

Agenda Item 9ii

2.

REGISTERED NUMBER:	5/2009/2533/FULL
APPLICANT:	London Colney Islamic Centre
PROPOSAL:	Temporary change of use for a period of 3 years from B1 (offices) to D1 (Religious and community purposes) - resubmission following refusal of 5/09/1874
SITE:	Cemex House Barnet Road London Colney AL2 1BD
DATE OF APPLICATION:	21/12/2009
HISTORIC BUILDING GRADE:	Unlisted
CONSERVATION AREA:	None
DISTRICT PLAN REVIEW:	Urban Area

RECOMMENDATION GRANT

Background

Cemex House occupies an 'L' shaped site on the southern side of Lowbell Lane at its junction with Barnet Road. It has a 53 metre frontage to Lowbell Lane and a 27 metre frontage to Barnet Road. The site is located directly opposite the gated access to the Riverside Industrial Estate.

The site comprises of three detached buildings which were previously used for office purposes (the single storey building is however still in use) and have a floor area of 750 sq metres. The main building which is part single storey and part two storey, measures 27 metres in length and 12 metres in width. The two storey element is at the western end. The building partly abuts the highway in Lowbell Lane. To the east along Lowbell Lane is a bungalow style building measuring 11 metres by 5 metres and is set back from the highway by 3 metres. On the southern part of the site facing Barnet Road is a 5 metre by 3 metre single storey pitched roofed outbuilding abutting the back of the footpath.

Directly opposite the buildings, on the northern side of Lowbell Lane is a hardsurfaced car park belonging to Cemex House which can accommodate 28 cars (including 3 disabled spaces). This abuts the River Colne to the rear.

In land use terms the general area is mixed. To the east of the site along Lowbell Lane is predominantly residential. To the north is the Riverside Industrial Estate and on the opposite side of the river is a church and a car park. To the south of the site is a garage block and the rear gardens of dwellings in Colne Gardens. Further south is the Colney Fox hotel/public house/restaurant and car park. Opposite the site are dwellings, an office building, nursery premises and The Bull public house.

The boundary of the London Colney Conservation Area adjoins the southern edge of the site, although the site itself is not located in the Conservation Area.

The Proposal

The proposal involves the change of use of Cemex House (Formerly The Willows) from Class B1 (office/employment use) to Class D1 (non residential institutions). The use specified in the application is for ecclesiastical purposes for a mosque for a temporary period

of 3 years. The use change relates to the main two storey building, the bungalow and the outbuilding.

The proposal is identical to that of the application which was previously refused at Plans South Committee on 30 November 2009, however the applicant is now applying for a temporary permission and has provided further information within the planning statement.

The submitted information maintains that the premises will be used by up to 50 men worshippers and a handful of women worshippers. The application states that prayers would take place five times a day, but the principal prayer would be at 1pm on Friday, where attendance is at its highest and that far fewer people attend prayers at other times of day or days of the week.

The local Muslim community currently use the Parish meeting room on White Horse Lane once a week for Friday prayers, however the applicants state that the meeting room is unsuitable.

As with the previously submitted plans, the ground floor of the main building will be used for the mens hall and will also include a community hall, youth rooms, a kitchen and toilets, a library and a bookshop. The first floor will be general purpose rooms and an Imam's office. The bungalow will provide the ladies facility and the outbuilding will be a store.

The car park on the northern side of Lowbell Lane will be used as the car park for the proposed ecclesiastical facility. It comprises up to 28 spaces (including 3 disabled spaces). A further 6 car parking spaces can also be parked on the hardstanding in front of the buildings.

Relevant Planning Policy

St. Albans District Local Plan Review 1994:

Policy 2	Settlement Strategy
Policy 9	Non-residential Uses within Residential Areas
Policy 24	Unallocated Employment Sites
Policy 34	Highways Consideration in Development Control
Policy 39	Parking Standards, General Requirements
Policy 67	Public Meeting Rooms and Facilities
Policy 69	General Design and Layout

Revised Parking Policies and Standards January 2002

London Colney Inset Map

Relevant Planning History

5/09/1874 Change of use from Class B1 (office) to Class D1 (religious and community purposes). Refused 30/11/2009 for the following reasons:

1. In the opinion of the Local Planning Authority the number of probable users of the Mosque has been underestimated, and, accordingly, it considers that the

proposal will be contrary to adopted Local Plan Policy 9 (Non-residential uses within residential areas) by reason of its adverse impact on the residential amenities of the area caused by the increased general level of disturbance likely to be created. Furthermore, even if the facility is restricted to only 50 worshippers as a maximum, the Local Planning Authority considered such a number to fall outside the definition of a small scale facility and hence the proposal is contrary to sub para (iv) of Policy 9.

