



**APPROVED MINUTES FOR THE MEETING OF
HERITAGE WESTERN CAPE,
APPEALS COMMITTEE**

Held on Wednesday, 8th February 2023 via Microsoft Teams, scheduled for 08:30

Opening and Welcome

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

Attendance

Committee Members:

Mr Gregory Ontong (GO)
Adv Mandla Mdludlu (MM)
Dr Nicolas Baumann (NB)
Mr Stuart Herman (SH)

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Penelope Meyer (PM)
Ms Colette Scheermeyer (CS)
Ms Waseefa Dhansay (WD)
Ms Ayanda Mdludlu (AM)
Ms Corne Nortje (CN)
Ms Sneha Jhupsee (SJ)
Ms Stephanie-Ann Barnardt (SB)
Mr Thando Zingange (TZ)
Mr Robin George (RG)
Ms Aneeqah Brown (AB)

Visitors:

Item 9.1

Mr Mike Scurr
Ms Katie Smuts
Ms Sarah Winter
Mr Richard Summers

Mr William George
Mr Patricia Botha
Mr Jacques Mouton

Item 9.2

Mr Johan Cornelius
Ms Amanda Dilima

Ms Jacqueline Poking
Mr Warren Kliphuis

Item 9.3

Ms Bettina Woodward
Mr Graham Jacobs
Ms Bianca Simoes

Ms Jacqueline Poking
Mr Sebastian Walters

Item 10.1

Ms Sandra van der Merwe
Mr Mike Scurr
Ms Ilze Wolff

Katie Smuts

Item 10.2

Mr Riaan Esates
Mr Christiana Groenewoud
Mr Barry Zetler
Ms Berta Hayes
Ms Reyhana Gani
Ms Cornelia Smart

Apologies

Ms Cornelia Smart (CSm)
Dr. Andre van Graan (AvG)

3. Absent

None

4. Approval of Agenda

4.1 Dated 8th February 2023.

The Agenda dated 8th February 2023 was approved.

5. Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 11th January 2023

The Committee unanimously resolved to approve the minutes dated 11th January 2023.

6. Disclosure and Conflicts of Interest

6.1 Recusals General

NB recused himself for item 9.1

CS recused herself from the committee meeting as a member however participated on behalf of an appellant

7. Confidential Matters

None.

8. Administrative Matters

8.1 Outcome of the Tribunal Committees and Recent Court Decisions

8.2 Report back from HWC Council

None.

8.3 Site Visits Conducted

None

8.4 Potential Site Visits

8.4.1 None

8.5 Discussion of the Agenda

8.5.1 None

8.6 Documentation Submission.

8.6.1 A time frame has to be set for submitting the documents to the committee members

9 Matters Arising

9.1 Proposed additions and alterations on Boschendal cellar building, off R310, Dwars River Valley, Farm 10, 167 Stellenbosch.

HM/ CAPE WINELANDS/STELLENBOSCH/ PTN 10 OF FARM 167

Case NO: 21090305SB1020E

Appeal against BELCom's decision.

Ms Stephanie-Ann Barnardt introduced the item.

Present on behalf of the Appellant: Mr Richard Summers

Present on behalf of the respondent: Patricia Botha

For the Appellant:

- SIG supports the revised proposal and considers that it meets the requirements set by the committee.

For the Respondents;

- Previous concerns raised have been addressed, for example the setback on the western edge, and the revised design addresses any impact on the scenic route or approach.
- In response to concerns regarding the roof structure and form, the pitch roof has been removed. There has been a material design change which maintains the dominance of the cellar roof.
- The exterior has been simplified; screening layers have been removed.
- The alternative roof form achieves the aim of being less intrusive.
- The building does not extend beyond existing footprint.
- It achieves the imperative of being unobtrusive and recessive.
- It is considered to be an appropriate response in design, massing and form.

DISCUSSION

Amongst other things, the following was discussed:

- The committee considered that the revised design had adequately responded to its previous requirements.

DECISION

The committee resolved to approve the revised proposal as having met the requirements set previously.

SB

9.2 **Proposed partial demolition and additions and alterations on Erf 3035, 51 Bryant Street, Bo-Kaap**
HM/ CAPE TOWN METROPOLITAN/ BO-KAAP/ ERF 3035
Case NO: 22091502RG0915E

Appeal against BELCom's Decision for approval

Mr. Robin George introduced the item.

