

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

Minutes of a meeting of the Appeals Committee of Heritage Western Cape held on Wednesday, 17 September 2014, at 10H30 in the 1<sup>st</sup> Floor Boardroom at the offices of the Department of Cultural Affairs and Sport, Protea Assurance Building, Greenmarket Square, Cape Town

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

The Chairperson Mr Richard Summers opened the meeting at 10H35 and welcomed everyone present.

### **2. Attendance**

#### **Appeals Committee**

Mr Richard Summers  
Dr Nicolas Baumann  
Dr Antonia Malan  
Mr Trevor Thorold  
Ms Quahnita Samie

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

#### **HWC Staff**

Mr Andrew Hall  
Mr Jonathan Windvogel  
Mr Olwethu-Oz-Dlova

Chief Executive Officer  
Heritage Officer  
Admin Officer (Secretariat)

### **3. Apologies**

3.1 None

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

The Committee resolved to approve the agenda dated 17 September 2014 without amendment.

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

#### **5.1 Dated 16 April 2014**

The Committee agreed to ratify the minutes adopted at the meeting of 16 April 2014 with minor corrections.

#### **5.2 Dated 30 April 2014**

The Committee agreed to ratify the minutes adopted at the meeting of 30 April 2014.

#### **5.3 Dated 16 & 21 May 2014**

The Committee agreed to ratify the minutes adopted at the meeting of 16 & 21 May 2014.

#### **5.4 Dated 1 August 2014**

The Committee agreed to ratify the minutes adopted at the meeting of 1 August 2014.

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

6.1 None

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

7.1 None

#### **8. Administration**

##### **8.1 Outcomes of the Appeal Tribunal**

The CEO reported back on the matters (appeals) that have gone to the Appeal Tribunal.

##### **8.2 Receipt of the appeal documentation**

Members complained about the late arrival of the appeal documentation. This was due to Skynet. The CEO was requested to take this up with registry.

##### **8.3 Policy of Grading**

Members questioned the status of the request to investigate the gradings policy pursuant the appeals committee decision on the 16 & 21 May 2014. The CEO advised that the matter is in progress and a stakeholder workshop is envisaged to discuss this.

##### **8.4 Delegation to the City of Cape Town**

The CEO advised that due to the competence assigned to the City regarding the grading of resources, HWC can no longer grade any grade III resources as this is now a function of the City.

#### **10 Matter Arising**

10.1 None

#### **11. New Matters**

##### **7.1 Proposed New Fence & Boundary Wall to Existing Dwelling, Erf 2806, Wagon Shed, 16 Church Street, Tulbagh: Section 27**

Mr Jonathan Windvogel made a power-point presentation

Mr Jayson Clark (Tulbagh Valley Heritage Foundation) was present and took part in discussion

In discussion it was noted that:

- The Appellant's concerns regarding safety and security of his property are a legitimate and valid concern. However, that concern does not serve to trump heritage-related issues without a detailed consideration of how reasonable security requirements may be given effect to without adversely impacting on heritage resources.
- Church Street in Tulbagh represents a high quality historic landscape environment in terms of which the open form of the interface between the ensemble of dwellings and the streetscape, and the low boundary walls, is a significant element. The nature of this interface contributes substantially to place character and the heritage significance of Church Street. The introduction of a palisade fence in the nature and scale proposed by the Appellant will fundamentally disrupt the streetscape and the intrinsic qualities and aesthetic appeal of this historic landscape.
- Although it is not the prerogative of Heritage Western Cape to prescribe appropriate security control measures, it was noted that there are a range of alternative mechanisms that could be explored by the Appellant and which have not been sufficiently explored to date.
- The property is a Grade II Provincial Heritage Site (PHS) and the landowner would have (or in the very least should have) known that the dwelling formed an integral component of a high quality heritage environment with associated restrictions on use rights insofar as those impact adversely on heritage significance.
- The Appellant had failed to appropriately motivate that existing precedent existed to support this type of intervention. The photographs tabled by the Appellant in connection with the appeal served only to confirm the semi-rural qualities of the streetscape and the critical relationship between the street and the existing ensemble of dwellings. It is not the street itself but the relationship between semi-private, semi-public, public space which contributes to the character of the place.
- Approving an intervention of this nature and scale would also set a negative precedent which would impact not only on the property in question but would also potentially give rise to significant adverse cumulative effects. Such impacts might undermine the historically significant context of an ensemble of dwellings with low walls at the interface with the street.
- The appeal is dismissed and the BELCom decision affirmed on the basis of the heritage significance of the streetscape and how it is composed in Church Street and in particular the relationship between the street and the dwellings. This relationship not only gives the street its distinctive character but contributes significantly to the quality of the heritage resource. There is a consistency in how the buildings in Church Street are treated and how they interface with the streetscape. This consistency is in contra distinction to what information the Appellant has tabled.
- The relationship between the street and the dwellings is a major contributing factor to the status of individual dwellings and the collective ensemble which is considered to warrant Grade II conservation area status. The dwelling situated at No. 16 Church Street is no different in this regard and in fact is recognised as one of the few examples of a relatively intact long house on Church Street. As such it forms a key component of this historic landscape.
- The Appellant seeks the counsel of the Committee in relation to an alternative solution that would satisfy the Appellant's security/safety concerns. Whilst the Committee notes that it is not the function of this

