



Planning Services 231 George Street GLASGOW G1 1RX Tel: 0141 287 8555 Email: onlineplanning@glasgow.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100643820-005

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Porter Planning Ltd.

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Teri

Building Name:

Last Name: *

Porter

Building Number:

39

Telephone Number: *

Address 1
(Street): *

St Vincent Street

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Glasgow

Fax Number:

Country: *

Scotland

Postcode: *

G1 2ER

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Mario"/>	Building Number:	<input type="text" value="87"/>
Last Name: *	<input type="text" value="Gizzi"/>	Address 1 (Street): *	<input type="text" value="St Vincent Street"/>
Company/Organisation	<input type="text" value="The DRG Group"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G2 5TF"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="Glasgow City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

124 - 126 Byres Road Glasgow G12 8TB

Northing	<input type="text"/>	Easting	<input type="text"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Use of retail unit (Class 1A) as restaurant (Class 3) with erection of flue to rear.

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to enclosed supporting statement.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

LRB 01 - Cover Letter; LRB 02 - Application Forms and Certificate; LRB 03 - Location and Block Plan as Existing 03C; LRB 04 - Proposed Rear Elevation 02 C; LRB 05 - Existing Rear Elevation 01; LRB 06 - Report of Handling; LRB 07 - Decision Notice; LRB 08 - Request for Review Statement; LRB 09 - Letter from SIMS Property Agents.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

23/02657/FUL

What date was the application submitted to the planning authority? *

30/10/2023

What date was the decision issued by the planning authority? *

15/01/2024

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☐ Yes ☒ No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

Applicant would welcome the opportunity to present the case and be available to answer any questions.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☐ Yes ☒ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Teri Porter

Declaration Date: 24/02/2024

126 BYRES ROAD GLASGOW

Appeal to Glasgow City Council's Local Review Body against the decision of the planning officer to refuse full planning permission for a change of use of retail unit (Class 1A) to form restaurant (Class 3) with erection of flue to rear at 126 Byres Road, Glasgow. Planning Reference 23/02657/FUL.

1. Introduction

- 1.1 This Review Statement has been prepared by Porter Planning Ltd, on behalf of our client DRG ("the Applicants") owner of 124 – 126 Byres Road, Glasgow, G12 8TD ("the Property"). This statement should be read in conjunction with the Cover letter (Doc Ref LRB01). We dispute the Planning Officers reasons for refusing the application and respectfully request that the Council's Local Review Body review that decision and approve the application.

2. Summary of Applicant's Reasons for Review

- The proposal is found to comply with National Planning Framework 4, with a minor departure from the Local Development Plan.
- The Application Site is located within the Major Town Centre but not within the retail core.
- The proposal will reduce vacancy levels and will ensure a permanent use for this unit that has struggled to rent for a sustained time, adding to the vibrancy and viability of this Major Town Centre.
- Granting planning permission for a new restaurant at this prominent location will support local investment and maintain Byres Road as a desirable place to visit.
- The officer accepts that Class 3 use in this unit would not be out of character for the local area and will support the role and function of this Major Town Centre.
- The officer also confirms that the unit provides an active frontage that contributes positively to the character and appearance of the Town centre.
- The officer accepts the proposals will not cause any impact on amenity and the proposed extraction arrangements fully accord with the requirements of Supplementary Guidance.
- The officer confirms the proposals also accord with the requirements for waste storage.
- The officer confirms the parking arrangements are acceptable on account of the unit being well served by public transport and the proposals would not have an unacceptable impact on parking in the local area.

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- The officer confirms that the proposed operating hours comply with policy and would not be considered unsociable.

