

Development Management Addendum Report Committee Application

Summary	
Committee Meeting Date: 17 January 2016	
Application ID: LA04/2015/0529/F	
Proposal: Construction of a drive thru restaurant along with car parking, access and general site works	Location: 233 – 263 Shore Road, Belfast BT15 3PW
Referral Route: Hot Food Take Away.	
Recommendation:	Refusal
Applicant Name and Address: Seville Limited 6 Hope Street Castletown Isle of Man IM9 1AS	Agent Name and Address: Ostick and Williams 14 Edgewater Road Belfast BT3 9JQ
ADDENDUM REPORT	
<p>This application was previously presented to Belfast City Council Planning Committee on 13th December 2016. The planning application was deferred for the following reason:-</p> <p><i>That the Committee, given the issues which had been raised regarding the zoning of the land and residential amenity, agrees to defer consideration of the application so that the amended plans which had been received could be assessed regarding residential amenity and that a reconsidered potential recommendation for an approval, in spite of it being zoned for housing in BMAP, be provided for consideration at next month's committee meeting.</i></p> <p>By email dated 20 December 2016, the agent acting for the applicant advised that their client would agree to a planning condition restricting hours of use of the restaurant and car park from 6am to midnight. Also amended plans were received on 21 December 2016 showing a single manual barrier at the main drive-thru entrance to ensure the site is closed at midnight. Environmental Health has advised that such a condition and inclusion of the barrier would address their concerns. On this basis, it is considered that a refusal reason relating to residential amenity is no longer required.</p> <p>With regards a potential recommendation for approval, Members are advised that the officer's recommendation remains that the application should be refused. Section 6 (4) of The Planning Act (Northern Ireland) 2011 states that "... the determination [of a planning application] must be made in accordance with the plan unless material considerations indicate otherwise". It is officer's firm view that no robust material considerations have been advanced by the applicant that indicate that planning permission should be granted. For example, there is no robust evidence that the site is not viable for housing such, as for example, evidence of marketing the site for a sustained period. The Development Plan is not arbitrary and development of this site should be in accordance with the Local Development Plan (zoned for housing) as no strong material considerations have been provided to indicate otherwise.</p>	

If Members were to resolve to approve the application, it is recommended that delegated authority is given to the Director of Planning & Place to finalise planning conditions. However, the following draft conditions are anticipated at this stage.

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. No customers shall be served or remain in the premises hereby permitted outside the following hours: 0600 (6am) to 0000 (midnight) on any day; and the manual barrier to control car park usage at the access to the restaurant, as indicated on Drawing Number 04F, date stamped 21 December 2016, shall remain closed outside those hours.
Reason: In the interest of residential amenity.
3. The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.04F bearing the date stamp 21st December 2016, and Drawing No.07B bearing the date stamp 11th April 2016, prior to the operation of any other works or other development hereby permitted and maintained at all times.
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
4. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted becomes operational and such splays shall be retained and kept clear thereafter at all times.
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
5. Any existing street furniture or landscaping within the visibility splays as conditioned above shall, after obtaining permission from the appropriate authority, be removed, relocated or adjusted at the applicant's expense.
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
6. The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with Drawing No.04F bearing the date stamp 21st December 2016, to provide for parking and servicing within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles in connection with the approved development.
Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.
7. Prior to the operation of the development, the odour abatement system shall be installed and maintained in accordance with the recommendations contained within the MCL Consulting report 'Odour Impact Assessment – Proposed McDonald's Restaurant, Shore Road', Report number P975, dated December 2015 and the CDM letter report – Kitchen Extract Odour Control - BCC Planning Date Stamp: 2/6/2016.
Reason: Protection of residential amenity
8. Deliveries and collections by commercial vehicles to and from the development shall not be made outside the following hours: 0700 (7am) to 2300 (11pm).
Reason: Protection of residential amenity
9. Prior to the occupation of the proposed development, the applicant shall provide to the

Council, for approval, a Verification Report. This report must demonstrate that the remediation measures outlined in Section 9.0 of the MCL Consulting – ‘Contaminated Land Risk Assessment (PRA/GQRA and Remediation Strategy’ Proposed McDonald’s Restaurant, Shore Road’, Report number P973, dated October 2015, Report number A072155-3, have been implemented.