2. The level of usage considered likely by the Local Planning Authority will lead to adverse impacts on the adjoining London Colney Conservation Area, which the site abuts, by reason of additional disturbance thereby detracting from the character and amenity of the area and its setting contrary to para 4.14 of PPG 15 'Planning and the Historic Environment'.

Also of relevance, as previously reported are the following applications:

236 High Street

On 26 June 2001 limited period planning permission was granted for 1 year for the change of use to an Islamic Cultural Centre at a detached dwelling at 236 High Street London Colney (5/01/0535). This period has now expired.

104 Alexander Road

On 2 February 2004 the Planning (Development Control) Committee South resolved to authorise the issue of an Enforcement Notice against the unauthorised community use of 104 Alexander Road as a Mosque and seek its return to a residential use. The Enforcement Notice was served on 4 March 2004 and all outstanding issues have been resolved.

5/2004/0340 104 Alexander Road: Temporary change of use of ground floor from residential to Islamic Cultural and Religious Centre for three years. Refused for the following reasons:

1. Inadequate off street parking is provided within the curtilage of the site for the retained residential use and the community use to meet the standards set out in the Local Plan and Revised Parking Policies and Standards January 2002. The proposal would result in on street parking on Alexander Road creating conditions prejudicial to the interests of highway safety in conflict with Policies 39 and 40 of the St Albans District Local Plan Review 1994.
2. The proposal would create conditions prejudicial to the free flow of traffic and highway safety in Alexander Road. The proposal would conflict with the provisions of Policy 34 of the St Albans District Local Plan Review 1994.
3. The general activity associated with the use of the ground floor as a community centre would adversely affect the quality of environment enjoyed by adjacent residential occupiers to the detriment of the amenity. The proposal would fail to achieve an acceptable standard of residential environment and conflict with the provisions of Policies 67 and 69 of the St Albans District Local Plan Review.

A subsequent appeal was dismissed on 22 March 2005.

Main Issues:

- The two main issues in this appeal are the effect of the proposed development on (a) safety and the free flow of traffic on Alexander Road and (b) the living conditions of neighbouring occupiers, with particular reference to noise and disturbance.

Conclusions:

- The Inspector attached significant weight to the Revised Parking Policies and Standards as they are consistent with the Structure Plan and PPG13 (Transport).
- The application was assessed on its merits in the light of all material considerations that were brought to the Inspectors attention.
- On the issue of safety and the free flow of traffic, the Inspector noted that most of the front garden is surfaced. Though this appears sufficient for 4 cars, he did not consider it would be possible to achieve this in practice given the inadequate manoeuvring space available.
- The garden could only be expected to provide parking for 3 cars. Cars reversing into or out of the site would create conditions prejudicial to highway safety and the free flow of traffic.
- The site is within Zone 1 where applicants will be encouraged to meet standards for residential parking as set out in Policy 40.

149 High Street

An application for the change of use from Class A2 (Financial and Professional Services) to Class D1 (Mosque) was submitted (reference number 5/05/1528) and was refused on 13 September 2005 for the following reasons:

1. By reason of the intensive activity generated by the proposed use, the large numbers of people likely to attend the occasions and the limited space for useable off street car parking including for disabled parking, the proposal would be likely to lead to on street parking including in Seaton Road, a residential cul de sac, to the detriment of the amenity of the locality and be prejudicial to the interests of highway safety and the free flow of traffic. The proposal conflict with policies 34, 39, and 69 of the St Albans District Local Plan Review 1994.
2. By reason of the intensive activity likely to be generated by the development and the numbers of people attending the occasions, the proposal would be likely to be detrimental to the amenity of residents adjacent to the site and the adjacent residential area. The proposal would conflict with the provisions of Policy 69 of the St Albans District Local Plan Review 1994.

