

XON D O E

P. 2

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Departments of the Environment and Transport

Eastern Regional Office

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TO THE SECRETARY OF STATE FOR THE ENVIRONMENT AND TRANSPORT		Your reference	
DACORUM DISTRICT COUNCIL		LT/1233/87	
Collett Design		Our reference	(A) APP/A1910/E/88/802934
17 Collett Road			(B) APP/A1910/A/88/84579
Hemel Hempstead		Date	September 1988
Herls			
HP1 1HY	Received - 7 SEP 1988		
Comments			

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36 AND SCHEDULE 11
APPEALS BY MR P A EPPS
APPLICATION NOS. 4/1251/87LB AND 4/1251/87

1. I am directed by the Secretary of State for the Environment to refer to your client's appeals:

(A) Under paragraph 8 of Schedule 11 of the Town and Country Planning Act 1971, against the decision of Dacorum Borough Council to refuse listed building consent; and

(B) Under Section 36 of the same Act, against the decision of the same Council to refuse planning permission

for the erection of 3 garages in one block, demolition of the existing garages, the blocking up of the existing vehicular access with a matching wall, and the opening up of a new access at the opposite end of the site with slight realignment of the wall, all on land at "Piper's Forge", Nettleden Road, Nettleden, Hertfordshire.

2. An officer of the Department has visited the site and has considered the written representations made in support of the appeal together with those of the Council. A copy of his report is appended to this letter. He recommended that, in view of the considerations expressed in paragraphs 9 to 17 of his report, the appeals should be dismissed.

3. In respect of the appeal for listed building consent, the Secretary of State agrees with his officer that the demolition of the existing garage building, which is of no particular merit in itself, would not affect the setting of Piper's Forge. He agrees also that the proposed blocking up of the existing access is acceptable in principle, subject to the use of matching materials as your client proposes. Concerning the proposed new access, however, the Secretary of State shares his officer's view that the extensive alterations proposed to the boundary wall would have the effect of disrupting the line of this largely continuous feature, with consequential harm to the appearance of the Conservation Area. In this respect, he notes also that the excavation of the proposed vehicular drive would threaten the long-term existence of the two mature trees nearby.

FROM D O E

P. 2

On the question of whether the proposed new access is necessary in the interests of road safety, the Secretary of State has had regard to the County Surveyor's view, in his letter dated 6 October 1987, that it is the hedge behind the wall rather than the wall itself which obstructs visibility from the existing access. The Secretary of State therefore concludes that the proposed alterations to the wall to create a new access with extensive visibility splays would have an unacceptably detrimental effect on the character and appearance of the Conservation Area, and that there is no overriding justification on road safety grounds for the proposed new access.

4. Turning to the planning appeal, the Secretary of State notes that, according to the report to the Development Control Committee, the Council had no objection in principle to the siting and design of the proposed garage block, and he accepts his officer's assessment that the proposed building would cause no visual conflict with the listed building or its setting. As indicated above, the Secretary of State accepts that there are no planning objections to the proposed blocking up of the existing access in the boundary wall. However, with regard to the proposed formation of a new vehicular access in the boundary wall, he takes the view that the same considerations which apply to the granting of listed building consent also apply to the planning appeal, and he therefore concludes that planning permission should be refused on the ground that the proposed works would harm the attractive appearance of this part of the Conservation Area.

5. Finally, the Secretary of State agrees with the Department's officer that although some elements of the appeal proposals are acceptable in principle for either listed building consent or planning permission, as indicated above, the proposals are inextricably bound and the applications must be considered as a whole. The proposed new vehicular access is clearly unacceptable in both listed building and planning terms, and it seems most unlikely that the other elements of the scheme would be implemented in the absence of a new access.

6. For the reasons given above, the Secretary of State accepts his officer's conclusions and recommendation and hereby dismisses appeal (A) and appeal (B).