The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). It must demonstrate that the identified potential pollutant linkages are effectively broken. The Verification Report should be in accordance with current best practice and guidance as outlined by the Environment Agency. In particular, this Verification Report must demonstrate:

- gas protection measures in accordance with CIRIA C665 Characteristic Situation 2 have been installed throughout the buildings of the proposed development.
- installation of a 600mm depth capping layer of clean imported material, demonstrably suitable for end use, within the landscaped areas.

Reason: In the interests of public health

10. In the event that contamination not previously considered is encountered during the approved development of this site the development shall cease and a written report detailing the nature of this contamination and its management must be submitted to the Council for approval. The development must be carried out in accordance with the approved details.

Reason: In the interests of public health.

11. Prior to the operation of the development, the recommendations contained within the MCL Consulting report – ‘Noise Impact Assessment – Proposed drive thru restaurant, Shore Road, Belfast’, Report number P974, dated November 2015, MCL Consulting report – ‘Addendum - Noise Impact Assessment – Proposed drive thru restaurant, Shore Road, Belfast’, Report number P1167, dated May 2016 and Anti-social Behaviour Statement (submitted on 18/7/16) shall be implemented and retained thereafter.

Reason: Protection of residential amenity

12. No development shall commence on site until details of surface water drainage have been submitted to and approved in writing by the Council. The details shall include a programme for implementation. The development shall not be carried out unless in accordance with the approved details.

Reason: To safeguard the site and adjacent land against flooding and standing water.

Recommendation

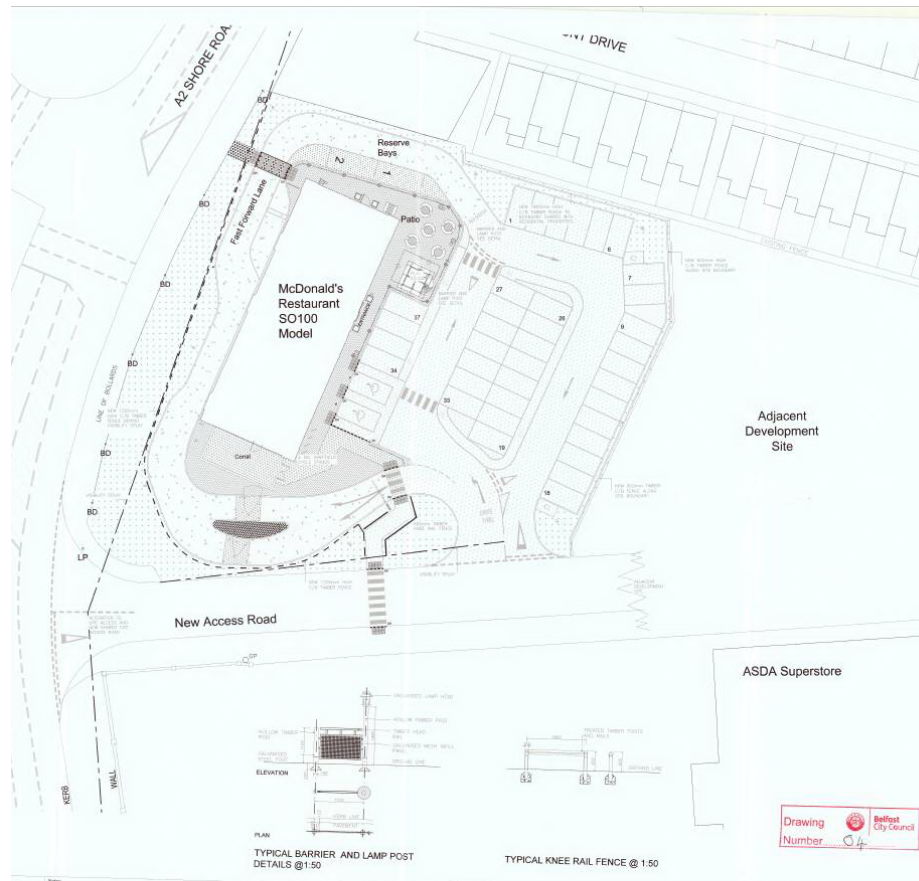
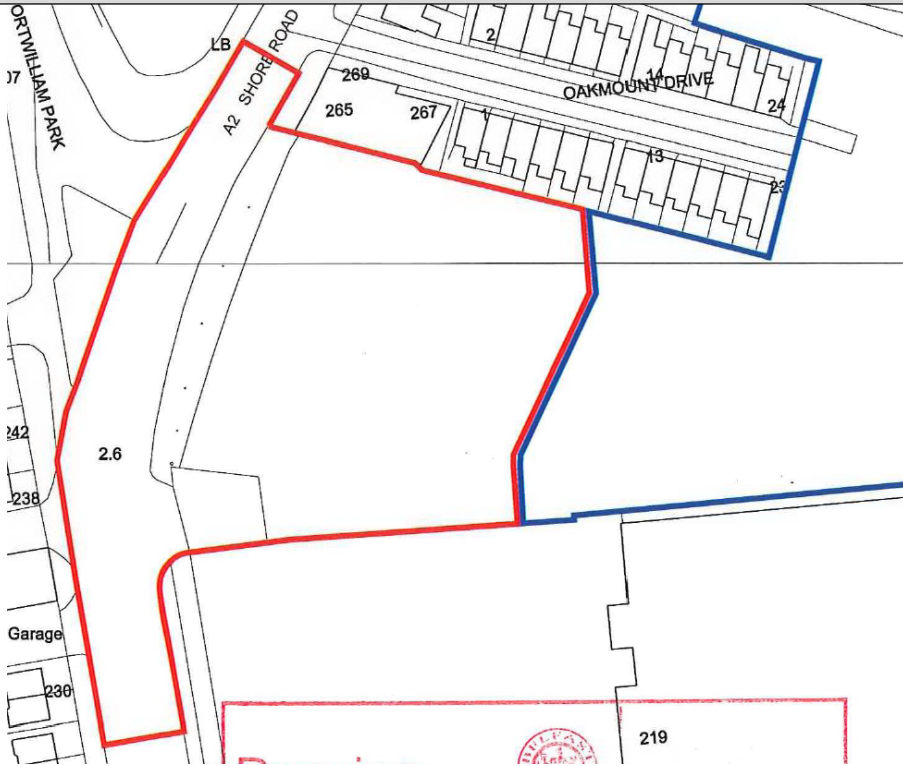
As stated above, the recommendation remains to refuse as per the original case officer’s report but solely on reason for refusal 1, that is, on the basis of the proposal being contrary to BMAP.

