The essence of the Drakenstein Heritage Foundation's appeal was centred around its objection to the proposed use of standard off-the-shelf casement windows and associated brick work, and objections to proposed lintel heights. In relation to the associated brick work Mr Smit conceded that replacing the existing windows would not affect a significant amount of brick work. The DHF also relied upon the HWC grading guideline to the effect that the exterior of the building should be kept intact.
- The DHF argued that they would like more detail set out in plans as the letter commitment from the applicant is ambiguous and does not satisfy their concerns. The DHF also felt that elevations were required in order for it to make an informed opinion on the application.
- Mr Len Raymond made appeal submissions in his personal capacity and relied extensively on the decision of the Appeals Tribunal as a basis for arguing that the current proposals were essentially the same application that had been previously refused by the Tribunal decision.

- Mr Len Raymond relied on historical research undertaken with regard to the grading and placement of the building in question. He argued that the building was built to impress and is situated in a prominent place. Mr Raymond argued strenuously that the building is in fact a Grade IIIA resource and that the Tribunal decision endorses this finding.
- Based on the alleged IIIA status of the site Mr Raymond argued that the IIIA grading does not allow the current proposals.
- Mr Raymond objected to the demolition of the alleged external back wall and the removal of windows which were cutting edge at the time of the installation. The essence of Mr Raymond's submission is that the design is incompatible with the grading.
- Mr Raymond further suggested that even if the building was graded IIIB or IIIC – on either grading it should not be allowed. Mr Raymond suggested further that there was even a suggestion that the building might qualify as a Grade II resource.
- Mr Raymond argued that this is an intact building and was the first building in Paarl to have a fitted kitchen and in that vein argued that the building should be left intact.
- Mr Raymond clarified that he was not objecting to the demolition of internal walls but opposes the introduction of new elements.
- The applicant – represented by Ms Fick – indicated that on the western façade all the lintels are aligned and that on the northern façade the window is approx. 150mm higher than the rest of the windows and on that basis the slight increase in height does not alter the heritage value.
- The applicant is concerned that custom-made doors and windows to match the arts and crafts features are costly and unreasonable for a Grade III building. It was argued that the new doors proposed are neutral and do not subtract from the heritage value.
- The owner had also been contacted by the Chairperson of the DHF and indicated that the DHF would not appeal if the applicant undertook to provide custom-made windows. The applicant is willing to do this and there was in the circumstances no opportunity to submit further plans to the DHF prior to the appeal deadline.
- With regard to the DHF's request for detailed elevations, it is unreasonable for measured drawings for an area of the house that is far-removed from the public view. Photographs would provide a much better record of the current state of the building.
- Regarding the issue of the original back (external) wall, on a 1935 plan the servant's room is shown as an integral part of the house with a door leading into the kitchen.
- Regarding grading, the applicant stressed that HWC and not the Appeals Tribunal is responsible for grading and Ms Fick reiterated her recommendations regarding a IIIB grading for the building. Ms Fick indicated that BELCom accepted this and went into great detail regarding the grading.
- Ms Fick indicated that this was a lower end IIIB and there was a need for it to be protected (even if it had no context).
- Ms Fick argued that the interior alterations do not affect the elements that contribute to the heritage value of the property and much of the building cannot be seen from the street. Essentially Ms Fick concluded that the applicant had done everything that the client could do to provide all the information and material required of it in terms of the Act and felt that such information was authoritative in terms of what the grading should be. Ms Fick indicated that structural drawings are available but they are not relevant to the heritage issues.

