

DEMOLITION OF BUILDINGS OLDER THAN 60 YEARS AT
28 CROMWELL ROAD, 32 CROMWELL ROAD AND 36 CROMWELL ROAD
REBUTTAL REPORT TO:
HERITAGE IMPACT ASSESSMENT OF LINDSAY NAPIER dated February 2018 and
DEVELOPMENT IMPACT REPORT OF ROBERT BRUSSE dated November 2019.

1.0 BACKGROUND

1.1 Submission of the application.

Applications were made on 12 November 2020 for demolition permits for the three buildings at 28, 32 and 36 Cromwell Road in terms of Clause 37 (1)(a) of the KZN Amafa and Heritage Institute Act, 2018 (Act no. 5 of 2018). The applications also included a Form J application as Clause 41. (1)(c)ii was triggered (involving three or more erven or divisions thereof). Receipts were received on 23 November 2020.

Despite a requirement in Clause 41 (2) *“The Institute must, within 14 days of receipt of a notification in terms of subsection (1) –*

(a) If there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report.

This was not done, nor was there any mention made of previous submissions and HIA's.

1.2 Public Participation:

On the 22 January 2021, I sent an email to Ms Devereux asking if the public participation process could be suspended on three of the properties we were dealing with, including this one, as we were in Level 3 of lockdown and standing in queues in the post office was hardly a wise thing to do, given that KZN had the highest number of Covid cases in the country. In our experience, we found that people were not collecting their registered letters and the majority were returned to us. This email was not acknowledged or responded to.

Forty-four registered letters were sent out and seven boards erected, three on Cromwell Road, one on Cavendish Gardens Street and three on the lane facing the park on 16 February 2021. Photographs were taken of all the boards in place. Unfortunately, we did not check that the boards remained in place. On 25 February, proof of this process was sent to Amafa. This was not acknowledged, I had some correspondence with a neighbour, Beverley Muller from 24 Cromwell Road, who sent a letter of objection on 15 March 2021.

I was approached by a reporter from the Berea Mail for information on the application and subsequently was copied in on an email sent by Ms Devereux on 2 March 2020 to the reporter. This was the first time that I became aware of previous applications. On the 2 April 2021 the Berea Mail carried an article headed "Durban Heritage Homes Face Destruction". In it, the tenant from 36 Cromwell Road, Rosalie Scholtz, who was running a business from the house, alleged that the boards had only been erected facing the lane so that they could not be seen. She also claimed not having received notification of a registered letter.

Robert Brusse, the Chairman of the SAIA KZN Heritage Committee and the Heritage Forum sent an email to me and four others, addressed "To All" on the 3 April 2021 stating:

It would set an exceedingly bad principal if developers were to find their applications to the KZN A&R Institute turned down, only to have a subsequent application for a similar development approved by Amafa.

It is also unconscionable that while these three properties have specific, recognized street addresses, the Public Participation notices were posted on the rear of the boundary of the properties where they would be exposed to significantly less neighbourhood traffic, and where the posted address have no clear meaning. They should have been posted on the street boundary to which the posted street addresses of the properties belong. The Public Participation process should be considered fatally flawed and the process re-started from scratch.

We had discussed the Cromwell Road application at a previous Heritage Meeting and I had confirmed that the boards had been erected on the three road boundaries. Mr Brusse chose to ignore this.

1.3 Comment from Amafa

The application was heard at a Heritage Officers meeting on the 24 May 2021. We received the identical letters of referral for all three properties on the 28 May 2021. The letters stated :

Please be advised as follows: -

(1) The heritage practitioner is required to motivate how the current proposal should be considered considering that a decision has been previously made on the proposed demolition.

(2) Revise the concept with clear design heritage indicators

Lindsay Napier had written the HIA, dated February 2018. She kindly sent it to me on 25 May 2021. I received the Heritage Assessment and Development Impact Report dated November 2019 written by Robert Brusse from Ms Devereux on 23 July 2021.

On 8 July 2021, Ms Devereux sent the following response to an email from Vishaal Dhanrathan of Neo Innovative Architects:

At the presentation of the proposal to the Heritage Officers Committee, Amafa mentioned that it had already taken a decision on the value of the buildings in question and that decision would be difficult to rescind. The applicants then requested to be sent the documents relating to the previous application for the applicants consideration as they had not had sight thereof. The documents were sent as per this request.