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 13 December 2016	
Application ID: LA04/2015/0529/F	
Proposal: Construction of a drive thru restaurant along with car parking, access and general site works	Location: 233 – 263 Shore Road, Belfast BT15 3PW
Referral Route: Hot Food Take Away.	
Recommendation:	Refusal
Applicant Name and Address: Seville Limited 6 Hope Street Castletown Isle of Man IM9 1AS	Agent Name and Address: Ostick and Williams 14 Edgewater Road Belfast BT3 9JQ
<p>Executive Summary: Full planning permission is sought for a McDonalds Drive thru restaurant including access, parking and associated site works.</p> <p>The site is on the Shore Road at its junction with Fortwilliam Park. It is zoned as an 'Uncommitted Housing Site' (NB04/16) in BMAP 2015. The site is situated between the existing dwellings at OakMount Drive and an Asda supermarket.</p> <p>The main issues in this case are:</p> <ul style="list-style-type: none"> • The principle of a restaurant/hot food takeaway at this location • Impact on residential amenity • Traffic and parking <p>The principle of a drive-through restaurant is unacceptable at this location. The site is zoned for housing in BMAP 2015 and the case in support of the application does not justify setting aside the housing zoning.</p> <p>Transport NI has no objections in relation to traffic and parking. Environmental Health have no objections subject to prevention of car parking within the car park after 24.00hrs. The applicant has failed to demonstrate how use of the car park would be restricted late at night and it is considered that the proposal would adversely impact on residential amenity by virtue of noise and disturbance.</p> <p>3 letters of objection have been received, raising the following issues:</p> <ul style="list-style-type: none"> • Traffic • Late night noise • Rats <p>1 letter of support was received</p> <p>Recommendation: It is considered that the proposal is contrary to the development plan as the</p>	

land is zoned for housing and the proposal would adversely impact on residential amenity. It is recommended that planning permission be refused.

