

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

**Held on Wednesday, 10 November 2021 via Microsoft Teams,
scheduled for 08:30**



Welcome

The Chairperson, Ms Katherine Dumbrell officially opened the meeting at 08:30 and welcomed everyone present.

Attendance

Committee Members:

Ms Katherine Dumbrell (KD)
Dr Andre van Graan (AvG)
Dr Antonia Malan (AM)
Dr Nicolas Baumann (NB)
Mr Stuart Hermansen (SH)

Members of Staff:

Ms Nosiphiwo Tafeni (NT)
Ms Aneeqah Brown (AB)
Ms Khanyisile Bonile (KB)
M Waseefa Dhansay (WD)
Ms Penelope Meyer (PM)

Visitors:

Item 9.1:

Mr Theo Giannelos
Mr Ashley Lillie,
Mr Anton Slabbert
Ms Sandra van der Merwe
Mr. Mike Scurr
Ms Shani Schabert

Item 9.2:

Mr Chris Snelling
Ms Cindy Postlethwayte
Ms Debbie Wall-Smith
Mr Richard Duckitt
Mr Julien Perreard

Item 9.3:

Mr Nick Smith
Ms Ute Kuhlmann

Item 10.1

Mr Richard Summers
Ms Clarice Arendse
Ms Quahnita Samie

Item 10.2:

Ms Tasneem Higgins
Mr Ron Martin

Item 10.3:

Ms Patricia Botha
Mr Arn Erasmus

Item 10.4:

Mr Nicholas Smith

Mr Johan Cornelius

Apologies

None

2. Absent

None

Approval of Agenda

4.1 Dated 10th November 2021

The Committee resolved to approve the Appeals Committee agenda dated 10th November 2021 with minor changes

Approval of Minutes of Previous Meeting

5.1 Appeals Minutes dated 13 October 2021.

The Committee resolved to approve the minutes dated 13 October 2021 by email.

6. Disclosure and Conflicts of Interest

None

Confidential Matters

None

Administrative Matters

8.1 Outcome of the Tribunal Committees and Recent Court Decisions

PM had nothing additional to report since the last meeting

8.2 Report back from HWC Council

Council is due to meet on 19 November 2021. Chair will submit a report including issues flagged by this Committee since the last Council meeting.

8.3 Site Visits Conducted

Item 9.1. 21 Dal Road Camps Bay

Item 9.2 24 Claremont Avenue Claremont

8.4 Potential Site Visits (29 November 2021)

Item 10.2 Proposed Additions and Alterations on Erf 12563, 26 Coronation Road
Walmer Estate

Item 11 50 Olivenhout Avenue Platteklouf

8.6 Strubens Road

The Committee resolved to review the revised landscape plan and provide comment via email.

9 Matters Arising

9.1 Proposed Total Demolition Erf 2291, 21 Dal Road, Camps Bay

Approved Appeals Minutes 10 November 2021

HM/CAPE TOWN METROPOLITAN/CAMPS BAY/ERF 2291
Case No: 20071608KB0303E

Appeal against a BELCom Decision was tabled.

Ms Khanyisile Bonile introduced the case.

Mr Theo Giannelos (owner/appellant), Mr Ashley Lillie, (heritage consultant for the appellant), Ms Shani Schobert (Architect for the Appellant, Mr Anton Slabbert (attorney for the appellant) Ms Sandra van der Merwe and Mr Mike Scurr (Docomomo for the respondents) were present and took part in the discussion.

SH read the site inspection report into the record.

APPELLANTS presented, amongst others, the following arguments:

- Appeal against BELCom's decision to refuse the application for total demolition.
- Appeal is being held irregularly and unlawfully. Believe that the strict and unambiguous wording of regulations – the word “must” is critical to their reading of the regulations.
- Brown v Regional Director of Manpower cited as case precedent in this matter, where the word “must” was considered binding the authority to actions.
- Heritage consultant: unusual to be discussing in this forum a building that was so recently constructed.
- Architect acknowledged to be significant, but debatable whether this house is a good example of his work.
- BELCom failed to engage with the detailed arguments presented in the papers.
- Building is not in good condition, which is borne out by the site visit.
- The interior arrangement of the house does not work in the current context and cannot be adapted.
- Many alternatives have been explored at great length, but all options present more problems than solutions.
- The structure, despite its historical interest, does not warrant retention on heritage grounds.

