

**Development Management Officer Report  
Addendum Report  
Committee Application**

| <b>Summary</b>   |   |
|--|---|
| <b>Committee Meeting Date: 19<sup>th</sup> September 2017</b>  |   |
| <b>Application ID:</b> LA04/2016/0487/F  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Change of use from dwelling to coffee shop at ground floor and first floor store. Single storey side and rear extension.   | <b>Location:</b><br>1 St Agnes Drive, Andersonstown Road, Belfast BT11 8GZ                                    |
| <b>Referral Route:</b>   |   |
| <b>Recommendation:</b>   | <b>Change of Opinion - Refusal</b>  |
| <b>Applicant Name and Address:</b><br>Arabica Investments Ltd<br>17 Glengoland Crescent<br>Dunmurry<br>Belfast<br>BT17 0JG   | <b>Agent Name and Address:</b><br>Peter J Morgan<br>17 Glengoland Crescent<br>Dunmurry<br>Belfast<br>BT17 0JG |
| <b>ADDENDUM REPORT:</b>  |   |
| <p>This application was previously presented to Belfast City Council Planning Committee on 20<sup>th</sup> June 2017 with a recommendation to approve (See report at Annex 1). The application was deferred for a site visit which occurred on 8<sup>th</sup> August 2017.</p> <p>Following the Committee meeting Planning Service received further objections from neighbours. The objections raised the following issues:</p> <ul style="list-style-type: none"> <li>• Car parking.</li> <li>• Anti-social behaviour</li> </ul> <p><b>Further Assessment</b></p> <p>Following the deferral of the application by committee the proposal was reassessed to consider the further matters raised by objectors and by members of the planning committee.</p> <p><b>1.0 Impact on Residential Amenity</b></p> <p><b>1.1 Overshadowing and Loss of Light</b></p> <p>The application site is located at 1 St Agnes Drive. The property is currently a semi-detached residential dwelling, the adjoining property (3 St Agnes Drive) is outside the planning application boundary and is not in the ownership or control of the applicant and is to remain as a residential dwelling. As well as a change of use, the proposal also includes a single storey extension to side and rear of the property to accommodate the coffee shop. In terms of impact on residential amenity the PPS 7 addendum sets out guidance on the assessment of this on adjacent properties in terms of overshadowing and loss of light. Given the positioning of the proposed extension it is considered that the adjacent residential property would suffer from a loss of light to the rear habitable living room as well as to their private amenity space, to the immediate rear of the dwelling. The proposal is considered therefore to cause unacceptable overshadowing and loss of light and breaches the angle test.</p> |   |

## **1.2 Noise**

Paragraph 2.3 of the SPPS addresses the issue of residential amenity. It states that planning authorities must consider whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Annex A of the SPPS deals specifically with managing noise and states that whilst noise is an inevitable consequence of human activity and cannot be avoided entirely, noise can impact adversely on human health and well-being, especially where it is prolonged or evident during normal quiet periods or unusually quiet areas.

DCAN sets out the main issues to be considered in relation to proposals for coffee shops. DCAN 4 states proposals for restaurants, cafes and fast food outlets should also have regard to the design of the scheme and its impact on visual amenity and the amenity of any adjoining residential areas. Applications are assessed on the likely impact on the character and amenity of the adjoining or surrounding area. Factors to be taken into consideration include noise disturbance, smells & fumes, refuse & litter, traffic considerations & car parking and the provision for disabled people.

It advises that the local Planning Authority should treat noise as a material consideration in the determination of planning applications for proposals likely to give rise to significant levels of noise and in these circumstances, consultation with the relevant authorities, including Environmental Health, may be necessary. It goes on to say that Planning Authorities should seek to reach balanced decisions that consider noise issues alongside other relevant material considerations, including the wider benefits of the particular proposal.

Environmental Health in their response dated 11<sup>th</sup> October 2016 have suggested conditions be attached to any permission restricting the noise levels from the proposed coffee shop however, having assessed these conditions against the seven tests for a condition as set out in the SPPS it is considered unreasonable to attach conditions where the perceived and actual level of nuisance has the potential to have such a significant impact to the adjoining property and cannot be considered secure to be acceptable in principle.