The applicants have been given the opportunity to revert back to Amafa for further review of their application after considering the previous decision that required that the main buildings on 32 & 36 Cromwell be retained and that any new building on the site of 28 Cromwell Road does not extend beyond the current front building line and is designed to compliment the streetscape at that point, respecting the scale and massing of the current building on the front facade

If and when you submit arguments against this requirement and apply for a further review of the application, you might want to include a response to the public outcry that this application engendered - including a response to the contention that the notices were put up on the Cavendish Gardens entrances only, etc. (evidence in support of statements to be provided if not already submitted).

This email is contrary to the referral letters which did not recognise that 28 Cromwell Road could be demolished.

2.0 ASSESSING THE CURRENT PROPOSAL GIVEN THE PREVIOUS DECISION.

2.1 The Heritage Impact Assessment by Lindsay Napier.

The report correctly identifies Chapter 8, Clause 33 (1a) of the Provincial Heritage Resources Act, no. 4 of 2008, now known as Chapter 8, Clause 37 (1)(a), of the KwaZulu-Natal Amafa and Research Institute Act, no. 5 of 2018, as the framework clause for the HIA.

37.(1)(a) No structure which is, or which may reasonably be expected to be, older than 60 years, may be demolished, altered or added to without the prior written approval of the Institute having been obtained on written application to the Institute.

(b) Where the Institute does not grant approval, the Institute must consider special protection in terms of sections 44, 45, 46, 47 and 49 of Chapter 9.

In terms of the National Heritage Resources Act of 1999, Clause 38(3)

(3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)(a): Provided that the following must be included:

- a) The identification and mapping of all heritage resources in the area affected;*
- b) an assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7;*
- c) an assessment of the impact of the development on such heritage resources;*






- In the HIA, a map of Durban circa 1905 – 1910 is presented, with the area around Cromwell Road circled. A mapping of the Heritage Resources in the area is ignored, as is an assessment of their significance.






The Listed Buildings around 28, 32 and 36 Cromwell Road should have been mapped. The closest Listed building is 48 Cromwell Road, a 'B' Category. It is currently for sale which is a cause for concern.

The Heritage Resources are sufficiently far enough away to not be impacted upon by the new development.



LISTED BUILDINGS AROUND 28, 32 AND 36 CROMWELL ROAD

LISTING	ADDRESS	CATEGORY	
7.61	3 Cromwell Road	B	
7.60	48 Cromwell Road	B	
7.49	38 Enfield Road	B Demolished	
7.42	29 Essex Road	B	
7.43	33 Essex Road	B	

LISTING	ADDRESS	CATEGORY	
7.44	35/37 Essex Road	B	
7.62	125/131 Esther Roberts Road	B	
7.47	144 Esther Roberts Road	B	
7.48	148 Esther Roberts Road	REFUSED LISTING, redeveloped	
7.52	156 Esther Roberts Road	C	

LISTING No.	ADDRESS	CATEGORY	
7.51	160 Esther Roberts Road	A	
7.53	165 Esther Roberts Road	B	
7.54	169 Esther Roberts Road	B	

The area immediately around 28, 32 and 36 Cromwell Road has 12 Listed Buildings (one has been demolished). The majority of these are 'B' Category Listed buildings. The buildings in question in Cromwell Road were not recognised in any form as clearly there were buildings considered to have more architectural significance than these buildings.