I am Gentlemen
Your obedient Servant

R A SANDERSON
authorised by the Secretary of State
to sign in that behalf

FROM D O E
U/800/BLP/P

P. 3

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

File Refs: APP/A1910/A/88/84579
APP/A1910/E/88/802934

To the Right Honourable Nicholas Ridley MP
Secretary of State for the Environment

Sir

I have been asked to advise on these 2 appeals by Mr P A Epps, made firstly under Section 36 of the Town and Country Planning Act 1971, against the refusal of the Dacorum Borough Council to permit the erection of 3 garages in one block, demolition of existing garages, the closing of a vehicular access and formation of a new access to improve visibility on land at "Piper's Forge" Nettleden Road, Nettleden, Hertfordshire, (APP/A1910/A/88/84579); and secondly under paragraph 8 of Schedule 11 to the Act against the refusal of the same Council to grant listed building consent for the blocking up of the existing vehicular access with a matching wall, the opening up of a new access at the opposite end of the site with slight realignment of the wall, the erection of a new garage block and the demolition of the existing garages on this same site, (APP/A1910/E/88/802934). I made an accompanied site visit on your behalf on Monday 6 June 1988. A list of persons present at the site visit follows.

1. The principal building occupying the appeal site, namely the dwelling "Piper's Forge", was added to the Statutory List of Buildings of Special Architectural or Historic Interest on 30 November 1966 as a Grade II item. The list description is as follows:

House. 17th century, later 17th century south wing, west crosswing rebuilt in the 18th century or later. Timber frame on brick sill (stuccoed on south wing), with red brick infill (some herringbone brickwork on south wing), brick casing to ground floor of main range and crosswing, and steep old red tile roofs. A 2-storeys and attics, T-shaped house facing south and set back a little from road. Main range lies east to west with large central chimney stack topped by complex polygonal conjoined shafts. Two-storeys south range projects from left hand half of front. Four lights leaded casement window to each floor of right hand half. Entrance now into south end of south wing by door on east side with gabled timber porch. Two lights casement window to right hand of porch and 3-light similar window over. Lower 2-storeys west crosswing has similar windows, large capped-off side chimney projecting to west and small side gable by chimney. Unjowled corner posts to cross-wing, but jowled posts elsewhere and framework of clasped purlin roof supported on collar truss exposed in east gable of main range. Wide spaced full-storey height studs.

The list entry denotes that the building possesses Group Value and the appeal questionnaire shows that the site stands in a conservation area.

2. This report contains observations on the applications made to the Council, a description of the appeals' site and its surroundings, my appraisal (on the basis of my observations and the written representations of the parties) on the likely impact of the proposed development and works, and my recommendation as to the decisions which might be made in these cases.

FROM D O E

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THE APPLICATIONS

3. Notwithstanding the above descriptions of the development and works, taken from the application forms submitted to the Council, it seems to me that planning permission is not required for the demolition works described or the closure of a vehicular access. Whilst the foregoing works may require the grant of listed building consent, the application made in that behalf incorrectly seeks consent for the erection of the new garage block. My consideration of the appeals therefore extends to the development and works I consider appropriately covered by the applications.

THE SITE OF THE APPEALS AND ITS SURROUNDINGS

4. Nettleden is a small settlement occupying land on the southern fringe of the Chiltern Hills some 4 km north-east of Berkhamsted. Nettleden Road runs from east to west through the village with "Piper's Forge" presenting a frontage of about 60 m to the north side of this highway and forming the westernmost property on this side of the road. It occupies a plot, with a depth of approximately 70 m, which rises relatively steeply to the north from a level lawn and garden area at the site frontage. The house is set perhaps 6 m from the road towards the south-west corner of the plot, with a gated vehicular access positioned in this corner serving a building containing 2 garages, which is detached from the west side of the dwelling. This garage building is the structure proposed for demolition.

5. The house stands largely as described in the Statutory List entry, but a new 2-storey wing has recently been added to its north end. The garage building proposed for demolition (with the alternative of retention for the purpose of garden storage mentioned in the grounds of appeal) comprises an L-shaped building I assess to be of late 18th or early early 19th century origin. It is centrally divided by a partition wall to provide 2 cells, with access from one cell to the other afforded by an opening in the wall. The building is of brick construction and covers a ground area of about 40 sq m. Each cell is covered with a gabled pitched roof finished with clay plain tiles. A valley gutter runs on the line of the partition wall. The westernmost cell is longer than the other extending to a total length of some 8 m. Each cell has a door in its east facing external wall. Vehicular access to each cell is secured by a metal "up and over" garage door. In the back wall of the longer cell a small window opening is framed in timber with a cast iron opening casement hung on pintle and socket hinges. The glazing is divided into rectangular panes by lead cames, but the glass and leadwork are in poor condition.