Following consideration regarding the amenity of the residents of the adjoining property. It is considered there would be disturbance from increased ambient noise levels due to noise arising from the premises. Noise is likely to arise from the kitchen and preparation area where noise is transmitted to the adjacent rooms to common walls, floors and ceilings. Noise is also likely from persons loitering outside the premises, associated vehicular and pedestrian traffic as well as nuisance from bin usage which is only accessible via a roller shutter door adjacent to the residential boundary.

## **1.3 Odours.**

Odour emissions were also raised as a concern by Environmental Health who suggested that a planning condition being imposed for an odour abatement system be installed however there are still concerns that there could be odour problems. It is stated that the discharge point shall be directed away from the nearby residential premises but no details of the positioning of this are known at this point therefore this could potentially have an adverse effect on the amenity of the adjoining residential property given the location of the kitchen adjacent to the residential boundary. The extraction and ventilation system could cause noise, nuisance and general disturbance to the residents of St Agnes Drive.

## **2.0 Late Objections**

The further issues raised by the objectors have been considered.

Transport NI have assessed the issues in respect of traffic considerations and car parking and have no objections to the proposal subject to conditions.

A concern with regard to anti-social behaviour in the area was also raised however this issue is outside the remit of the planning authority and is the responsibility of other statutory bodies.

### **3.0 Planning History**

There have been previous approvals on the site;

Z/2005/0754/F 1 St Agnes Drive Proposal to include change of use from residential dwelling to retail units on the ground floor and office accommodation on the first floor as well as a two-storey extension to rear. Permission granted 2006.

Z/2007/1507/F 1 & 3 St Agnes Drive Proposed demolition of existing dwellings and the construction of 2no retail units with office on the first floor with associated car parking. Permission Granted 2008.

Both by the then planning authority, Department of Environment (DOE).

### **4.0 Recommendation**

These historic permissions have expired but remain material considerations, however, this needs to be balanced with consideration of the impact of such works on residential amenity and the character and appearance of the individual properties and its wider surroundings.

The policy context has changed with the publication of the PPS 7 addendum in 2008 and the publication of the SPPS.

The Council as a separate planning authority with elected representatives has now considered the proposal from within this property and is entitled to make its own planning judgement and is not bound by the decisions previously taken by DOE.

Having re-assessed the impact on neighbouring residents as set out above it is recommended that the application is refused for the following reasons;

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Development Control Advice Note 4 'Restaurants, Cafes and Fast Food Outlets' in that the use would, if permitted, harm the living conditions of neighbouring residential properties through odours, noise, nuisance, and general disturbance resulting in a detrimental impact on residential amenity.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland in that, if permitted, would create conflict with adjacent land uses in respect of over-dominance, loss of light, and overshadowing.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland, in that it would, if permitted, cause unacceptable damage to the character of the area due to the uncharacteristic design, scale and mass of the proposal.

## ANNEX 1

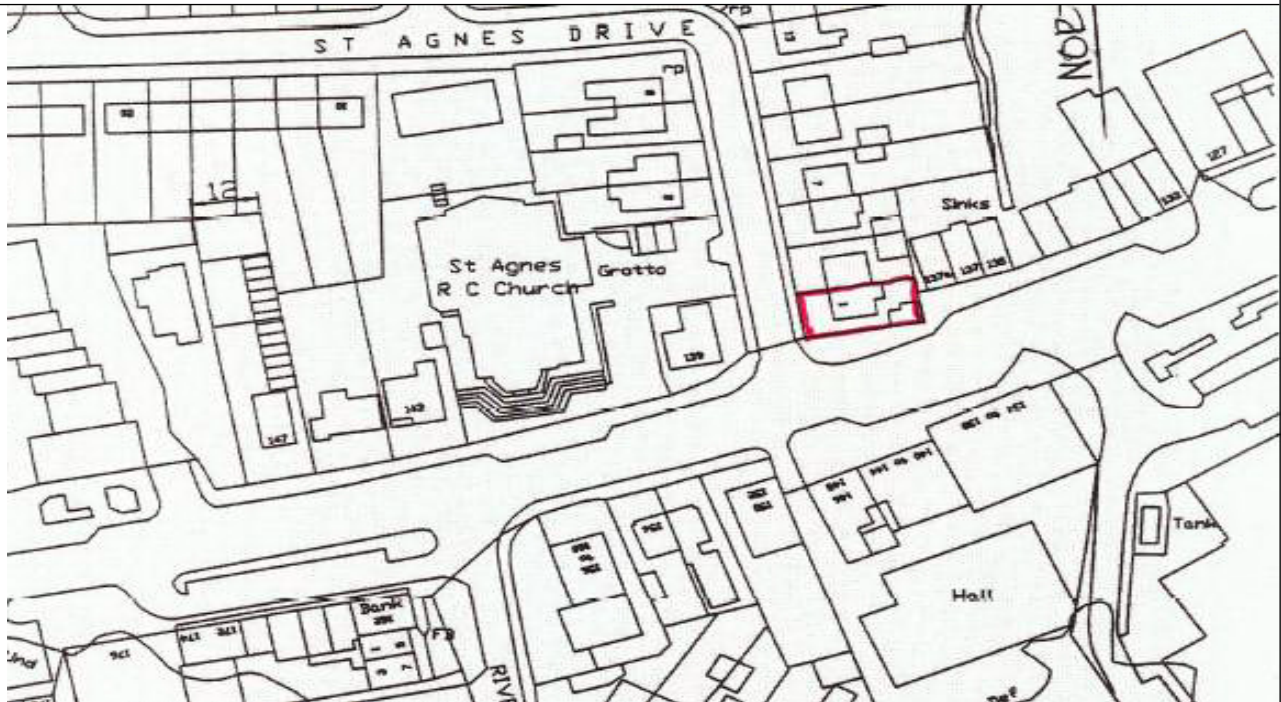
## Development Management Officer Report Committee Application