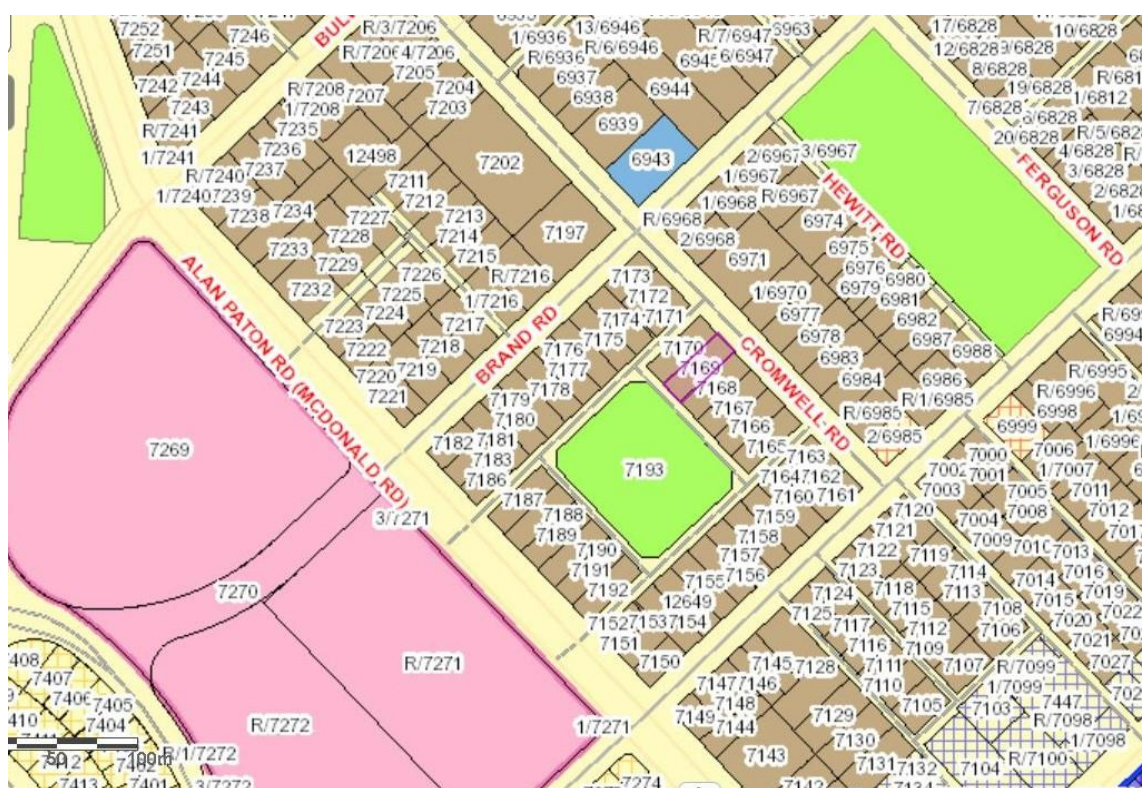
Many of the buildings have responded to the security issues by constructing high walls, not present when the buildings were first erected. This impacts on the streetscape as the listed buildings cannot be seen.

2.1.2 Zoning

The zoning diagram indicates that the majority of this area is zoned General Residential 2. This allows high density residential housing with a minimum unit size of 55 m². Furthermore, there is no height restriction with the emphasis being placed on the submission of a Building Impact Assessment report.

DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION(m²)	HEIGHT	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE AND REAR SPACE	The maximum number of dwelling units permissible on an Erf shall be determined by dividing the permissible floor area by 55, the resultant quotient being taken to the nearest unit or, if there is a fraction of one-half, the next highest unit.	900	N/A; *Unless as indicated on the Map	50%	1.2
7.5m	3m					

Town Planning Controls for General Residential 2.



Zoning map Glenwood.

The extant buildings in Glenwood are predominantly single storey buildings with the occasional double storey building. The buildings built subsequent to the zoning change have maximised the FAR available and in doing so, have a scale far taller than the older buildings.

2.1.3 Evaluating the architectural significance.

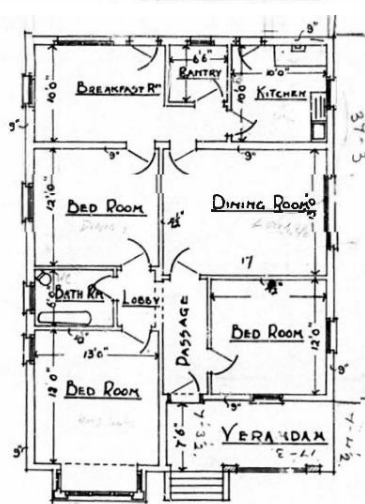
All these buildings have been altered, particularly the rear of the buildings. Their contribution to the streetscape, or lack of it, is particularly relevant.