6. The front boundary feature of the site comprises a flint wall surmounted by a brick coping, rising to a total height slightly in excess of 1.0 m. In addition to the vehicular access at its western end this wall is also breached by a pedestrian gate immediately opposite the east end of the house. While the road surface, terminating at the edge of the 0.5 m verge which flanks the foot of the wall, runs level, the garden within the wall rises from road level at the west end to the lower edge of the wall coping at the east end. Growing within the site, immediately adjacent to the wall is a cypress hedge with its top trimmed at a level some 2.5 m above the road. A group of mature conifer trees stand behind this hedge in the south-east corner of the site.

7. Flanking the site to the east is the curtilage of a small 2-storey building in residential use and adjoining the west site boundary is a wide tract of farmland containing a small enclosure on the road frontage which is separated from the site by a public footpath. This hedged enclosure contains an allotment garden. A narrow lane meets the south side of Nettleden Road opposite the site. On the

south-east corner of this junction a terrace of long established 2 storey houses, set behind shallow front gardens returns from the Nettleden Road frontage into the lane. A farm complex, based on a farmhouse occupies the south-west corner of the junction.

8. Nettleden Road appears to fulfil the role of a local distributor. At the site frontage it runs relatively level and straight carrying 2-way traffic on a carriageway about 6 m wide. There are no footways, with the carriageway extending to within about 0.5 m of the boundary walls of properties lining the road with separation provided by a narrow verge. The 2 traffic lanes are divided by a hazard centre-line marking. Waiting or parking restrictions are not in force on this length of road, which is not subjected to a signed speed restriction. There is no street or amenity lighting in the vicinity of the site.

APPRAISAL

The Application for Planning Permission

9. The reason for refusal issued by the Council in respect of this application relates specifically to the effect of the demolition of part of the boundary wall on the appeal site frontage. They raise no objection concerning the proposed garage building or the formation of the proposed access to what the representations show to be a Class C highway. On this latter point it is pertinent to observe that the County Surveyor requires visibility splays at the proposed access of 2 m by 10 m and kerb radii of 3 m. Insofar as it is my opinion that planning permission is not required for works of demolition I comment on the other aspects of the application as follows.

10. It seems to me that the blocking up of the existing access in the wall at the site frontage would not be harmful provided matching materials were used, which the application plan notes to be the case. In any event this development would result in a structure only about 75 mm higher than that permitted under the provisions of Class II of Schedule 1 of the Town and Country Planning General Development Order 1977-1985. I assess this dimension to be negligible when it would be possible to secure rebuilding almost to the height proposed under current legislation.

11. The proposed garage block is traditional in form and design with appropriate materials specified for external finishes. It would stand relatively remote from the listed building where, in my opinion, it would cause no visual conflict. This appears to correspond with the Council's view, and I do not feel that objection could be raised to this element of the proposal.

12. Similarly there is no objection to the principle of the provision of the proposed new access to the highway, and I share this approach. I accept that improved visibility would result, but I concur with the Council's suggestion that significant advantage could be gained from seeking to improve visibility at the existing access. While I find the foregoing aspects acceptable insofar as the application for planning permission is concerned, it is appropriate to consider the effect of the works required before these various developments could be brought into use, which works clearly require the grant of listed building consent.

The Application for Listed Building Consent

13. I assess that this application comprises 3 separate elements, namely: the blocking up of the existing access; the demolition of the existing garage building and the partial demolition of the wall at the site frontage to provide the proposed

new means of access. For the reasons previously given I do not find that objection could be sustained to the proposal to block up the existing access, subject to the use of matching materials. Concerning the garage building, this does not appear to be a structure contemporary with the house, being of considerably later origin. It is basic in construction and not a building of particular merit. Neither its retention nor its removal would significantly affect the setting of Piper's Forge, subject to removal of materials and reinstatement of the site of the building if demolition were effected. On the basis of this assessment it is my opinion that listed building consent for the demolition of the existing garage building could not reasonably be withheld.

14. On the matter of the proposed breach in the front boundary wall, this wall is one of a number of similar height standing close to the edge of the carriageway of Nettleden Road to enclose properties lining both sides of this highway in the vicinity of Nettleden church, which lies on the south side of the road almost opposite the east end of the site. Whilst some of these walls are built of brick many, including that at the site, are of flint construction. They feature as significant elements in the street scene, being prominent in views from both ends of this small settlement. As boundary walls to buildings it is to be expected that they would be interrupted for the purpose of providing accesses, but gates are few and generally narrow in width.