| <b>Summary</b>  |   |
|---|---|
| <b>Committee Meeting Date: 20 June 2017</b>   |   |
| <b>Application ID:</b> LA04/2016/0487/F   |   |
| <b>Proposal:</b><br>Change of use from dwelling to coffee shop at ground floor and first floor store. Single storey side and rear extension.  | <b>Location:</b><br>1 St Agnes Drive Andersonstown Road Belfast BT11 8GZ                                      |
| <b>Referral Route:</b> Significant level of objections  |   |
| <b>Recommendation:</b>  | Approval  |
| <b>Applicant Name and Address:</b><br>Arabica Investments Ltd<br>17 Glengoland Crescent<br>Dunmurry<br>Belfast<br>BT17 0JG  | <b>Agent Name and Address:</b><br>Peter J Morgan<br>17 Glengoland Crescent<br>Dunmurry<br>Belfast<br>BT17 0JG |
| <p><b>Executive Summary:</b><br/>The application seeks permission for the change of use of the ground floor of a dwelling to coffee shop with first floor store, incorporating a single storey extension to side and rear of the premises.</p> <p><b>Area Plan</b><br/>The site is zoned as Whiteland with no designated use in Belfast Urban Area Plan 2001 and the Draft Belfast Metropolitan Area Plan 2015.</p> <p>The main issues to be considered are:</p> <ul style="list-style-type: none"> <li>• The principle of a coffee shop and store at this location</li> <li>• The effect of the proposal upon the character and appearance of the area; and</li> <li>• On the living conditions on neighbouring properties.</li> </ul> <p>The proposal conforms to the area plan zoning and planning policy. The proposed development is considered acceptable and will not adversely impact on the character of the area or residential amenity.</p> <p>Consultees offered no objection to the proposal</p> <p>21 objections were received to the proposal. It is considered appropriate that the application be presented to the Planning Committee given the level of objections received. The issues raised in the representations are considered in the case officer report.</p> <p>Having had regard to the development plan, relevant planning policies, and other material considerations, it is determined that the proposal should be approved subject to conditions.</p> <p><b>Recommendation</b><br/>It is recommended that the delegated authority is given to the Director of Planning &amp; Place to approve the application with conditions with the final framing and wording of conditions to be</p> |   |

delegated.