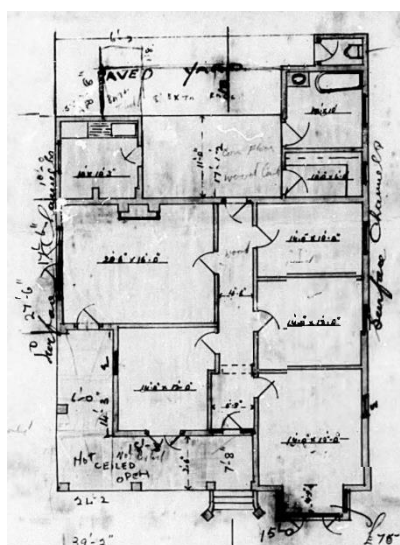
FRONT ELEVATION



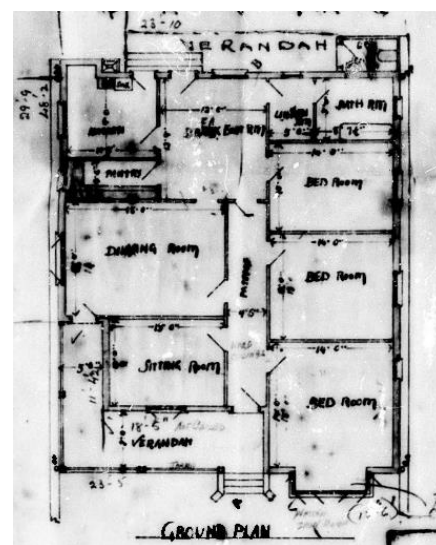
FRONT ELEVATION



28



32



36

Address	28 Cromwell Road	32 Cromwell Road	36 Cromwell Road
Plans dated	1917	1917	Dec 1916
Author of plans	Unknown	Unknown	Unknown
Owner	AG Webber	Mrs JW Chappell	R Anderson
Period	Union period	Union period, Edwardian style	Union period, Edwardian style

28 CROMWELL ROAD



Streetscape. Front elevation obscured by the high boundary wall.



North east elevation, bay window crudely reroofed.



The north east (front) elevation bears no resemblance to the original plans.

The windows have been replaced, the front veranda has been enclosed and the roof over the bay window is now a low pitched mono pitch.

There is consensus that this building should be demolished.



32 CROMWELL ROAD



Streetscape as shown in the HIA.



The front railings have been increased in height by adding to the existing railings.



The north east elevation to Cromwell Road as per the HIA.



The reality is that a bay of the front veranda has been enclosed and precast concrete balusters added



The enclosed bay and an inappropriate window has replaced the french doors. The face brick wall has been plastered to cover up the substitution.



The front veranda now has a solid corner as opposed to the openness envisaged in the original design.



This building has been altered and is not considered worthy of retention even though its condition is fairly good. Over 60% of the veranda has been enclosed and the French doors to the veranda have been replaced with a flimsy window. The facebrick veranda wall around the window has been plastered.

If this building were to be considered worthy of retention then it should be protected. It can be seen that the listed buildings are more intact than this building.

36 CROMWELL ROAD



The building is obscured by a high boundary wall.



North east elevation. The side veranda has been enclosed.



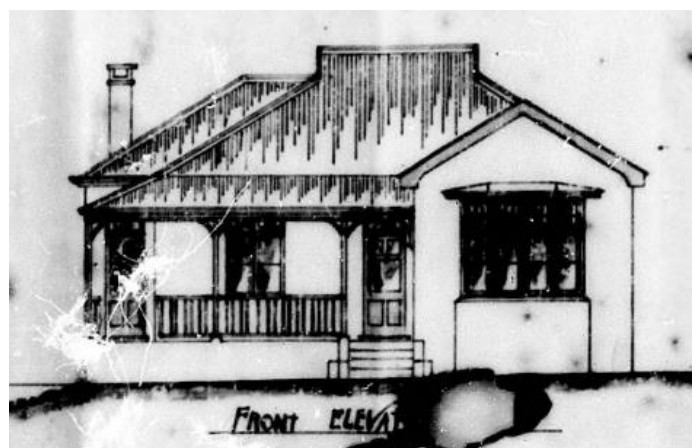
The Tuscan Doric columns are used as posts for the washing line.



The timber balustrades have been replaced are rotting. Ceramic tiled floor to veranda.



The roof of the bay window is rotten.



North east elevation as per the original plans

It is inconceivable for this building to be considered for retention and therefore protection.
The listed buildings in the area have far greater architectural significance.

The value of a place or object and its cultural significance or other special value is described in Section 3 (3) of the National Heritage Resources Act of 1999 as :

- a) its importance in the community, or pattern of South Africa's history;
- b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;
- c) its potential to yield information that will contribute to an understanding of South Africa's natural or cultural heritage;
- d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;
- e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
- g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and
- i) sites of significance relating to the history of slavery in South Africa.

These have been extrapolated in the HIA in Appendix A as:

Historic Value	Clauses 3 (3) (a), (h) and (i).
Aesthetic Value	Clauses 3 (3) (e)
Scientific Value	Clauses 3 (3) (c) (f)
Social Value	Clauses 3 (3) (g)
Rarity	Clause 3 (3) (b)
Representivity	Clause 3 (3) (d)

Furthermore, under the heading Sphere of Significance, the range is from local community, local, regional, provincial, national and International.

The significance is rated low, medium and high.

The assessment is exactly the same for all three houses. All ratings are given as low except contextual which has a medium listing only in regard to Local importance.

The recommendations are that:

Outbuildings can be considered for demolition.

No. 32 is noted for its intactness of detail, condition and contribution to the streetscape.

No 36 is noted only for its form and contribution to the scale of the streetscape

No mention is made of 28 Cromwell Road.

The remaining recommendations can be seen as design indicators:

The height of new structures should be limited to double storey.