Present on behalf of the Applicant: Mr Johan Cornelius

Present on behalf of the objectors: Ms Jacqueline Poking

Representative of the Appellant:

- The concerns of the Bo-Kaap Civic Association have not been addressed.
- The existing building has been allowed to deteriorate in order to facilitate demolition.
- The proposal amounts to gentrification and the history and culture of the area is not being respected.
- The Bo-Kaap has always been diverse, but people have always respected one another.
- The impact on the community of this proposal is divisive.
- The site is graded IIIIC. The proposal undermines the role of grading if it is disregarded.
- It is the intangible cultural heritage that gives the area its significance.
- When people are displaced due to gentrification it is a great loss to the community.

Representative of the Respondent:

- Neither the developer nor the professional team are disrespectful to the community
- The zoning map indicates a zoning of GR 4, which allows for the development of large buildings.
- Any development other than a normal dwelling house becomes a threat according to the Appellant.
- The question is posed as to what can be done with vacant land or derelict buildings?
- The notion of gentrification and intangible heritage are raised as an objection to the development.
- Low scale gentrification is unavoidable. It is an international phenomenon.
- The subject building has been empty for a long time.
- The present owner purchased it only this year, and has thus not caused the dereliction.
- The proposal responds in scale to the streetscape. The use as a guesthouse will have little impact on the surrounding residents.
- The re-imagining of the ruin is the only way to address the heritage significance.
- HWC has only the mandate to consider the S34 application which cannot be used to control the use. That is the mandate of the City of Cape Town.

- The Appellant's issue lies with the zoning scheme imposed by the City of Cape Town.

DISCUSSION

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

- The proposal is a relatively modest intervention.
- There are concerns about the retention of fabric, particularly the stone walls, and the retention of the façade. It could be considered to be a rebuild.
- Concern expressed regarding facadism. The retention of the existing facade supports the retention of existing lines of the streetscape.
- The issues raised regarding gentrification are concerning but the ability of HWC to address these issues is limited.
- Similarly, it is not within HWC'S mandate to control the use of the building.
- Arguments around intangible and cultural heritage and gentrification are very difficult to address through controls that can be lawfully imposed by HWC.
- It was noted that matters regarding conflict between zoning scheme rights and heritage conservation are being discussed by HWC with the City of Cape Town

DECISION

The committee resolved to dismiss the appeal and uphold the decision of the BELCom.

RG

9.3 Proposed redevelopment of Erven 3080 & 3081, 220-222 Upper Buitengracht Street, Bo-Kaap HM/CAPE TOWN METROPOLITAN/BO-KAAP/ERVEN 3080 & 3081

Case NO: 22091208TZ0915E

Appeal against BELCom's Decision to approve.

Mr. Thando Zingange introduced the item.

Present on behalf of the Applicant: Mr Graham Jacobs

Present on behalf of the objectors: Ms Jacqueline Poking

Appellant:

- Appeal is similar to that of 9.1 (51 Bryant Street),
- It is frustrating to the appellants that properties are looked at in isolation.
- The proposal affects the people occupying properties at the back of the new development.
- The community is frustrated by the lack of consideration of the impact on cultural heritage.
- The impression is that concerns related to intangible heritage are not being heard at all.

For the Respondents:

- The consultant addressed the accusation of alleged bias and pointed out that such accusations had to have a reasonable and factual basis.
- The site has been exhaustively analysed in its spatial context,
- The respondents have met with the Appellants many times to address objections.
- The consultation has resulted in an improved design
- With regard to living heritage, the physical fabric of the existing building is not an able contributor to the living heritage of the area This building is vacant and was a business for many years.
- The street is already commercialised and hard edged.
- The site is one that is more open to development. The change proposed will be a positive contribution.
- A diverse mix of uses is proposed so as not to have an impact on traffic

DISCUSSION

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

- The committee has sympathy with the position of the Bo-Kaap Civic and suggests the use of HPOZ regulations as a mechanism to address its concerns regarding the impact of development on living heritage in the BoKaap, it is beyond the mandate of the HWC Appeals committee.
- The committee agrees that it is similar to the previous case, however this section of Buitengracht Street has already been commercialized.
- There is commercial creep happening from the edge of the Bo Kaap and it is acting as a visual and spatial barrier
- However, the particular design has been done sensitively and there are few heritage arguments to substantiate upholding of the appeal.
- The respondents have also responded positively to the comments made by CIBRA and CIFA.

