



**APPROVED MINUTE FOR THE MEETING OF HERITAGE WESTERN  
CAPE, APPEALS COMMITTEE  
HELD ON WEDNESDAY, 14 FEBRUARY 2024, MICROSOFT TEAMS, SCHEDULED FOR  
08:30**

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## **1. Opening and Welcome**

The Chairperson, Mr Gregory Ontong, officially opened the meeting at 08:30 and welcomed everyone present.

## **2. Attendance**

### **Committee Members:**

Mr Gregory Ontong (GO)  
Ms Corlie Smart (CS)  
Dr. Andre van Graan (AvG)  
Dr Nicolas Baumann (NB)  
Mr Stuart Hermansen (SH)

### **Members of Staff:**

Ms Nosiphiwo Tafeni (NT)  
Ms Penelope Meyer (PM)  
Ms Naushina Rahim (NR)  
Ms Sneha Jhupsee (SJ)  
Ms Xola Mlwandle (XM)  
Ms Chane Herman (CH)  
Ms Waseefa Dhansay (WD)  
Ms Khanyisile Bonile (KB)

### **Visitors:**

#### **Item 10.1**

Mr Stephen Levetan (Appellant's attorney)  
Mr Martin Bey (Respondent's attorney)

#### **Item 11.1**

Mr Andrew Pretorius (Appellant)  
Ms Leah Johnson (Respondent/ Applicant's representative)

## **3. Apologies**

None.

## **4. Acceptance of the Code of Conduct**

Members re-affirmed their commitment to the Code of Conduct

## **5. Approval of Agenda**

### **5.1 Dated 14<sup>th</sup> February 2024.**

The Agenda dated 14<sup>th</sup> February 2024 was approved; SH moved to adopt the Agenda and AvG seconded.

## **6. Approval of Minutes from previous meeting**

### **6.1 Appeals Minutes dated 17<sup>th</sup> January 2024**

The Committee resolved to approve the Minutes dated 17th January 2024. AvG moved to adopt the minutes and SH seconded.

## **7. Disclosure and Conflicts of Interest**

### **7.1 Recusals- General**

None.

## **8 Confidential Matters**

None.

## **9. Administrative Matters**

### **9.1 Timelines and process when dealing with further conditions**

The Committee resolved to respond within 48 hours from the time of sending of an email which requested feedback on information received in response to further requirements, or when taking a decision by email. The Committee agreed that they would respond in the order currently being used when editing minutes.

### **9.2 Appointments**

None.

### **9.3 Outcome of the Tribunal Committees and Recent Court Decisions**

PM updated on the Tribunal ruling in Quay 7, Waterfront appeal.

### **9.4 Report back from HWC Council**

None.

### **9.5 Site Visits undertaken**

None.

#### **Potential Site Visits**

None.

### **9.4 Discussion of the Agenda**

### **9.5 Attendance of upcoming Tribunal meetings**

Will proceed as agreed on a rotational basis.

## **10 Matter Arising**

- 10.1 **Proposed Additions and Alterations on Erf 16337, 267 Victoria Road, Salt River  
HM/CAPE TOWN METROPOLITAN/ SALT RIVER/ ERF 16337  
Case No: HWC22052709CH0316**

Naushina Rahim (Secretariat) introduced the item with the case officer Chane Herman present for additional support.

This item was heard on 8<sup>th</sup> November 2023 where the Committee set the following further requirements.

#### FURTHER REQUIREMENTS

The Respondent to assess the new information presented in relation to the possible inconsistencies in the plans and the impact this will have on the heritage resources which need to be identified on the drawings especially related to Durham avenue.

The committee suggested that the Respondent should consult a heritage professional to assist with the mapping of the heritage resource.

The Respondent to provide the Appellant with the above information and allow 14 days for them to respond.

#### DISCUSSION

Amongst other things, the following was discussed by the Committee:

- The incorrect elevation and related corrections on the drawings were discussed.
- The issue of the common property was raised- whether the internal staircase formed part of the common property within the sectional title scheme and whether this impacted on heritage.
- The internal staircase is located in the part of the building which is not a heritage resource and is not older than 60 years. The graded heritage resource is the section of the building on the corner of Victoria Road and Durham Avenue as well as the old building façade which remains.
- The work to the staircase does not therefore require permitting in terms of the NHRA.