- The owner – Ms Sarah Miller – expressed her frustration at the long and inconclusive nature of interactions with the DHF regarding the proposals. She indicated that they have had three separate meetings with the DHF and each time they met with the DHF in order to address the concerns the DHF raised additional concerns. Each time they did so the applicant resubmitted plans but ultimately this did not achieve finality as the DHF kept on shifting the goalposts. The applicant was also greatly confused by the interaction she had had with the Chairperson of the DHF, Ms Anne Kruger, who apparently had indicated that the DHF will not appeal if resolution could be reached on certain key issues. Unfortunately it was too late to put in revised plans in terms of the appeal timeframe and that the applicant stressed that they had tried their utmost best to address the concerns of the DHF to no avail.
- The applicant/owner was concerned about the appeal on the basis that they had been contacted by the Chairperson of the DHF to discuss their concerns with the proposals in order to try and avoid an appeal being lodged by the DHF.

### **DECISION**

The Appeals Committee resolved to undertake a site visit on Friday, 2 September 2016 at 10:00.

**Jonathan Windvogel**

### **10.2 Proposed Alterations and Additions, Erf 3190, 4 Constantia Road, Oranjzicht: Section 34**

Mr Jonathan Windvogel made a power-point presentation.

Mr Jakes van der Merwe was present and took part in discussion.

In discussion it was noted that:

- Mr van der Merwe stressed that both he and his wife are respectful of heritage but they are constrained by the footprint of their current property (140m<sup>2</sup>) and as their daughters are growing older they have a desire to make the most of their property and to make their house bigger.
- Mr van der Merwe indicated that they can't expand the bottom floor of the existing dwelling and the only option is to make better use of the potential to build in the roof.
- Mr van der Merwe pointed to several other properties in the street which, he alleged, had been able to obtain heritage approval for a full second storey (Mr van der Merwe referred specifically to No. 9 Constantia Road).
- CIBRA had indicated to Mr van der Merwe that a full second storey would not be appropriate for the property.
- Mr van der Merwe in responding to BELCom's concern that the proposals were "over-scaled", indicated that this did not pertain to the double storey but rather to the dormer window.
- Based on advice he appointed a heritage consultant and an architect to prepare a revised plan which would not interfere with the stepped appearance of adjacent properties.
- Mr van der Merwe stressed that the dormer window is to make the upstairs living space practical and workable. Mr van der Merwe pointed to the illustration of No. 7 Constantia Road where he alleged HWC had

allowed a window in a brick gable. The dormer window is specifically to create the requisite height for the bedroom and associated en suite bathroom. Mr van der Merwe indicated that without the dormer window the plan simply does not work and what HWC is doing is forcing him to cripple the house. Ideally, Mr van der Merwe stressed that what they would have liked to have done is to take the house to a full double storey Victorian in sight of the example of the new double storey building at No. 7 Constantia Road.

- Mr van der Merwe relied upon further written submissions, handed to the Appeals Committee, and stressed that the Act gives HWC a discretion and implored the Appeals Committee to accept the proposals on the basis that he wants all his family members to have sleeping quarters upstairs and they don't want to split up the family members for interests of safety.
- Mr van der Merwe stressed that the whole objective of the Act is to make section 34 more supple. Appellant does not want to take issue with the HPOZ or the IIIB grading relating to the property.
- Mr van der Merwe stressed that the current proposals do not impact on the special features of the building and that the original building is ultimately not altered. He stressed that this proposal involves the least possible alteration or loss to the building and that the only concern at issue was the allegedly over-scaled dormer window.
- The Appeals Committee recognised that the proposals indicate a significant intervention and consequently identified a need to understand the precise extent of the proposed interventions and that this was not clear from the diagrams available. Specifically, clarity is required regarding whether or not there will be a lifting of the eaves and a lifting of the roof and as a result a complete reconfiguration.

#### **DECISION**

The Appeals Committee resolved to undertake a site visit on Friday, 2 September 2016.

**Jonathan Windvogel**

#### **10.3 Proposed Total Demolition, Erf 177420, 21 Wheelan Road, Newlands: Section 34**

Ms Heidi Boise made a power-point presentation.

Ms Louise van Riet, Mrs Geraldine Gonsalves, Mr Chris Brown, Mrs Lauren Hill and Mr Bewin September were present and took part in discussion.