15. In contrast to the existing situation, the alterations proposed to the wall at the site frontage, as shown on the application plan, are extensive. Not only is an opening to be formed, albeit as a replacement for the sealing of an opening elsewhere, but wing walls with radiused ends, deviating from the line of the existing wall would be constructed. The extent of the works would be greater than shown if the very reasonable visibility requirements of the County Surveyor were to be met. In my view works of the nature and scale sought in the application would inappropriately disrupt the line of the largely continuous boundary feature lining the north side of Nettleden Road with consequential harm to the attractive appearance of this part of the conservation area in which the site stands.

16. Despite the fact that the matter of excavation has not been raised by the parties, it is pertinent to observe that the proposed access would run closely between 2 mature trees, with the requirement to excavate to a depth in excess of 1.0 m to provide a base for the proposed vehicular drive. Excavation of this nature, immediately adjacent to the boles of these trees, would be likely to threaten their long term existence. It seems to me that their loss would further detract from the character of this part of the conservation area.

17. For the reasons given above, essentially relating to the works proposed in respect of alterations to the wall fronting "Piper's Forge", it is my opinion that listed building consent should be refused. This opinion necessarily influences my recommendation in respect of the application for planning permission. While the applications include a number of separate proposals, they are inextricably bound, thereby giving no opportunity to consider a split decision.

RECOMMENDATION

18. I recommend that both the appeal made under Section 36 of the Act, and that made under paragraph 8 of Schedule 11 to the Act be dismissed.

I have the honour to be
Sir
Your obedient Servant

RCV BY XEROX TELECOPIER 7010 : 7- 9-88 11:25AM :
FROM D O E

01 605 9249+

0442228995;# 7

P. 7

PERSONS PRESENT AT THE SITE VISIT

Representing the Appellant

-

Mr L Toes.

Representing the Council

-

Miss S A Richardson.



Departments of the Environment and Transport

Eastern Regional Office

Charles House 375 Kensington High Street London W14 8QH

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26594

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HP1 1HY

**CHIEF EXECUTIVE
OFFICER**

21 SEP 1988

File Ref.

Refer to

Cleared

Your reference

LT/1233/87

Our reference PLANNING DEPARTMENT
APP/A1910/E/88/802934
DACORUM DISTRICT COUNCIL
(B) APP/A1910/A/88/84579

Date

- 5 SEP 1988

September 1988

Ask.

Admin.

File

Received

21 SEP 1988

Comments

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2. An officer of the Department has visited the site and has considered the written representations made in support of the appeal together with those of the Council. A copy of his report is appended to this letter. He recommended that, in view of the considerations expressed in paragraphs 9 to 17 of his report, the appeals should be dismissed.

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5. Finally, the Secretary of State agrees with the Department's officer that although some elements of the appeal proposals are acceptable in principle for either listed building consent or planning permission, as indicated above, the proposals are inextricably bound and the applications must be considered as a whole. The proposed new vehicular access is clearly unacceptable in both listed building and planning terms, and it seems most unlikely that the other elements of the scheme would be implemented in the absence of a new access.

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I am Gentlemen
Your obedient Servant

R A SANDERSON
authorised by the Secretary of State
to sign in that behalf

Tollgate House
Houlton Street
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The list entry denotes that the building possesses Group Value and the appeal questionnaire shows that the site stands in a conservation area.

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THE APPLICATIONS

3. Notwithstanding the above descriptions of the development and works, taken from the application forms submitted to the Council, it seems to me that planning permission is not required for the demolition works described or the closure of a vehicular access. Whilst the foregoing works may require the grant of listed building consent, the application made in that behalf incorrectly seeks consent for the erection of the new garage block. My consideration of the appeals therefore extends to the development and works I consider appropriately covered by the applications.

THE SITE OF THE APPEALS AND ITS SURROUNDINGS

4. Nettleden is a small settlement occupying land on the southern fringe of the Chiltern Hills some 4 km north-east of Berkhamsted. Nettleden Road runs from east to west through the village with "Piper's Forge" presenting a frontage of about 60 m to the north side of this highway and forming the westernmost property on this side of the road. It occupies a plot, with a depth of approximately 70 m, which rises relatively steeply to the north from a level lawn and garden area at the site frontage. The house is set perhaps 6 m from the road towards the south-west corner of the plot, with a gated vehicular access positioned in this corner serving a building containing 2 garages, which is detached from the west side of the dwelling. This garage building is the structure proposed for demolition.