The subsequent Appeal Was ALLOWED on 27.4.2006. (Reference APP/B1930/A/05/1196700) and a temporary one year permission was granted.

Within the decision, the Inspector commented as follows:

Main Issues:

- Parking and highway safety.
- The living conditions of local residents with particular regard to parking, noise and disturbance.

Conclusions:

- On parking and highway safety matters, the Inspector noted the proposal would use the rear of the site for parking for five spaces with an area for turning. An extra space/a disabled space could be provided but this would reduce the level of on-street parking.
- The Council advised its standards require seven spaces. This can be reduced to 75% for non-residential uses which equates to six under Policy 39. Policy 39 says it is not normally necessary to make up any shortfall and the existing building does not provide any off-street parking.

- The appellant estimated 30-50 worshippers would attend. Local residents have provided evidence to indicate that the use of other buildings in the area as mosques have attracted significantly more people. The Inspector was not convinced that the proposal would necessarily attract a similar number of people and cars.
- The Inspector accepted that on-street parking is limited in the area and this is a particular problem in the evening when people return home from work. However there are bus stops near to the site. Some users may well walk to the mosque. The premises are close to a large public car park.
- The relatively small size of the prayer hall should limit the number of people who would use the building.
- The Inspector was satisfied the proposed number of off-street parking spaces was sufficient to cater for the proposed use.
- Whilst the access would probably result in about two fewer on-street parking spaces being available in Seaton Road, there are no restrictions on who can use them. The Inspector observed that the lack of available on-street parking near to the site is an existing problem and as the premises could legitimately be used for a commercial use without parking provision he was not convinced the proposal would harm the situation.
- The Inspector noted the concerns of the local residents about the use of Seaton Road as an access to the parking area. Although a narrow cul-de-sac where cars are permitted to park on both sides, the Inspector considered cars would be the majority of vehicles accessing the site. He was satisfied that cars would be able to enter and exit the site safely. It is not far down Seaton Road and there are no details of accidents as a result of vehicles accessing other off-street parking spaces.
- The Inspector considered the proposal would assist the flow of traffic along Seaton Road by reducing the number of cars that would be parked on-street.
- The Council has not indicated any closure of Hazeldine Road car park.
- The Inspector concluded the proposal would not have a detrimental effect on parking or highway safety in the area. It would accord with Local Plan Policies 34 and 39.
- On living conditions, the Inspector noted the appeal building is at the end of a terrace that fronts the High Street. The surrounding area is mixed and has a significant amount of late night and early morning activity.
- With regard to parking the Inspector accepted it is very limited on the roads near the site. This probably results in high levels of parking stress in the area. Nonetheless this would not be harmful to residents' living conditions.
- On the issue of noise and disturbance due to the relative location of the building and nature of the surrounding area, the Inspector was satisfied that activities within the building would not cause unacceptable disturbance to neighbours.
- The appellant would require the premises to be available for prayer at all times. Based on this it would not be reasonable to restrict the times of use, but the noise associated with comings and goings at unsocial hours is uncertain. A trial period of one year would allow the full impact and level of noise and disturbance to be determined.

- The proposal would accord with Policy 69.
- The Inspector noted the representations and petition against the proposal.
- The local centre provides sufficient services to ensure the loss of Class A2 use would not have a significant effect on the retail vitality and viability of London Colney.
- The proposal would not cause significant harm to the character and appearance of the area.
- The other appeal decisions referred to involve circumstances significantly different from those of the appeal proposal. No direct comparisons can be made. The application has been dealt with on its own individual merits.

Following the Inspector's decision an application was submitted under reference number 5/08/0084 for the removal of condition 2 the 1 year use restriction was granted permanent planning permission on 28 February 2008.

Unity Works, Lyon Way, St Albans

An application for the change of use from general Industrial (Class B2) to Church use (Class D1) was submitted under reference number 5/03/0040 and was Granted on 01 April 2003.

Reason for Call in for Determination by Committee

The application was called in by Cllr Gardner on 7 January 2010 for the following reason. This is a highly controversial proposal in a central location in the village. Apart from the temporary nature of the application, there has been no significant change since the previous refusal (5/09/1874)

The application was also called in by Cllr Gordon on 8 January 2010 for the following reason: So Committee can discuss the application in the context of Policy 9 of the District Plan Review (non residential uses in residential areas).