Case Officer Report

Site Location Plan



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| 1.0        | <p><b>Description of Proposed Development</b><br/>                 The proposal is for a change of use from dwelling to coffee shop at ground floor and first floor store. Single storey side and rear extension.</p>  |
| 2.0        | <p><b>Description of Site</b><br/>                 The application site is located at No 1 St Agnes Drive. The site is within the development limits of Belfast as designated in the Belfast Metropolitan Area Plan 2015 and within an area with no designated use in Belfast Metropolitan Area Plan 2015. The building is currently a vacant semi-detached dwelling. Boundary treatments include a fence to the front and side of the dwelling. The area is mixed use with residential properties along St Agnes Drive and commercial and retail units along the Andersonstown Road including a hairdressers and hot food bar located adjacent to the site.</p> |
| 3.0<br>3.1 | <p><b>Site History</b><br/>                 Z/2005/0754/F- 1 St Agnes Drive, Belfast. Proposal to include change of use from residential dwelling to retail units on the ground floor and office accommodation on the first floor as well as a two storey extension to rear. Permission granted 12/05/2006.</p>  |
| 4.0        | <p><b>Policy Framework</b></p>   |
| 4.1        | <p>Belfast Urban Area Plan (BUAP) 2001<br/>                 Draft Belfast Metropolitan Area Plan (BMAP) 2015</p>   |
| 4.2        | <p>Strategic Planning Policy Statement for Northern Ireland<br/>                 Planning Policy Statement 3- Access, Movement and</p>   |

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|     | Development Control Advice Note 4- Restaurants, Cafes and Fast Food Outlets.   |
| 5.0 | <b>Statutory Consultees</b>  |
| 5.1 | None   |
| 6.0 | <b>Non-Statutory Consultees</b>  |
| 6.1 | Transport NI – No objection  |
| 6.2 | Environmental Health- No Objection<br>NIWater- No Objection  |
| 7.0 | <b>Representations</b>   |
| 7.1 | The application has been neighbour notified and advertised in the local press and 11 objections was received raising the following concerns: <ul style="list-style-type: none"> <li>• Health and safety.</li> <li>• Parking/ traffic.</li> <li>• Privacy/impact on residential properties.</li> <li>• Anti-social behaviour</li> <li>• Noise/nuisance</li> <li>• Numerous cafes in area.</li> </ul>  |
| 8.0 | <b>Other Material Considerations</b>   |
| 8.1 | None   |
| 9.0 | <b>Assessment</b>  |
| 9.1 | <p>Development Plan</p> <p>Article 6 (4) of the Planning (Northern Ireland) Act states that in making any determination under the said act regard is to be had to the local development plan, and that the determination must be made in accordance with the plan unless material consideration indicate otherwise.</p> <p>The adopted Belfast Metropolitan Area Plan 2015 (BMAP) has been quashed as a result of a judgement in the Court of Appeal delivered on 18th May 2017. As a consequence of this, the Belfast Urban Area Plan 2001 (BUAP) is now the statutory development plan for the area with draft BMAP remaining a material consideration.</p> <p>The site is unzoned, (whiteland) in the BUAP and draft BMAP, however, the site fronts onto Andersonstown Road, an Arterial Route (AR 01/08) as designated in Draft BMAP.</p> <p><b>Principle of development</b></p> <p>The main issues to be considered are:</p> <ul style="list-style-type: none"> <li>• The principle of a coffee shop and store at this location</li> <li>• The effect of the proposal upon the character and appearance of the area; and</li> <li>• On the living conditions on neighbouring properties.</li> </ul> <p>The proposal is for a Change of use from dwelling to coffee shop at ground floor and first floor store. Single storey side and rear extension.</p> <p>Previous plans submitted included a coffee shop at ground floor with a first floor apartment above, amendments were sought to change the apartment to a store. Amended drawings were submitted on 16<sup>th</sup> January 2017 to show access from the store to the coffee shop, removal of the garden roof terrace at first floor level, planting and the extension set back from the building line.</p> <p>21 objections were received to the proposal. The main issues raised in the objections as set out in paragraph 7.0 are considered in the assessment below.</p> |

The proposal has been assessed against Planning Policy Statement 3. TransportNI offers no objection to this proposal.

### **SPPS**

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

### **Development Control Advice Note 4 – Restaurants, cafes and fast food outlets**

Development Control Advice Note 4 – Restaurants, cafes and fast food outlets is relevant.

DCAN4 sets out a number of factors to assess the proposal against, Noise disturbance, smells and fumes, refuse and litter, traffic considerations and car parking and provision for people with disabilities.

Environmental Health was consulted and considered the above listed considerations and the noise impact assessment submitted. Environment Health recommended that the coffee shop shall not operate between the hours of 11pm and 7am. Deliveries and collections by commercial vehicles to and from the development shall only be made between the hours of 7.00 and 23.00hrs. No food shall be fried in the proposed coffee shop.

### **Scale, massing and Design**

The proposal includes a single storey extension to side and rear of dwelling to provide a coffee shop at ground floor level with a first floor store above. The proposed changes at first floor level are internal with no external changes such as additional windows.