In discussion it was noted that:

- The application is for a total demolition to accommodate a subdivision and subsequent redevelopment.
- The City of Cape Town supports the demolition and Mr September of the City was present and indicated that the proposals were generally in accordance with the applicable guidelines.
- Although Newlands Village had been acknowledged as a significant historic area the City has still not finalised and gazetted the area's current draft HPOZ status.
- The issue that is the subject of protection and regulation in terms of section 34 of the Act is the existing building which is over 60 years old.

- The proposed demolition is uncontested in the appeal. Rather the appeal relates to whether or not a condition imposed by BELCom (that the plans for the future development of the property should be appropriate to the heritage context) have been satisfied.
- Essentially the contention of the Newlands Residents Association (NRA) is that a full double storey is inappropriate in the context of the village. The proposed parapetted double-storey typology as well as the closer proximity to the street are considered to be inappropriate.
- Ms Hill on behalf of the applicant indicated that they completely disagree with the NRA's views and that they are satisfied that the proposal fits the character of Newlands Village.
- The Chairperson raised a concern that on the facts of this matter where the demolition had been approved by BELCOM and is not contested by any of the parties, it is not clear whether or not the Appeals Committee has jurisdiction to entertain an appeal which relates to the approval of building plans for the future development of the site.
- Given that the matter was not raised in the context of the appeal submissions or the responses thereto, the Appeals Committee indicated to both the applicant and the appellant that the parties were provided with an opportunity until 7 September 2016 to provide further written submissions to the Appeals Committee as to whether or not the Appeals Committee could legitimately entertain the appeal based on the issue at hand, being the approval of future development proposals.

## DECISION

The matter is held over for determination at a later stage, pending further submissions from the Parties.

**Heidi Boise**

### **10.4 Proposed Total Demolition, Erf 26939, 6 Roman Road, Observatory: Section 34**

Ms Heidi Boise made a power-point presentation.

Mr Marc Turok was present and took part in discussion.

In discussion it was noted that:

- This is an application for total demolition.
- The applicant's representatives did not attend the meeting.
- Although the ungradable building is not conservation-worthy it was noted that the HPOZ boundary is to the immediate east of the property (i.e. the HPOZ boundary is immediately adjacent to the property).
- Mr Turok on behalf of the Observatory Civic Association (OCA) argued that the OCA was opposing the demolition as the building plans for the future development of the site illustrate that there has been no sensitive application from a heritage perspective and that the street impact of the proposal is unacceptably negative.
- In his submissions Mr Turok called for revised plans which require the building to be stepped and to appropriately reflect continuity of the streetscape, and to be appropriately set back in order to respect the interface with the HPOZ boundary. Part of the concern with the current proposal is that the three storey blank façade is constructed hard up against the edge of the HPOZ.

- In the context of this application, the immediate interface with the HPOZ was a relevant issue and crucially this requires further consideration as to how the proposals will affect the interface with the HPOZ and the streetscape.
- It was identified that the proposed plans, as reflected in the drawings, do not reflect a good scheme from a heritage perspective because of the interface with the HPOZ and the failure to address this appropriately in the plans and as well as the street relationship, and the active edge and the ground floor. Mr Turok stressed that he was in fact objecting to the demolition insofar as this issue was not addressed and therefore the issue of demolition and subsequent development are inextricably linked.
- In the circumstances the Appeals Committee is not convinced that it has the requisite level of information before it in order to render an informed decision about the impact on the HPOZ.

## DECISION

The Appeals Committee resolved that revised design proposals are required from the applicant and which address the lack of stepping down towards the east and this needs to be re-examined from a heritage interface perspective and revised plans re-submitted to HWC. The applicant is also requested to reconsider the modelling of the building in the revised plans to ensure a more sensitive interface between the building and the streetscape and the east side immediately abutting the HPOZ.

**Heidi Boise**

### 11. Other Matters

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: 13H50

### 14. Date of next meeting

Chairperson's Signature.....

Date.....

*Heidi Boise* 21 September 2016  
*21 September 2016*