Representations

London Colney Parish Council

No representations had been received at time of writing this report.

Advertisement

The proposal was advertised as a MINOR DEVELOPMENT on 13 January 2010. A site notice was displayed.

Adjoining Occupiers

An extensive neighbour notification exercise has been carried out. All properties within a 100 metre radius and all those who had previously submitted comments on the previous planning application 5/09/1874 were notified in writing, these include:

No's 1 Meadow Close, 20 Floral Drive, 1, 6, 29, 19, 7, 9, 17, 3, 18 Richard Close, 5,2 Summers Way, St Peters Church The Vicarage Riverside London Colney, 38, 50, 34,10, 14, 16, 22, 12, 20, 18, 24, 26, 70, 48, 54, 37, 30, 18, 36, 30a, 32a, 42 Lowbell Lane, 8, 2, 6 Wyedale, 2 Robins Close, 93 St Annes Road, 35 Central Drive, 14 Beaumont Avenue, 101 Cambridge Road, Midhurst, Nightingale Cottage, Berkeley House, The Colney Fox 1, 2

Victor House, 3 Victor House, The Willows, The Bull PH, Briar Cottage, Ground Floor flat & Second Floor Flat Colne Cottages, 40, 25 Barnet Road, Bridge House, Bull Cottage, Colne House, Watermede Waterside, Suites 13-13a, 14-14a, 1-2, 3, 4, 5, 6-8, 9, 10, 11, 12, 15, 18, 16, 17 Berkeley House Barnet Road, 2, 7 Colnhrook Close, 27 Seaton Road, 6, 5 Halsey Park, 10,10a, 11, 12, 13, 14, 15, 6, 8, 7 Willowside, 15, 19 Watersplash Court Thamedale, 22, 95, 32, 14, 91, 83, 33, 18 Thamesdale, Ground Floor, First Floor I Victor House Barnet Road, 11, 3, 5, 7, 9, 11, 13, 7, 15 Colne Garden, 6 Burr Close, 3 Severdale, 55, 7 High Street, 15 Tovey Close, Unit 2 Riverside Industrial Estate London Colney By Pass, I3 Colney Gardens, 49, 33, 45, 47 Ribbledale, Waterside House London Colney, 42, 1 Eskdale, 9 Armstrong Close were notified in writing on 6 January 2010.

A number of letters of objection have been received, the main planning grounds of objection are:

- There is no substantial change from previous application 5/09/1874
- Projected number of users needs to be verified and substantiated
- Object to the change of use
- Previous points raised by residents and councillors have not been addressed
- Substantial financial commitment incomprehensible that the use is only intended for around 50 worshippers
- Worshippers will attend from outside the area, will not serve the interests of the local community
- Inadequate parking, traffic generation, congestion, increased parking on Colne Gardens and highways safety
- Increase in traffic on Barnet Road and Lowbell Lane, providing access difficulties for residents
- Noise and air pollution and general disturbance
- Loss of potential commercial employment
- Increase impact from any local flooding
- Hours of use and frequency have not been supplied
- Lowbell Lane is narrow and not suitable for the amount of cars
- Education and youth activities operating after school and at weekends will increase noise levels and an increase in attendance
- The Inspector stated that the size of 149 High Street acted as a restriction in numbers, if same logic is applied to this site, there could be hundreds of worshippers
- Impact upon the character of the area, London Colney has a strong historic background which needs to be retained
- The site is adjacent to a nature reserve
- The area is an accident black spot
- The mens hall is capable to holding 100-150 people
- No plans are mentions as to the storage and disposal of waste
- Will lead to parking in the parish car park
- The group have appealed to 300 families for donations to purchase the site, in addition to the running costs it can not be believed that 50-60 local worshippers could fund the up keep

Other than the reasons for objection detailed above, other comments have been raised however, as these were not considered to be a planning matter they are not reported in this report nor do they form part of the recommendation.

Consultations

Policy

No policy objection in principle.

Environmental Health

No objection

Hertfordshire Highways

No objection

Access Group

The Design and Access Statement does not say whether the facilities will be wheelchair accessible in spite of mentioning that a large number of users will be elderly. As the plans stand there do not seem to be any provision for accessible toilets or shower facilities. The door widths seem to comply but as plans are badly drawn it is difficult to be certain, this applies to access into the building as well. Car parking not detailed so if and where disabled bays are to be provided is unclear. Should comply with Part M1.18

Discussion

Officers previously recommended conditional permission for the use of Cemex House as Class D1 (religious and community purposes). At the Plans South Committee on 30 November 2009, the application was refused for the following reasons.