RESPONDENTS presented, amongst others, the following arguments:

- Docomomo agreed with BELCom's decision, heritage value is significant, and that demolition is a last resort.
- No other alternatives were ever proposed.
- Significance of the building as Grade IIIA has not been contested in any of the hearings.
- Principles of NHRA require that as much as possible is retained.
- Heritage value relates to aesthetic, architectural technological and associational value.
- This building uses features which became trademarks of Revel Fox's oeuvre. It is one of the first residential buildings which employs a concrete frame structure.
- Materiality of the house is an important part of its significance and needs to be retained.
- Respondents maintain that there are alternative options possible. Examples were presented, and include proper maintenance.
- Further accommodation can be added.
- Valuation should not be a primary consideration in deciding on whether a heritage resource is retained.

DISCUSSION

Amongst other things, the following was discussed:

- A transitional building which is not a very good example of Revel Fox's work.
- The plan form is based on a circulation spine with service and servant spaces on either side and does not easily allow expansion.
- The rooms are small.
- Would need significant work to extend and alter.
- Difficult to make the argument for retention, due to the problems of adapting to modern requirements because most of its architectural significance would be lost in the repurposing.
- There are other examples of this architect's work which are more representative of his design intent.
- The intention of the NHRA is not preservationist; it is good management of heritage.
- Deserves recording but would be unreasonable to insist on retention.
- The grading does not necessarily preclude demolition.

DECISION

The appeal is upheld and the demolition of the structure on Erf 2291 at 21 Dal Road Camps Bay is approved with no conditions.

9.2 Proposed Total Demolition on Erf 53936, 24 Claremont Avenue, Claremont HM/CAPE TOWN METROPOLITAN/ CLAREMONT/ERF 53936

Case No: 21071209MS0712E

Appeal against a BELCom Decision was tabled.

Ms Muneerah Solomon introduced the case.

Mr Chris Snelling and Ms Cindy Postlethwayte (heritage consultants representing the appellant), Ms Debbie Wall-Smith, Mr Richard Duckitt and Mr Julien Perreard (respondent/objectors) were present and took part in the discussion.

APPELLANTS presented, amongst others, the following arguments:

- Appeal against BELCom's decision to refuse the application for demolition.
- Committee has had sight of the papers.
- Reasons given for decision to refuse in that it was considered to be a virtually intact example of Arts and Crafts architecture, but that argument is strongly opposed.
- Two issues need to be considered: Can the structure be formally protected in terms of S34(2) of the NHRA, and can the surrounding area be formally protected.
- The grading is a consideration. BELCom considered the grading as IIIA. Whilst there is a degree of associational significance, the structure simply does not have the significance to warrant this level of protection.
- Good design does not necessarily mean significance.
- The house is not unique or rare.
- There has been a drive past survey and significance has been assigned but it may be overstated. The City's survey has not been interrogated and the City audit cannot be taken at face value.
- The area has suburban charm, but this does not translate to heritage significance.
- The City has not identified the area to be worthy of heritage protection.
- Neither the structure nor the area is of sufficient significance to warrant retention, or in the event of demolition the imposition of conditions.

RESPONDENTS presented, amongst others, the following arguments:

Mr Duckitt:

- Precursor to the LUM application to rezone to GR4.
- Re-grading by BELCom; BELCom considered it IIIA.
- Assessment was done following a site visit.
- Area does not require formal protection in order for it to warrant protection.

Ms Wall-Smith

- Rezoning concerns. If you cannot save the building, then the area must be considered.

Mr Perreard

- Grading: there are enough criteria in the site report to question the IIC grading.
- When the matter was considered by BELCom, a lot of the attention was on grading and site inspection. Not enough on the overall context.
- BELCom should be afforded a response.

DISCUSSION

Amongst other things, the following was discussed:

- While the structure has some Arts and Crafts elements and the overall form of an Arts and Crafts house, it is a typology that is not rare.
- The structure has been largely altered.
- The interior is significantly altered.
- The structure does not constitute a remarkable example of its type or period, nor does it have value in rarity or aesthetic significance.
- The core of the objections are what will replace the structure, but these are not heritage issues. This is not within the jurisdiction of HWC in this case.
- The area does have a cohesive character in terms of scale and form, but not of style. It does not comply with the criteria for classification as a heritage area. Issues of scale must be controlled by the City within its planning approval processes.
- This is a wide appeal, and the matter is heard *de novo*.