3. Application Proposal and Site

- 3.1 The Property occupies the ground floor of 124 – 126 Byres Road. The Property is currently vacant, having previously been occupied by a small supermarket and restaurant/takeaway. Accordingly, the unit is currently in Class 1A use.
- 3.2 The Property sits on Byres Road within the established Town Centre of Partick/Byres Road but is not located within the 'Retail Core' as designated by SG4. Byres Road is destination in its own right and many retail, leisure and other commercial uses are found there. There are also many empty units, particularly on this stretch of Byres Road.
- 3.3 The area is categorised by a dense street layout with the Centre boundary drawn tightly around the retail and commercial core, a tenemental structure with town centre uses at street level and residential use above.
- 3.4 In addition to its primary shopping function, the accessibility of the centre makes it an appropriate location for a range of other uses that provide a service to the public, including leisure and entertainment uses such as restaurants.
- 3.5 Restaurant uses provide additional reasons to visit and help to generate activity at different times of the day. Glasgow City Council ('GCC') seek to protect the retail function of Town Centres whilst encouraging a range of alternative uses to contribute to the overall health of these Centres.
- 3.6 The proposed development will allow for a Class 3 operator to function from this unit. The Property is currently vacant and makes no positive contribution to the locality. The Cover Letter (LRB 01) sets out the Background to Application Site on page 1 and outlines the unit has not operated successfully since Peckhams failed in 2017.
- 3.7 It is worth noting the unit has historically had a hot food element and there is an existing kitchen fitted in the Unit.
- 3.8 The Property has been marketed for Class 1A Use with no success. So far there has been very little interest. We have provided a letter from the Applicants retail agent in this submission (LRB 09). This confirms a lack of demand for Class 1A uses at this location.
- 3.9 Given the lack of Class 1 interest the owners of the unit focussed on securing a tenant that has a thorough and robust knowledge of their market to ensure the long term success of the tenancy. The Cover Letter (LRB01) confirms DRG have a successful track record of delivering restaurants which cater for the need and demand, this proposal seeks to respond to an identified need.
- 3.10 The accompanying Cover Letter for the planning application outlines the track record of this family run

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business and urges the Review Body to take into account the track record of this business in their determination of the proposals.

- 3.11 The addition of a high quality independent restaurant operator at this location will undoubtedly contribute to the widespread regeneration of the area and make a tangible contribution to ensure Byres Road remains a thriving leisure destination full of independent and national names.
- 3.12 Granting this planning application will ensure this prominent property, which is vacant, is brought back into life increasing the vibrancy of Byres Road.
- 3.13 Externally the only change to the building will be the erection of an extraction flue to the rear of the building which will be fixed to the property with vibration proof fastening which will eliminate any vibrations as well as protect the fabric of the building. The flue will terminate one meter above the eaves. The flue can also be painted if desired and controlled by way of a planning condition.
- 3.14 The opening hours will be 11:00 – 23:00 Sunday to Thursday and 11:00 – 00:00 Friday and Saturday and these have been confirmed acceptable by the officer.

Extract from GCC Planning Portal showing the unit in a prominent location on Byres Road.



4. Grounds of Appeal

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- 4.1 The application has been refused by the Councils Planning Officer for 7 reasons. It seems that the key concern with this proposal is that the loss of the Class1A unit, officers interpretation of National Policy Framework 4 and the analysis of SG4:Network of Centres.
- 4.2 It is important to note that the proposals accord with all other applicable policy and whilst there may be tension with SG4, given the time-dated status of this policy and changes in retailing since its approval, we consider on balance given the mitigating circumstance as set out in the Covering Letter, that the proposals are acceptable in this instance.
- 4.3 The proposals are for a Class 3 use. The proposals will contribute positively to an area which is seeing increased investment and regeneration and will ensure the prominent unit does not remain vacant and detract from the amenity of the locality.
- 4.4 This contributed with the fact that Glasgow City Council are moving away from a less prescribed policy direction to a Strategic Development Framework where it is anticipated the focus will be in ensuring the vibrancy and multifunctional nature is maintained rather on prescribed ratios. GCC Guidance does also allow for a departure from the requirements if the individual circumstance allow. We elaborate more in our response to the reasons for refusal below.

1. The proposal was not considered to be in accordance with the Development Plan and there were no material considerations which outweighed the proposal's variance with the Development Plan.

- 4.5 In response to reason 1, we disagree with the officers assessment in this case and we respond to each of the respective policy in turn in our response to Reason 2.

2. The proposed development is contrary to the adopted National Planning Framework 4, Policy 23 Health and Safety Policy; 27 City, Town, Local and Commercial Centres; and to Glasgow City Development Plan, Policy CDP 1 The Placemaking Principle and Supplementary Guidance SG 1 Placemaking (Part 2); Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres (Assessment Guidelines 4: Proposed Non-Retail Uses within Major Town Centres and 10: Food, Drink and Entertainment Uses).

- 4.6 We disagree with the officers assessment of the proposals and we assess each of the Policy referred to in Reason 2 in this section.

National Planning Framework 4

- 4.7 As NPF4 and CDP policies now form the Development Plan, all the policies are to be read and applied as a whole. Where there is deemed to be an incompatibility between a provision of NPF4 and a provision of the LDP, whichever of them is the later in date is to prevail. Having regard to the statutory development plan for Glasgow, the later of the plans is NPF4. Therefore, in the situation where an incompatibility exists, any incompatible LDP policy will be set aside in favour of applying NPF4 policy

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as the preferred statement of planning policy. This assessment section responds to the applicable policy identified below.