The proposed coffee shop faces onto the main Andersonstown Road. The front elevation of the coffee shop is to consist of facing brickwork and a grey powder coated aluminium shop front with glazing and a door. A flat roof is proposed on the extension. A 1.2m high wall and fence is proposed to the front and side elevation, with a planted area behind. The rear elevation consists of grey powder coated aluminium shop front with a roller shutter. The proposed elevation that fronts onto St Agnes Drive consists of a planted area with a brick wall and fence on top.

### **Impact on neighbouring amenity**

The proposal is located on a corner site at the junction of St Agnes Drive and the Andersonstown Road with a dwelling adjoining the property. St Agnes Drive is an established residential area consisting of semi-detached dwellings similar in design and appearance.

The site is unique in that it is a vacant residential property which protrudes onto a predominately commercial frontage on the Andersonstown Road. Although the single storey side extension will break the building line on Andersonstown Road its visual impact is lessened by the fact it has a flat roof and low elevation and also that the existing 2 storey building projects beyond the building line. The planting of trees to the side will also screen the extension setting forward of the building line. Any further visual impact created by the proposal will be insignificant and will not harm the character of the area. The building line along the Andersonstown Road is already stepped and non-uniform.

The built form to St Agnes Drive will essentially resemble that of a domestic dwelling in terms of its scale and massing and to its extent its design. Planting is proposed which

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|  | <p>will contribute positively to the street scene. The proposal should therefore have minimal impact on the character of St Agnes Drive. The extension will not cause any unacceptable loss of light or over shadowing and will not have a detrimental impact on the amenity of No 3 St Agnes Drive.</p> <p>The proposed use of coffee shop is compatible with the locality and the site and the loss of a residential dwelling is not considered detrimental to the overall area. The change of use and extension will improve an existing vacant and derelict dwelling and enhance the character and appearance of the area.</p> <p><b>Traffic and Parking</b></p> <p>The coffee shop will be accessed directly by pedestrians from Andersonstown Road via a new entrance and will be served by on street parking arrangements which is not unusual in the area as there are a number of commercial/ retail businesses in the immediate area with car parking via on street parking.</p> <p>In respect of traffic considerations and car parking Transport NI has considered the proposal and a parking survey and has no objections to the proposal subject to conditions.</p> |
| <p><b>10.0</b></p> <p>10.1</p> <p>10.2</p> | <p><b>Summary of Recommendation: Approval</b></p> <p>Having regard to the policy context and other material considerations above, the proposal is considered acceptable and planning permission is recommended subject to conditions for the following reasons.</p> <p>The proposed change of use and extension is considered acceptable in its locality, will improve the appearance of this section of the Andersonstown Road and will not adversely impact on visual or residential amenity. Consultees have offered no objections subject to the conditions outlined below. Representations have been considered. Approval is recommended.</p>  |
| <p><b>11.0</b></p>                         | <p><b>Conditions</b></p> <ol style="list-style-type: none"> <li>1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.<br/>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</li> <li>2. The vehicular access shall be constructed in accordance with Drawing No.05 bearing the date stamp 6<sup>th</sup> July 2016.<br/>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</li> <li>3. The vehicular access hereby permitted shall be formed by lowered kerbs at the carriageway edge and associated re-grading of the footway to the satisfaction of TransportNI.<br/>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</li> <li>4. The development hereby permitted shall not be occupied until the redundant vehicular access from the site to the public road has been permanently closed and the footway reinstated to the satisfaction of TransportNI.</li> </ol>   |