DECISION

The committee upheld the appeal and resolved that the structure on Erf 53936 Claremont may be demolished without conditions.

**9,3 Proposed Alterations and Additions, Erf 12255, 230 Victoria Street, Woodstock
HM/CAPE TOWN METROPOLITAN/WOODSTOCK/ERF 12255**

Case No: 21012606TZ0128E

Revised drawings in response to the further requirements issued by this Committee were tabled.

Ms Khanyisile Bonile introduced the case.

Mr Nik Smith (Objek Architects) and Ms Ute Kuhlman (WRA) were present and took part in the discussion.

APPELLANTS (WRA) commented:

- Revised proposals were tabled relating to the previous requirements of the committee.
- A letter was sent in response after a meeting with the architect and developer.
- WRA accepts the setback and balustrading but has concerns as to how this is reflected on the plan.
- The height of the new addition is still a concern.

DISCUSSION

Amongst other things, the following was discussed:

- The applicant has responded to the Committee's further requirements.
- The further setback of the balustrade was not an original requirement and so cannot be added now. The visibility of the balustrade from the street is also not guaranteed and thus this additional requirement may not serve a heritage purpose.
- Both parties are to be commended on addressing of further requirements in a collaborative manner.
- The issue of height needs to be addressed by the planning controls within the City approval processes – it is not in this case a heritage issue.

DECISION

The appeal is dismissed. The decision of BELCom is substituted with the decision to approve in principle the proposals contained in drawings numbered 230 Vic_REV7_001, 230 Vic_REV7_002, 230 Vic_REV7_003, 230 Vic_REV7_004. Subject to the condition that the following errors contained in the drawings are corrected and that the amended drawings are returned to HWC for stamping:

- The stairwell and balustrade are not correctly indicated on the plans.
- The plans need to reflect the changes agreed to between WRA and the architect

10. New Matters

10.1 Proposed Total Demolition on Erven 1299 & 1300, 77 & 79 Shortmarket Street, Cape Town HM/CAPE TOWN METROPOLITAN/BO-KAAP/ ERVEN 1299 AND 1300 Case No: 21071501XM0813E

Appeal against a BELCom Decision was tabled.

Ms Xola Mlwandle introduced the case.

Mr Richard Summers (attorney for the applicant/appellant), Ms Clarice Arendse (attorney for the applicant) and Ms Quahnita Samie (heritage consultant for the applicant) were present and took part in the discussion.

APPELLANTS presented, amongst others, the following arguments:

- BELCom's consideration of the application was strained and rather emotional.
- Chair tried to stress significance, but the Committee's majority view was that there was a lack of information pertaining to site and context.
- Mr Aikman's heritage report considered the site not gradable.
- The appellant engaged an independent consultant to consider cultural significance.

- The City of Cape Town considered a grading of “possible III C” but this is not supported with further evidence for the reason for this grade being assigned.
- The structures have been extensively altered over time and have no contextual value.
- There is no identified associational value. It does not contribute to Bo-Kaap significance.
- Granting the demolition will not impact heritage.
- The owner has no plans to redevelop at this stage.

DISCUSSION

Amongst other things, the following was discussed:

- The submitted Heritage Reports are thorough.
- Bo-Kaap Residents Association's argument is around heritage resources in the vicinity, not the building itself.
- The streetscape and the receiving environment do not warrant control of the replacement structure.
- The Committee cannot speculate on future development and must evaluate the application as currently submitted on its merits.

DECISION

The appeal is upheld, and the demolition of Erven 1299 and 1300 Cape Town is approved without conditions.

10.2 Proposed Additions and Alterations on Erf 12563, 26 Coronation Road, Walmer Estate HM/ CAPE TOWN METROPOLITAN/ WALMER ESTATE/ ERF 12563 Case No: 21081111MS0816E

Appeal against a BELCom decision was tabled.

Ms Muneerah Solomon introduced the case

Ms Tasneem Higgins (owner) and Mr Ron Martin (heritage consultant) were present and took part in the discussion.