- 1. In the opinion of the Local Planning Authority the number of probable users of the Mosque has been underestimated, and, accordingly, it considers that the proposal will be contrary to adopted Local Plan Policy 9 (Non-residential uses within residential areas) by reason of its adverse impact on the residential amenities of the area caused by the increased general level of disturbance likely to be created. Furthermore, even if the facility is restricted to only 50 worshippers as a maximum, the Local Planning Authority considered such a number to fall outside the definition of a small scale facility and hence the proposal is contrary to sub para (iv) of Policy 9.*
- 2. The level of usage considered likely by the Local Planning Authority will lead to adverse impacts on the adjoining London Colney Conservation Area, which the site abuts, by reason of additional disturbance thereby detracting from the character and amenity of the area and its setting contrary to para 4.14 of PPG 15 'Planning and the historic environment'*

The main issues relevant to the consideration of this application relate to the principal of the proposed use, the impact upon the residential amenity and the adjoining Conservation Area, relevant planning history and the previous reasons for refusal.

Matters concerning car parking and highways safety were considered under the previous application to be acceptable and that no adverse impact would occur; car parking and highways matters are therefore not a consideration of this application.

As stated in the previous application, the site is located within London Colney which is identified as a specified settlement within Policy 2 of the St. Albans District Local Plan Review 1994.

There is no conflict in policy land use terms. The site is a non allocated employment site and is therefore not required to be retained as B1 office use. In addition no policy objections are raised to the principle of the change of use to D1 (religious and community use) in this location.

The first reason for refusal states that the probable users of the Mosque had been underestimated and local residents still object with regards to this uncertainty. The applicants maintain that the level of attendance varies between 40 and 50 men and at most a handful of women who will attend the principal prayer which takes place at 1pm on a Friday. The applicants also claim that there are far fewer people who attend prayers at other times of the day or days of the week. It is the officer's opinion that there is no clear reason to disbelieve the attendance levels stated by the applicant.

The previous application sought full permission for the change of use from Class B1 (offices) to D1 (religious and community purposes). The applicants are now seeking a temporary permission for a period of 3 years. Whilst the option of granting a temporary permission for the previous application was discussed at the Committee, it was considered inappropriate as the applicant would be required to enter into financial costs in order to comply with the suggested conditions.

However, as the applicants are themselves now applying for a temporary permission, with full knowledge of the previous condition requirements, it is considered acceptable and reasonable to consider a temporary permission for a period of 3 years.

In granting a temporary permission, this would enable the Local Planning Authority to further assess in the future whether the probable number of users has been underestimated, whether the change of use would adversely impact the residential amenity of the surrounding properties by reason of general disturbance and to assess whether the level of usage would be harmful to the Conservation Area.

As previously stated, the Inspector in determining a similar application at 149 High Street, London Colney granted a temporary permission in order to monitor the level of activity and noise generated by the proposal (appeal reference APP/B1930/A/05/1196700).

Following the 1 year trial period, the Council considered that the use had not had an adverse impact on the residential amenity enjoyed by local residents. Nor was it considered that there were any adverse impacts on highway safety or traffic congestion. An application for the removal of condition 2 (temporary time limit for 1 year) was later granted.

Given the uncertainties in the level of usage of this proposed change of use expressed by the Committee and the residents, it is considered appropriate and reasonable for a temporary permission to be granted in order to measure and assess impact of the proposals upon the surrounding residential amenity and the adjoining Conservation Area.

In addition to the conditions set out in this report; as suggested at the Plans South Committee, an additional condition is recommended to be attached to restrict any residential use of the property without first seeking prior approval from the Local Planning Authority.

Conclusion

Considering the proposal on its own individual material planning merits and in light of the previous refusal; a temporary permission for 3 years would enable the Local Planning Authority to assess the proposed use in terms of its level of usage and impact upon residential amenity and its impact upon the adjoining Conservation Area. The proposal complies with the development plan, in particular Policy 2 (Settlement Strategy); Policy 9 (Non residential uses within residential areas); Policy 24 (Non Allocated Employment Areas); Policy 34 (Highway Considerations in Development Control); Policy 39 (Car Parking); Policy 67 (Public Meeting Rooms and Facilities) of the St Albans District Local Plan Review 1994.