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|  | <p>Reason: In order to minimise the number of access points onto the public road in the interests of road safety and the convenience of road users.</p> <p>5. Hard surfaced areas shall be constructed in accordance with Drawing No.05 bearing the date stamp 6<sup>th</sup> July 2016 to provide for parking within the curtilage of 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.<br/>Reason: To ensure that adequate provision has been made for parking within the curtilage of the site.</p> <p>6. Prior to the commencement of the hereby approved use, the mitigation measures as outlined in the F.R Mark and Associates Noise and Acoustic Consultants report titled "Noise Impact Assessment, Proposed change of use from a dwelling to a ground floor coffee shop and first floor apartment at 1 St Agnes Drive, Belfast" dated September 2016 shall be fully implemented.<br/>Reason: Protection of Residential Amenity</p> <p>7. The Rating Level (dBLAr) of sound from all combined building services plant associated with the ground floor commercial premises shall not exceed the background level (day time and night time) at the nearest noise sensitive premises when measured in accordance with assessment methodology outlined in BS4142:2014-Methods for rating and assessing industrial and commercial sound.<br/>Reason: Protection of Residential Amenity</p> <p>8. No service deliveries or collections to and from the premises shall take place between 11pm and 7am.<br/>Reason: Protection of Residential Amenity</p> <p>9. The premises shall not open for business prior to 07.00 hours or after 23.00 hours.<br/>Reason: Protection of Residential Amenity.</p> <p>10. The use of the coffee shop hereby approved shall be restricted so that no shallow or deep fat frying of food shall take place on the premises, unless otherwise agreed in writing by the Planning Authority.<br/>Reason: Protection of residential amenity</p> |
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| <b>ANNEX</b>  |                   |
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| <b>Date Valid</b>   | 3rd March 2016    |
| <b>Date First Advertised</b>  | 25th March 2016   |
| <b>Date Last Advertised</b>   | 3rd February 2017 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>11 St. Agnes Drive Ballydownfine Andersonstown<br>133A, 134-148 Andersonstown Road, Belfast, Andersonstown, Antrim, Northern Ireland, BT11 9BU<br>2, 3, 5, 7,9, 21, St. Agnes Drive Ballydownfine Andersonstown<br>Paul Maskey MP 53 Falls Road,Belfast,BT12 4PD<br>Cafe Kelstar, 133a Andersonstown Road, Belfast, BT11 9BU  |                   |
| <b>Date of Last Neighbour Notification</b>  |                   |
| <b>Date of EIA Determination</b>  |                   |
| <b>ES Requested</b>   | Yes /No           |
| <b>Planning History</b>   |                   |
| <p>Ref ID: Z/2010/0293/A<br/>           Proposal: Erection of shop signage<br/>           Address: Units 1-4 and first floor unit Slemish building 105 Andersonstown Road, 133 and 149 Andersonstown Road.<br/>           Decision:<br/>           Decision Date: 10.05.2010</p> <p>Ref ID: Z/2007/1507/F<br/>           Proposal: Proposed demolition of existing dwellings and the construction of 2no retail units with office on the first floor with associated car parking.<br/>           Address: 1 &amp; 3 St Agnes Drive, Ballydownfine, Belfast, BT11 8GZ<br/>           Decision:<br/>           Decision Date: 04.03.2008</p> <p>Ref ID: Z/2005/0754/F<br/>           Proposal: Proposal to include change of use from residential dwelling to retail units on the ground floor and office accommodation on the first floor as well as a two-storey extension to rear.<br/>           Address: 1 St Agnes Drive, Ballydownfine, Belfast, Northern Ireland, BT11 8GZ<br/>           Decision:<br/>           Decision Date: 13.04.2006</p> <p>Ref ID: Z/1991/2976<br/>           Proposal: Change of use from dwelling to offices<br/>           Address: 1 ST AGNES DRIVE BELFAST BT11</p> |                   |

Decision:  
Decision Date:

Ref ID: Z/1989/3086  
Proposal: Change of use from domestic garage to shop  
Address: 137C ANDERSONSTOWN ROAD BELFAST BT11  
Decision:  
Decision Date:

Ref ID: LA04/2016/0487/F  
Proposal: Change of use from dwelling to coffee shop at ground floor and first floor apartment.  
Single storey side and rear extension.  
Address: 1 St Agnes Drive, Andersonstown Road, Belfast, BT11 8GZ,  
Decision:  
Decision Date:

Ref ID: LA04/2015/0736/F  
Proposal: Proposed single storey Extension and Change of Use to provide ground floor coffee shop and first floor storage (revised description and scheme).  
Address: No. 1 St Agnes Drive, Andersonstown Road, Belfast, BT11 8GZ,  
Decision: WITHDR  
Decision Date: 24.02.2016

**Summary of Consultee Responses**

Transport NI – No objection  
Environmental Health- No Objection Subject to conditions  
NIWater- No Objection

**Drawing Numbers and Title**

01 Site Location  
02a Proposed Plans  
03a Proposed Plans  
04 Existing Plans/Elevations

**Representations from Elected members:**

**Letter of objection from Paul Maskey, MP**

**Notification to Department (if relevant)**

**N/A**