Case Officer Report



Representations: 4 letters received	
Letters of Support	1 letter
Letters of Objection	2 letters
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	1 Petition Received
Characteristics of the Site and Area	
1.0	<p>Description of Proposed Development</p> <p>The proposal seeks full planning permission for the construction of a drive through restaurant (floor space 407m²) with 41 car parking spaces, access and general site works. The area of the site is 0.36ha. A new access road is proposed along the southern boundary of the site. The proposed restaurant/hot food take away will sit within the western portion of the housing zoning fronting onto the Shore Road. It is expected the new development will provide 35 new members of staff.</p>
2.0	<p>Description of Site</p> <p>The site (0.36ha) is part of a larger derelict brown field site (1.24ha) previously occupied by a concrete works (Aerocrete). The site is adjacent to an ASDA store to the south and a row of terrace houses to the north. It fronts onto the Shore Road which is an arterial route.</p>
Planning Assessment of Policy and other Material Considerations	
3.0	<p>Site History</p> <p>The site operated as a concrete works in the 1990's. In 2005 planning permission was granted for 53 dwellings on the site, these were not been built (Z/2003/2855/F) and in 2009 planning permission was granted for 5 dwellings (Z/2009/0015/F). These houses were not built either. The site is now derelict. The current application is associated with a further three applications for consent to display advertisements (Refs: LA04/2015/0751/A, LA04/2015/0753/A, LA04/2015/0754/A) which are still under consideration.</p>
4.0	<p>Policy Framework</p> <p>Belfast Metropolitan Area Plan 2015</p> <p>The site forms part of a larger site that is zoned as an 'Uncommitted Housing Site (NB 04/16)' in BMAP 2015. There is no key site requirements (KSRs) specified in BMAP 2015 for this site. The total zoned area of the site is 1.24ha.</p> <p>The site was zoned as an area of existing Employment/Industry (BT 011/06) in Draft BMAP. The zoning was subject to objection and the objection was considered by the Planning Appeals Commission (PAC) at the BMAP Public Inquiry. The Draft Plan zoning was based on its previous use for employment/industry, but the site had planning history for residential use. Although the objection sought an alternative, mixed use zoning on the site, the PAC recommended that the site be zoned for housing. The DOE agreed with this recommendation and the site is zoned in the adopted plan for housing.</p> <p>Policy SETT 2 - Development within the Metropolitan Development Limit and Settlement Development Limits Allocation HOU 1 - Housing Strategic Planning Policy Statement for Northern Ireland SPPS - Planning Policy Statement 3 (PPS3) - Access, Movement and Parking</p>

	DCAN4 – Restaurants, Cafes and Fast Food Outlets
5.0	Statutory Consultees Transport NI – No objection subject to conditions Northern Ireland Water Ltd - No objection
6.0	Non Statutory Consultees BCC Environmental Health – No objection subject to conditions
7.0	<p>Representations 3 objections were received regarding this proposal including from Nigel Dodds MP.</p> <p>The following issues of concern were raised in the objections:</p> <ul style="list-style-type: none"> • traffic issues - concerns raised regarding traffic ingressing and egressing the site, and the potential for creating an accident black spot. Transport NI is satisfied with the access arrangements therefore the issues raised in the objection relating to traffic cannot be sustained. • Hours of Use – concern that 24hr use would result in noise issues. Environmental Health raised no issues with regard to the proposed 24 hour opening and advised that plant and equipment be so situated, operated and maintained as to prevent the transmission of noise to nearby residential accommodation. In addition they also advised that patron noise should be suitably managed to ensure that nearby residential premises are not disturbed by noise. • Concern that the proposal would result in an increase in rodent problems in the area. No substantive evidence was provided that the proposal would result in an increase in rats in the area. Environmental Health raised no issues regarding this matter. <p>A letter of support from Nigel Doss MP was received indicating that the area would benefit from further investment and jobs.</p>
8.0	Other Material Considerations 8.1 DCAN4 – Restaurants, Cafes and Fast Food Outlets
9.0	Assessment
9.1	Principle of Development Policy SETT2 - Development within the Metropolitan Development Limit and Settlement Development Limits
9.2	This policy states that ‘on Zoned Sites planning permission will be granted for development proposals that accord with the specific use or range of uses, and the key site requirements, where specified.’ As stated earlier, this site is zoned for housing, so the proposed use is contrary to Policy Sett2 and the Development Plan zoning.
9.3	The second half of policy SETT2 sets out the criteria for alternative uses that may be acceptable on Land Use Policy Areas. This is not relevant as the site is on zoned land and is not a ‘land use policy area’.
9.4	Allocation HOU1 Allocation HOU 1 identifies the total housing allocation for the Plan period. The zoning of land provides a basis for rational and consistent decisions on planning applications and provides a measure of certainty concerning the types of development that will and will not be permitted. The proposal is contrary to this housing allocation.