Recommendation - GRANT

Conditions:

1. This permission shall be for a limited period expiring 3 years from the date of this notice. On or before that date, the use hereby permitted shall be discontinued and the premises reinstated to their former condition on or before 9/01/2013 in accordance with a scheme of work submitted to and approved by the Local Planning Authority.
2. Before the use commences a scheme providing for the insulation of the building against the transmission of noise and vibration from the building shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be carried out before the use commences.
3. This permission does not extend to the installation of external lighting.
4. No system for the production of amplified music or speech shall be installed or used within the premises unless otherwise agreed in writing by the Local Planning Authority and any internal system shall not be audible externally.
5. No outside/external public gathering or worship shall take place within the site.
6. Prior to commencement, all windows on the ground and first floor of the rear south elevation of the main building shall be glazed in obscure glass and fixed below a height of 1.7 metres above finished internal floor area.
7. The existing fire escape doorway and stairs shall only be used for emergency purposes, and the door shall otherwise remain closed. The door shall also be permanently obscure glazed.
8. Prior to occupation, a 2 metre high close boarded fence shall be erected along the common boundary with No.10 lowbell lane up to a point level with the front elevation of that dwelling and along the common boundaries with Nos 1, 3, 5, 7 and 9, Colne Gardens. The fences shall be permanently retained.
9. The car parking area on the north side of Lowbell Lane shall be maintained as a permanent ancillary to the use of the site for ecclesiastical purposes. Once the use has commenced the car park site shall be used for the parking of vehicles whilst the premises is in use and shall be used for no other purpose.
10. There shall be no residential use of the building without first seeking the written approval from the Local Planning Authority.

Reasons:

1. In order to assess the impact of the use upon the surrounding residential amenity in accordance with Policy 9 and 67 of the St. Albans District Local Plan Review 1994.
2. To ensure that adequate precautions are implemented to avoid noise nuisance, in accordance with Policies 82 and 83 of the St. Albans District Local Plan Review 1994.
3. In the interests of amenity and highway safety. To comply with Policies 9, 34 and 80 of the St. Albans District Local Plan Review 1994.
4. To comply with Policy 67 (Public Meeting Rooms and Facilities) of the St Albans District Local Plan Review 1994
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6. To prevent overlooking and loss of privacy and to comply with Policy 69 (General Design and Layout) of the St Albans District Local Plan Review 1994
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8. In the interests of privacy and to comply with Policy 69 (General Design and Layout) of the St Albans District local Plan Review 1994

9. To comply with Policy 39 (Parking Standards General Requirements) of the St Albans District Local Plan Review 1994

10. In the interests of residential amenity, to comply with policy 69 of the St Albans District Local Plan 1994

Informatives:

This determination is based on the following information and drawings: J487/BP1, J487/E2, J487/E3, J487/FP3, J487/E4, J487/FP1, J487/FP2, J487/E1, SITE LOCATION PLAN, FLOOD RISK ASSESSMENT, PLANNING STATEMENT, TRANSPORT STATEMENT,

1. This determination was based on the following drawings and information: Planning Statement, Transport Statement, Flood Risk Assessment, J487/BP1 - Block Plan Parking Layout, Location Plan, J487/FP1 - Floor Plan Main Building (Ground Floor) J487/FP2 - Floor Plan Main Building (First Floor), J487/FP3 - Floor Plans Outbuilding and Shed, J487/E1 - Elevations Main Building (Front and Rear), J487/E4 - Elevations Shed, J487/E3 - Elevations Outbuilding, J487/E2 - Elevations Main Building (Sides) received on 18 December 2009.

2. Consideration is needed to be given to accessible toilets and shower facilities, and disabled car parking The development should comply with Part M of the Building Regulations.

Drawing Nos: J487/BP1, J487/E2, J487/E3, J487/FP3, J487/E4, J487/FP1, J487/FP2, J487/E1, SITE LOCATION PLAN, FLOOD RISK ASSESSMENT, PLANNING STATEMENT, TRANSPORT STATEMENT,

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