#### DECISION

**The appeal is dismissed.**

**The proposed alterations to the heritage resource are approved as there is no impact on the heritage resource. The elevation shown on the amended plan numbered 389519 is approved as being a true reflection of the building.**

**The staircase does not form part of the heritage resource and accordingly does not require consideration by Heritage Western Cape.**

CH

## 11. New Matters

### 11.1 Proposed Total Demolition on Erf 48331, 6 Apple Lane, Newlands; NM HM/CAPE TOWN METROPOLITAN/ NEWLANDS/ ERF 48331 Case No: HWC23063005KB0704

Naushina Rahim (Secretariat) introduced the item with the case officer Khanyisile Bonile present for additional support.

This item is graded IIIc (according to the City of Cape Town map viewer) and the appeal is against HOMs's decision.

#### **The grounds for condonation:**

- The Appellant (Mr Andrew Pretorius) presented his grounds for condonation:

- The appellant -was late in submitting the appeal because he was not informed by the Applicant that there was a heritage application before HWC. The appellant and applicant share a boundary wall and are adjoining neighbors.
  - The appellant first became aware on the 20<sup>th</sup> of November 2023 that the permit had been granted and he was unsure of the application and appeals processes.
  - He has been in touch with HWC since then and waited until after the festive season to lodge the appeal.
- The Respondent (Ms Leah Johnson) responded on the grounds of condonation:
    - The application was shared with the three registered bodies in the area and therefore due process was followed.
    - The respondent submitted that the appellant had taken a long time to submit the appeal from finding out in November.

### **Presentations**

- The Appellant (Mr Andrew Pretorius) presented his grounds for appeal:
  - The Respondent did not inform the Appellants that they were applying for a demolition application. There was a lack of transparency in the process of engagement.
  - The proposed new design disregarded the heritage context and history of the locality.
  - The Respondent (Applicant) has disregarded the heritage factors and there is a risk of the community losing its history and character.
  - The proposed design included anodised aluminium which departs from the character and aesthetic of the area's cultural identity.
- The Respondent (Ms Leah Johnson) responded as follows:
  - On-site advertising was not a requirement set by HWC and that is why it was not done.
  - The three registered bodies were consulted for comment as required.
  - The Newlands Residents Association did support the new building design after deliberation.
  - The Appellant has brought this appeal to try and stop the construction because the Appellant's view of the mountain will be impacted.
  - The structure has insufficient heritage value, as was noted by the registered heritage body and the authorities.
  - Initially the CoCT did not support the proposed design. However, once the design was revised and workshopped, the CoCT supported it.

### **DISCUSSION**

Amongst other things, the following was discussed by the Committee:

- The grounds for condonation were considered, including the appellants attempts to engage with HWC, the impact of the festive period and that the HWC guidelines for public consultation advised that a site notice be placed where a total demolition is proposed.
- The comments from the City of Cape Town were considered and the committee requested clarification regarding the stamped plans which the City reviewed and approved.
- The stamped plans were not included in the original application that served before HOMs.
- The committee asked that the Respondent share the stamped plans onscreen which she did during the meeting discussion.

- The committee considered the heritage value of the structure along with its grading. The structure is graded IIIC and is not located in a current HPOZ.
- The location of the new building is such that it would not be visible from Kildare Road, and so the impact on the adjacent area will not be significant. In any event, Apple Lane does not constitute a heritage context.
- The committee concluded that the structure had insufficient heritage value and was not worthy of conservation. The immediate area within which the property is situated has no heritage value. It would therefore not be correct to apply the principles contained in the Gees judgement, as there was no heritage reason to impose conditions on the replacement structure.

**DECISION**

**Condonation is granted.**

**The appeal is dismissed. The existing structures on the site do not have sufficient heritage value to warrant retention and the immediate context of Apple Lane does not have heritage value.**

**13. Other Matters which are noted only**

13.1 None

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

6 March 2024

**13. Adoption of decisions and resolutions**

The Committee unanimously resolved to adopt the decisions and resolutions dated 14 February 2024

**Closure:** The meeting was adjourned at 12:40

**MINUTES APPROVED AND SIGNED BY:**

CHAIRPERSON  DATE 7 March 2024

SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_ 2024