Boundary walls etc should be sensitive to the streetscape of the rest of Cromwell Road.

Setting out of new buildings should respect the historical set back of Cromwell Road.

However the Summary states :

The significance of the impact of a development on the Heritage environment is Medium to High where the design may require some modification to consider the re-use of houses at 32 and 36 to suit the existing built environment.

Nowhere is this argument put forward or expanded.

2.2 'Heritage Assessment and Development Impact Report' by Robert Brusse.

The HIA was referred to Robert Brusse for his assessment of the buildings. He produced a document titled "Heritage Assessment and Development Impact Report" in November 2019.

In evaluating the assessment given by Napier, Brusse uses the same headings as Napier but does not recognise that these have been interpreted from Section 3 (3) of the National Heritage Resources Act of 1999. Instead Brusse gives the following definitions:

Aesthetic is defined by what dictionary (no source) as "Belonging to the appreciation of the beautiful, having such appreciation; in accordance with principals of good taste". and not 3 (e).

e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;

The demographics of the community have changed. An aesthetic valued by one community or cultural group may not be the same as the people living there now. The ratings given by Brusse for aesthetics value 28 Cromwell as low for local and provincial, 32 Cromwell as high for both those categories and medium for 36 Cromwell, even though Brusse admits that he could not gain entry to the building.

Brusse introduces a value called architecture, not contained in the NHRA values. He has assigned a value of 'High' for both 32 and 36 Cromwell Road in terms of local importance. This is surprising given that neither building is listed and that he did not inspect 36 Cromwell Road.

Under the heading 'Historic', he somehow misses the names of the owners of the original houses. The dates given are incorrect and then so therefore are the conclusions drawn.

NARA Section 3 (3) states:

*a) its importance in the community, or pattern of South Africa's history;
h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and*

i) sites of significance relating to the history of slavery in South Africa.

Brusse assigns a value of 'medium' for both 32 and 36 Cromwell Road under local and provincial importance.

The value given for 'Scientific' and 'Social Value' is given as low for both buildings in all categories.

2.2.1 An alternate design.

The design submitted previously was for another client who sold the sites to the present owner. However, as part of his report, Brusse has put forward a design proposing the demolition of 28 Cromwell Road and the relaxation of building lines and side spaces. He is proposing the building to have a basement and three floors with a pitched roof and historicist detailing.

3.0 HERITAGE DESIGN INDICATORS

Assuming permission is granted for the buildings at 28, 32 and 36 Cromwell Road to be demolished, the replacement building would be designed according to the current zoning, General Residential 2. The zoning allows for high density residential housing with a minimum unit size of 55 m². There is no height restriction but plan approval requires a Building Impact Assessment report.

DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION(m ²)	HEIGHT	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE AND REAR SPACE	The maximum number of dwelling units permissible on an Erf shall be determined by dividing the permissible floor area by 55, the resultant quotient being taken to the nearest unit or, if there is a fraction of one-half, the next highest unit.	900	N/A: *Unless as indicated on the Map	50%	1.2
7.5m	3m					

Town Planning Controls for General Residential 2.

1. SCALE

In order to maximise the FAR, the height would be determined by the coverage. A 50% coverage would result in a three storey building with an FAR of 1,2. The most economical solution would have parking at grade and not below the building. This results in a smaller footprint and consequently, more floors thereby increasing the height. In time, the

necessary densification on the Berea will result in only the Listed buildings remaining and the other sites being consolidated to allow for residential buildings in line with the zoning.

2. FORM

The form should be modulated so the replacement building does not read as a massive structure but related better to the scale of the Listed buildings..

3. SET BACK

The extant buildings appear to be adhering to a building line set back of 7,5m. This control is also applicable to the General Residential 2 zoning.

4. ORIENTATION AND INFILL

The extant buildings are all orientated north-east to face the street. This is a preferred orientation for buildings in the southern hemisphere so the new building should repeat this orientation. The new building also has the opportunity of benefitting from the views to the park if it is taller than the current existing single storey houses.

4.0 MOTIVATION BY THE OWNER.

- The intent of the proposed building is to promote and uplift the neighbourhood in terms of creating more dignified and affordable housing.
- This will in the short term create employment.
- Allow for 24 hour security and surveillance of the area which can possibly reduce the drug and prostitution issues in Cavendish Gardens Park.
- The financial viability of the development is based on achieving the numbers proposed in the drawings.
- The benefits of the new development will outweigh preserving one single dwelling which does not benefit the community anyway. Should 3m high boundary walls be put up, this house will not even be visible.

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M. Arch (UFS)

December 2021