<p>9.5</p>	<p>SPPS SPPS - The SPPS sets out core planning principle:</p> <ul style="list-style-type: none"> •Improving Health and Well-being •Creating and Enhancing Shared Space •Supporting Sustainable Economic Growth •Supporting Good Design and Positive Place making; and •Preserving and Improving the Built and Natural Environment
<p>9.6</p>	<p>The proposal is considered contrary to the core planning principles of the SPPS. From inspection of the plans and through consultation with Environmental Health, it is considered that there is potential for adverse impact on residential amenity by use of the car park after 24.00hrs by virtue of noise and disturbance. It is not considered to be an</p>
<p>9.7</p>	<p>example of positive place making.</p>
<p>9.8</p>	<p>With regard to the significance of the Local Development Plan (LDP) in dealing with planning applications, paragraphs 5.13 – 5.16 of the SPPS are important. Paragraph 5.13 of the SPPS states that LDP's guide the future use of land in respective areas and inform developers, members of the general public, communities, government, public bodies, representative organisations and other interests of the policy framework that is used to determine development proposals.</p>
<p>9.9</p>	<p>Paragraph 5.14 states that LDPs allocate appropriate land for different types of land use and set out the main planning requirements to be met in respect of particular zoned sites. Paragraph 5.15 states that LDPs are a fundamental tool in implementation of central government policies and strategic objectives set out in the RDS 2035.</p>
<p>9.10</p>	<p>The Planning Act (Northern Ireland) 2011 established a plan-led planning system in Northern Ireland which gives primacy to the plan in the determination of planning applications unless other material considerations indicate otherwise. Section 6 (4) of the 2011 Act states "Where, in making any determination under this act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise."</p> <p>The applicant submitted a Planning Statement in support of the proposal on zoned housing land. The report acknowledges that all consultees are content, and that the principle of the proposed development in this location is the only remaining matter to be considered by the Council.</p>
<p>9.11</p>	<p>The applicant refers to Policy SETT2 of BMAP and states that this policy permits alternative uses on zoned land where the following criteria are met. This statement is in fact incorrect. Policy SETT2 states:-</p>
<p>9.12</p>	<p><i>'On Zoned Sites planning permission will be granted for development proposals that accord with the specified use or range of uses, and key site requirements where specified.</i></p>
<p>9.13</p>	<p><i>On Land Use Policy Areas planning permission will be granted for alternative uses to the specified use or uses where the development proposal meets all the following criteria...'</i></p> <p>Zoning NB 04/16 is zoned as an uncommitted housing site in BMAP 2015. The land is 'Zoned', it is not a 'Land Use Policy Area', therefore alternative uses are considered unacceptable.</p> <p>The conclusion of the Planning Statement the agent states that the site is a barren and</p>