- 4.8 **NPF4 Policy 23** - seeks to protect people and place from environmental harm, mitigate risks arising from safety hazards and encourage promote and facilitate development that improves health and wellbeing.
- 4.9 We question why this application was assessed against Policy 23 proposals will not harm people or places, they do not introduce safety hazards and are not for development that will promote health and wellbeing. Furthermore Class 3 use is not listed as a use which poses potential harm to health and wellbeing of communities at NPF Policy 27 C. i. ii. And iii as outlined below.
- 4.10 **NPF Policy; 27 City, Town, Local and Commercial Centres** – seeks to encourage, promote and facilitate development in town Centres by applying the Town Centre first approach to ensure centres adapt positively to long term economic environmental and societal change.
- 4.11 **NPF Policy 27(c)** does not support proposals for non-retail use if further provision of these services will undermine the character and amenity of the area. The policy states 3 uses which would affect eh health and wellbeing of an area, these are listed as:
- i. Hot Food Takeaways, including permanently sited vans;
 - ii. Betting offices; and
 - iii. High interest money lending premises.
- 4.12 From the above policy we can ascertain that Class 3 restaurants are not considered by NPF3 to present a threat to the character and amenity of a Town Centre nor will they pose a threat to health and wellbeing of communities. NPF4 recognises the changing nature of retail and impact upon cities as identified in the accompanying Cover Letter (doc LRB 01 page 2). The proposals seek to respond to a change in demand this are in full compliance with NPF4.
- 4.13 **Policy CDP 1 The Placemaking Principle and Supplementary Guidance SG 1 Placemaking (Part 2)** the proposals fully comply with Policy CDP1 as they direct a compatibly use to a retail centre. The use does not pose a threat to amenity and proposed hours of use are acceptable to GCC.
- 4.14 **Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 4: Proposed Non-Retail Uses within Major Town Centres** - the Cover Letter (LRB01) assesses this policy in detail at pages 3 and 4. To re-iterate the street frontage block comprises 94 Byres Road to 175 University Avenue. When visited at time of submission there were 16 units within the block and the breakdown of uses was as follows.

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Use	Current	Proposed Change of Use
Class 1A	6 (37.5%)	5 (31.25%)
Class 3	7 (43.75%)	8 (50%)
Vacant	3 (inc. application site) (18.75%)	2 (12.5%)

- 4.15 The appellant acknowledges that the proposed change of use represents a minor departure from the Supplementary Guidance (which is guidance and not mandatory). Our case is Supplementary Guidance 4 does not reflect NPF4 and the requirement for Town Centres to respond to economic circumstances by diversifying to reflect the changing nature of the area.
- 4.16 **Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres, Assessment Guideline 10: Food, Drink and Entertainment Uses** Supplementary Guidance SG4 supports Policy CDP 4 Network of Centres from the adopted Local Development Plan. SG4 is “intended to provide further detailed guidance” it is clear that the function of supplementary guidance is to ‘guide’ proposals and not necessarily be rigid, strict criteria with a ‘yes/no’ function. As such, every application should be determined on its own merits.
- 4.17 SG 4 AG 10 is assessed in the accompanying Cover Letter (LRB01) at page 4. To re-iterate the proposals fully comply with Assessment Guideline 10 and this is confirmed in the Report of handling (LRB 06) at page 7 that subject to conditions that the proposed hours of operation and extraction are acceptable.
- 4.18 The Report of handling (LRB 06) officers report confirms that Class 3 use at the ground floor of tenemental properties is commonplace in Town Centres and would not be out of character with the local area, they also confirm the proposed extraction and waste collection arrangements fully accord with SG10.
- 4.19 The proposals therefore fully comply with the requirements of AG10.

3. The proposal, which would result in 46.7% of the units on the street block frontage being in non-Class 1A use and five adjacent Class 3 units, would detract from the vitality and viability of the Major Town Centre by decreasing its mix of uses and is therefore contrary to National Planning Framework 4, Policy 27.

- 4.20 In response to reason 3, the officers report confirms that Class 3 use at the ground floor of tenemental properties is commonplace in Town Centres and would not be out of character with the local area, they also confirm the proposed extraction and waste collection arrangements fully accord with SG10 AG12.
- 4.21 The proposals comply with the Town Centre First principle adopted by NPF4. There has been long term economic change in respect of retail function in smaller units and Local Authorities are expected to

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use NPF4 to allow them to adapt decision making to facilitate the longevity of our Town Centres. The proposals for a use that is commonplace in Town Centres that is meeting an identified need does therefore fully comply with the requirements of NPF 27.