DECISION

The committee resolved to dismiss the appeal and uphold the decision of the BELCom.

TZ

10. New Matters

- 10.1 **To proceed with the 60 days public participation process in terms of S 27(8)(a)(b) and (c) of the NHRA: Re 32564 Athlone Power Station
HM/CAPE TOWN METROPOLITAN/ATHLONE POWER STATION/RE 32564
Case No: N/A**

Appeal against IGIC's Decision.

HELD OVER

The matter held over with agreement between the parties to 8 March 2023.

JW

10.2 **Proposed cultivation of agricultural crops and associated infrastructure, 300mm high polytunnels, 1.8m high permeable perimeter fence, CCTV perimeter and PTZ security cameras and the construction of underground irrigation systems, stormwater system and pump house on Portion 10 and 129 of Farm Welmoed Estate 468, Stellenbosch.
HM/ CAPE WINELANDS/ STELLENBOSCH/ PORTION 10 AND 129
Case No: HWC22111701CH1117**

Appeal against HOM's decision.

Ms Chane Herman introduced the item.

Present on behalf of the Applicant: Mr Barry Zetler

Present on behalf of the objectors: Ms Cornelia Smart

FOR THE APPELLANT:

- The Issue was raised that the presentation included the comment that the structures were temporary. This was disputed by HWC staff.
- Appellants are not opposed to the farming activities; they are looking for mitigation measures regarding the impact on the heritage resources.
- S38(2) requires that it be determined whether there are heritage resources, and if so, whether they will be affected. If so, an HIA is required.
- Plans for mitigation must be included in the HIA, whether the structures are temporary or permanent.
- Impacts cannot be assessed in the NID phase but only in the HIA phase.
- The site forms part of a IIIB cultural landscape.
- Mitigation can only be addressed in an HIA.
- The appellants approached the Courts to ask them to cease works and submit a NID application.
- Applicant is carrying on working despite the appeal period.
- Appellants accused of trying to preserve views. This is disputed.
- The respondents have refused to provide information required by the appellants. The extent of development was only revealed in November 2022.
- No public consultation has taken place.
- Reference to other properties, planning approvals or alleged tourist activities on the appellant's property are irrelevant.

STELLENBOSCH INTEREST GROUP

- A representative of the SIG endorsed the request for mitigation.

FOR THE RESPONDENT

- The appellants have raised issues from the start as to what would be happening on the farm.
- There are similar activities across the road.
- Stellenbosch Municipality has inspected the property and have stated that there are no heritage resources which would be affected.
- The scenic route begins to the east of the property; the site is not an integral part of it. A very small part falls in the buffer zone.

- The Stellenbosch Heritage Survey provides that care should be taken where developments are in conflict with the landscape context, except where the elements are confined to the traditional areas of activity such as where strawberries are grown.
- The respondent's family has been farming strawberries for 5 generations and is part of the cultural heritage.
- They are applying for a bare minimum diamond mesh fence which is the most common fencing used on farms. There is a specific exemption in scenic route overlay provisions in this respect.
- Crime is a reality and accordingly security cameras are a necessity.
- Coverings sit about 400mm above the strawberry beds, annually installed in May and removed in December.
- The heritage survey considers consolidation of strawberry fields to be desirable and this intervention seeks to further that aim.
- Heritage needs to balance conservation against needs for socio-economic development. This activity will provide employment.
- Food security is also a factor.

DISCUSSION

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

- The entire area is characterised as agricultural use and the area is not immediately adjacent to the scenic route.
- Security cameras are an inevitable part of farming.
- There are areas nearby which are under shade netting which have much larger coverage.
- No tangible heritage resources have been identified on the subject property or immediate environs. In terms of contribution to the Winelands Cultural Landscape, the property is transitional and the proposal is not a deviation from land uses in the vicinity, and thus will not change the character of the area.
- Any need for mitigation must be dealt with by Municipality in the Zoning Scheme regulations.

DECISION

The Appeal is dismissed and the decision of the HOMs is upheld.

CH

11. Other Matters

11.1 None

12. Proposed next date of the meeting:

8th March 2023

13. Adoption of decisions and resolutions

The Committee unanimously resolved to adopt the decisions and resolutions dated 8th February 2023.

14. Closure: The meeting was adjourned at 11:39

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____ **DATE** _____ 2023

SECRETARY _____ **DATE** _____ 2023