DISCUSSION

Amongst other things, the following was discussed:

The Committee considered that a site inspection should be conducted as the context was germane to the application.

HELD OVER FOR A SITE INSPECTION

NB, AM to conduct the inspection.

10.3 Proposed Additions and Alterations on Erf 1726, 1 Rowan Street, Stellenbosch HM/CAPE WINELANDS/ STELLENBOSCH/ERF 1726 Case No: 21071508KB0716E

Appeal against a BELCom Decision.

Revised drawings arising out of discussions between the parties were tabled.

Ms Khanyisile Bonile introduced the case.

Ms Patricia Botha (representing SIG, the appellant) and Mr Arn Erasmus (architect for the respondent/owner) were present and took part in the discussion.

APPELLANTS presented, amongst others, the following arguments:

- The revised plans as submitted are preferred.
- There is a small issue with the proportion of the window at first floor level, above the garage.

APPLICANT RESPONDENT presented, amongst others, the following arguments:

- Drawings as revised between parties were tabled.
- Visible façade is not affected.
- Subject window ties in with new additions.

DISCUSSION

Amongst other things, the following was discussed

- The window is set back far from the street and is appropriately differentiated from the existing fenestration pattern.

DECISION

The Committee upheld the appeal and substituted the decision of BELCom with the following decision:

The revised proposals contained in drawings 2.03 Rev B, 2.04 Rev B, 4.02 Rev B, 4.0 Rev B dated 30 September 2021 are approved.

10.4 Proposed demolition of Erf 3585, 18 Queen Victoria Street, Corner Keerom Street Cape Town HM/CAPE TOWN METROPOLITAN/ CAPE TOWN/ERF 3585 Decision Case No: 21070510KB0720E)

Appeal against a BELCom decision.

Appeal pack was tabled

Ms Khanyisile Bonile introduced the case.

Mr Nicholas Smith (attorney) and Mr Johan Cornelius (for the Appellants) were present and took part in the discussion.

APPELLANTS presented, amongst others, the following arguments:

- The submitted documents are taken as read.
- The argument is around the proper interpretation in S38 of the NHRA: in this case S38(1) (c)(ii), and specifically what is meant by a site.
- Reference is made to case law (Bryer) in which the definition of site was considered. Site refers to the area in which the work is occurring.
- Facts in the report: the proposal is described as demolition of the "afdak" at the back of the City Club building.
- The Committee should confine itself to consideration of the demolition which only takes place on one erf.

DISCUSSION

Amongst other things, the following was discussed:

- The Committee considers the City Club to be a building which straddles 4 erven. This then constitutes the site, despite the fact that work is restricted to the rear of the building.
- It is noted that any alterations/interventions to the building need to be assessed for their impact on the whole building.
- The proposed structure will have heritage impacts beyond the interface of the new with the old. The context has considerable heritage significances. The heritage significances need to be identified and the impacts on heritage significances assessed.

DECISION

The appeal is dismissed. The proposed demolition is part of the City Club, which is situated on four erven and therefore triggers Section 38(1) (c) (ii) of the NHRA. The Committee therefore resolved that a NID submission process must be followed in terms of Section 38 of the NHRA.

11. APPEALS RECEIVED BUT STILL IN PERIOD FOR COMMENT FROM I & APs

- 11.1 **Notification of Intent to Develop: Proposed Development of New Dwellings of Erf 2090, 50 Olivenhout Avenue (S38(1) of the NHRA)**
HM/CAPE TOWN METROPOLITAN/PLATTEKLOOF/ ERF 2090
Case No: 21091602SB0920E

HELD OVER TO THE FOLLOWING MEETING OF THE APPEALS COMMITTEE IN ORDER TO CONDUCT A SITE VISIT.

AVG, SH to conduct the inspection.

13. **Proposed next date of the meeting:** **07 December 2021**

14. **Adoption of decisions and resolutions**

The Committee resolved to adopt the decisions and resolutions dated 10th November 2021.

15. **Closure:** The meeting was adjourned at: 15 h 27.

MINUTES APPROVED AND SIGNED BY:

CHAIRPERSON _____

DATE 7 December 2021

SECRETARY _____



DATE 7 December 2021