4. The proposal would result in the unacceptable loss of Class 1A retail units with 46.7% of the units on the street block frontage being in non-Class 1A use, including five adjacent Class 3 units, would erode the retail character of the Major Town Centre to the detriment of its vitality and viability and is therefore contrary to SG 4, Assessment Guideline 4.

4.22 In response to reason 4, the aim of NPF4 is to ensure that decision making in respect of non-retail uses in the Town Centre does not undermine the character and amenity of the area or the health and wellbeing of communities. We have outlined in the supporting documents and within this statement that the proposals will complement the existing character of the area and do not constitute a threat to the health and wellbeing of the area. We are therefore in full compliance with NPF Policy 27. The policy of NPF4 should prevail if there is a conflict with LDP policy.

4.23 In respect of SG4 and AG 4 we have also addressed this in our response to reason 2 above. To re-iterate The appellant acknowledges that the proposed change of use represents a minor departure from the Supplementary Guidance (which is guidance and not mandatory). Our case is Supplementary Guidance 4 does not reflect NPF4 and the requirement for Town Centres to respond to economic circumstances by diversifying to reflect the changing nature of the area.

5. The proposal would result in an unacceptable adverse impact on the amenity of neighbouring residential properties due to the cumulative impact of Class 3 units within the street block frontage and is therefore contrary to National Planning Framework 4, Policy 23 Health and safety; Policy 27 City, Town, Local and Commercial Centres; CDP 1 The Placemaking Principle and Supplementary Guidance SG 1 Placemaking (Part 2); Policy CDP 4 Network of Centres and Supplementary Guidance SG 4 Network of Centres (Assessment Guidelines 4: Proposed Non-Retail Uses within Major Town Centres and 10: Food, Drink and Entertainment Uses).

4.24 In response to Reason 5 in respect of impact of amenity, the officer has confirmed that, subject to conditions, the proposed opening hours and disposal of fumes and odours accord with Policy. Therefore it stands to reason that the proposals comply with Policy and will not impact amenity. Therefore we fail to see how there is a perceived cumulative impact when the proposed arrangements do not present any impact. Furthermore the proposals fully comply with the Principle of NPF4 and GCC's move towards a strategic vision for Glasgow and directing the right uses to the right area. Class 3 uses are an acceptable use for a Major Town Centre located in a unit that site outwith the designated Retail Core.

6. The proposal does not demonstrate that the property has been appropriately marketed for Class 1A use for a minimum period of 12 months prior to submission of the non-Class 1A proposal and that the marketing exercise was unsuccessful in attracting Class 1A operators and therefore is contrary to SG 4, Assessment Guideline 4.

- 4.25 In response to reason 6, the Covering Letter (LRB01) confirms that the unit is vacant and has not been occupied by a viable shop for many years. There is lack of demand for retail use of this unit and this is evidenced by this request for a change of use. Furthermore the applicants retail agents (SIMS Property Consultants and Gunn Property Consultants) have considerable lettings experience particularly around Byres Road and both have confirmed that there is no demand for Class 1A at this location. (LRB 09).

7. The consideration of the Planning Authority is that there is still a reasonable prospect of Class 1 use being resumed in the unit and an exception to SG 4 requirements is not justified.

- 4.26 In response to reason 7, it is not competent to base a refusal on an assumption of what might happen in the future. NPF4 recognises the changing nature of retail and its impact upon centres and as such the proposals are fully compliant in seeking to ensure this Town Centre thrives, is resilient and responds to economic change.

5. Conclusion

- 5.1 This Review Statement has assessed the proposal against the policies referred to by the Planning Officer in their Refusal. The Proposal is found to comply with the aims of the adopted Local Development Plan in terms of attracting investment to Local Centres and making use of available vacant units.
- 5.2 The proposals do raise a minor tension with the Assessment Guidance but fully comply with the requirements of NPF4 which is the over arching policy in this regard.
- 5.3 We have demonstrated that Class 1 is problematic in this area with the previous two occupiers of this particular unit, failing within a year. The unit has also provided a hot food function for many years without complaint. Experienced property agents believe there is no demand for Class1A retail space in this location.
- 5.4 As such we respectfully request that the Local Review Body overturn the Planning Officers decision and approve the proposal.

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Appendix 1

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List of Documents

Document Reference	Document Title	Revision
LRB 01	Cover Letter	-
LRB 02	Application Forms and Certificate	-
LRB 03	Location and Block Plan as Existing 03C	C
LRB 04	Proposed Rear Elevation 02	-
LRB 05	Existing Rear Elevation 01	-
LRB 06	Report of Handling	-
LRB 07	Decision Notice	-
LRB 08	Request for Review Statement	-
LRB 09	Letter from SIMS Property Agents	-