Committee to contemplate and interrogate a range of alternative interventions which have not been formally motivated to Heritage Western Cape in the ordinary course as part of a comprehensive and duly completed application, the Committee was equally sympathetic to the Appellant's desire for a satisfactory outcome in terms of which both heritage-related concerns could be addressed and security concerns respected. To this end, the Committee strongly recommended that the Appellant be advised to consult a specialist who is competent in conservation architecture with a view to advising definitively on the range of alternative possible interventions that could achieve this purpose. In the absence of such detailed information the Committee is unable to contemplate the options put forward by the Appellant, save to note the following:

- The original proposal is rejected for the reasons stipulated herein.
- The second option (in terms of which the fence height is to be lowered from 1.5 metres to 1.2 metres) is rejected on the same basis as above in that the reduction in height by the proposed 30cm will not mitigate the overall significant adverse impact on the heritage resource identified.
- The third option (to lift the front wall) is required to be interrogated and motivated in terms of a discrete application to HWC with the input of a competent conservation architect.
- The Committee notes that it is the prerogative of the Applicant/Appellant to establish, with reference to competent specialist input, whether or not a less intrusive outcome is possible in terms of how to secure the front garden of the dwelling at No. 16 Church Street without compromising heritage.
- The proposal does not fit comfortably with the properties situated elsewhere in Church Street and will indeed contribute to a fundamentally different aesthetic quality in Church Street. As such, it is not supported. The information supplied by the Applicant in illustration of other examples of palisade fencing on Church Street are by no means comparable to the current context of the dwelling situated at No. 16. The examples illustrated in the photographic material are recessed and set back from Church Street and are fundamentally different to the receiving environment of No. 16 Church Street.
- The Appellant was at pains to motivate that there was no valid reasoning behind the BELCom decision that there was a negative impact on the streetscape and that the relationship between the street and dwellings was a legitimate concern. Rather, the Appellant sought to establish that the streetscape is broken up by numerous examples of gates, walls and fencing. The Committee was of the unanimous view that the material supplied by the Appellant served only to confirm the consistent qualities of the streetscape context in Church Street and that the information supplied by the Appellant did not support the Appellant's contention that the streetscape context and the relationship would not be negatively impacted on by the proposed intervention.
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## **DECISION**

The Committee resolved to dismiss the appeal for the following reasons:

- The proposal would have a significant adverse impact on heritage resources and the historical landscape qualities of Church Street, Tulbagh.

- The Appellant has failed to motivate appropriately that security-related concerns could justify the significant adverse impact that the proposal would give rise to.

**Jonathan Windvogel**

**8. OTHER MATTERS**

8.1 None

**9. ADOPTION OF DECISIONS AND ADDITIONS**

The Committee resolved to adopt the decisions.

**10. Closure of the Meeting**

The Chairperson closed the meeting at

**12H00**

**11. Date of Next Meeting**

**15 October 2014**

Chairperson's Signature.....

Date.....

Mr Andrew Hall  
ACCOUNTING AUTHORITY  
For Head of Department

APPROVED