9.14	unattractive plot of land that should be redeveloped. The agent states it is unlikely to come forward as housing land in the foreseeable future due to issues of viability. This is not a significant, over-riding reason to set aside a housing zoning, and is not supported
9.15	by evidence from the applicant.
9.16	<p>The proposed restaurant will involve only a small area of zoned land. However, it is considered that this would prejudice the remainder of the zoning in that the proposal would create an unattractive living environment for potential occupiers of dwellings to the immediate east of the proposal</p>
9.17	<p>Having considered the planning statement submitted and having had regard to relevant material considerations the assessment in this case is that there are no over-riding reasons or justification why the development plan should be set aside. The proposal is clearly contrary to BMAP 2015.</p>
9.18	<p>PPS3 Access, Movement and Parking Transport NI is satisfied that subject to conditions the access arrangements, parking provision and service management plan are acceptable. Therefore, the proposal is considered to comply with PPS 3.</p>
9.19	<p>DCAN 4 requires consideration of a number of factors including:</p> <ul style="list-style-type: none"> • Noise • Smells and fumes • Refuse and litter • Traffic considerations and car parking • Provision for people with disabilities.
	<p>Consultation Responses Environmental Health After considering prior contamination issues at the site, light impact, noise impact, odour issues, air quality and anti-social behaviour issues, Environmental health were initially satisfied and offered no objection to the proposal subject to conditions. This was on the proviso that use of the car parking is limited to 24.00 hrs in line with a statement on the noise impact assessment submitted with the application. However, it is considered that the applicant has failed to demonstrate that the use of the car park can be restricted after 24.00hrs in practical terms as the exit road serving the drive-through passes through the car park. It is considered that there is potential for adverse impact on residential amenity by virtue of noise and disturbance by use of the car park after 24.00hrs. The proposal therefore fails to accord with Policy DCAN 4 and is unacceptable.</p>
10.0	<p>Summary of Recommendation: The proposal is contrary to the development plan and it is recommended that planning permission is refused.</p>
11.0	<p>Refusal Reason</p> <ol style="list-style-type: none"> 1. The proposal is contrary to the Belfast Metropolitan Area Plan 2015 as the site is zoned for housing and if permitted, would prejudice the delivery of housing in an area of current housing need. 2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and DCAN 4 in that it would, if approved, result in adverse impact on the residential amenity of occupiers of properties in Oakmount Drive during anti-social times by virtue of noise and disturbance from vehicles and customers.

12.0	Notification to Department (if relevant) N/A
13.0	Representations from Elected members: Representations received from Nigel Dodds MP(see above)

ANNEX	
Date Valid	16 th June 2015
Date First Advertised	10 th July 2015
Date Last Advertised	22 nd July 2016
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1, 3,5, 7, 9, 11, 13, 15, 17, 23 Oakmount Drive Skegoneill Belfast The Owner/Occupier, 173, 175, 177 Fortwilliam Park Skegoneill Belfast The Owner/Occupier 5, 7,19, 21 Oakmount Drive Skegoneill Belfast The Owner/Occupier, 219, 228, 230, 232, 234-236 , 238, 240, 242, 265-269 Shore Road Skegoneill Belfast Nigel Dodds 39 Shore Road,Belfast,BT15 3PG The Owner/Occupier, 5 Oakmount Drive Skegoneill Belfast The Owner/Occupier, 63, 74 Fortwilliam Crescent Skegoneill Belfast	
Date of Last Neighbour Notification	8th July 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: Z/2006/1249/F Proposal: Private housing development to include 116 no. apartments in 5 no. blocks with underground car parking in 4 no. of the blocks and associated landscaping. Address: 233-263 Shore Road, Belfast Decision: Decision Date: 13.03.2007 Ref ID: Z/2003/2855/F Proposal: Private housing development of 53 No. dwellings (amended scheme). Address: 233-263 Shore Road, Belfast (former concrete product works) Decision: Decision Date: 06.09.2005 Ref ID: LA04/2015/0754/A Proposal: Installation of 1 illuminated freestanding 12m totem sign Address: 233-263 Shore Road, Belfast, BT15 3PR, Decision: Decision Date:	

Ref ID: LA04/2015/0753/A

Proposal: Installation of 6 No. illuminated fascias signs

Address: 233-263 Shore Road, Belfast, BT15 3PR,

Decision:

Decision Date:

Ref ID: LA04/2015/0751/A

Proposal: 1 No. Height Restrictor, 9 No. Freestanding Signs, 2 No. Banners, 1 No. Side-by-Side Directional and 14 No. DOT Signs

Address: 233-263 Shore Road, Belfast, BT15 3PR,

Decision:

Decision Date:

Drawing Numbers and Title

Notification to Department (if relevant)

Date of Notification to Department: N/A