5. The house stands largely as described in the Statutory List entry, but a new 2-storey wing has recently been added to its north end. The garage building proposed for demolition (with the alternative of retention for the purpose of garden storage mentioned in the grounds of appeal) comprises an L-shaped building I assess to be of late 19th or early early 20th century origin. It is centrally divided by a partition wall to provide 2 cells, with access from one cell to the other afforded by an opening in the wall. The building is of brick construction and covers a ground area of about 40 sq m. Each cell is covered with a gabled pitched roof finished with clay plain tiles. A valley gutter runs on the line of the partition wall. The westernmost cell is longer than the other extending to a total length of some 8 m. Each cell has a door in its east facing external wall. Vehicular access to each cell is secured by a metal "up and over" garage door. In the back wall of the longer cell a small window opening is framed in timber with a cast iron opening casement hung on pintle and socket hinges. The glazing is divided into rectangular panes by lead cames, but the glass and leadwork are in poor condition.

6. The front boundary feature of the site comprises a flint wall surmounted by a brick coping, rising to a total height slightly in excess of 1.0 m. In addition to the vehicular access at its western end this wall is also breached by a pedestrian gate immediately opposite the east end of the house. While the road surface, terminating at the edge of the 0.5 m verge which flanks the foot of the wall, runs level, the garden within the wall rises from road level at the west end to the lower edge of the wall coping at the east end. Growing within the site, immediately adjacent to the wall is a cupressus hedge with its top trimmed at a level some 2.5 m above the road. A group of mature conifer trees stand behind this hedge in the south-east corner of the site.

7. Flanking the site to the east is the curtilage of a small 2-storey building in residential use and adjoining the west site boundary is a wide tract of farmland containing a small enclosure on the road frontage which is separated from the site by a public footpath. This hedged enclosure contains an allotment garden. A narrow lane meets the south side of Nettleden Road opposite the site. On the

south-east corner of this junction a terrace of long established 2-storey houses, set behind shallow front gardens returns from the Nettleden Road frontage into the Lane. A farm complex, based on a farmhouse occupies the south-west corner of the junction.

8. Nettleden Road appears to fulfil the role of a local distributor. At the site frontage it runs relatively level and straight carrying 2-way traffic on a carriageway about 6 m wide. There are no footways, with the carriageway extending to within about 0.5 m of the boundary walls of properties lining the road with separation provided by a narrow verge. The 2 traffic lanes are divided by a hazard centre-line marking. Waiting or parking restrictions are not in force on this length of road, which is not subjected to a signed speed restriction. There is no street or amenity lighting in the vicinity of the site.

APPRAISAL

The Application for Planning Permission

9. The reason for refusal issued by the Council in respect of this application relates specifically to the effect of the demolition of part of the boundary wall on the appeal site frontage. They raise no objection concerning the proposed garage building or the formation of the proposed access to what the representations show to be a Class C highway. On this latter point it is pertinent to observe that the County Surveyor requires visibility splays at the proposed access of 2 m by 10 m and kerb radii of 3 m. Insofar as it is my opinion that planning permission is not required for works of Demolition I comment on the other aspects of the application as follows.

10. It seems to me that the blocking up of the existing access in the wall at the site frontage would not be harmful provided matching materials were used, which the application plan notes to be the case. In any event this development would result in a structure only about 75 mm higher than that permitted under the provisions of Class II of Schedule 1 of the Town and Country Planning General Development Order 1977-1985. I assess this dimension to be negligible when it would be possible to secure rebuilding almost to the height proposed under current legislation.

11. The proposed garage block is traditional in form and design with appropriate materials specified for external finishes. It would stand relatively remote from the listed building where, in my opinion, it would cause no visual conflict. This appears to correspond with the Council's view, and I do not feel that objection could be raised to this element of the proposal.

12. Similarly there is no objection to the principle of the provision of the proposed new access to the highway, and I share this approach. I accept that improved visibility would result, but I concur with the Council's suggestion that significant advantage could be gained from seeking to improve visibility at the existing access. While I find the foregoing aspects acceptable insofar as the application for planning permission is concerned, it is appropriate to consider the effect of the works required before these various developments could be brought into use, which works clearly require the grant of listed building consent.

The Application for Listed Building Consent

13. I assess that this application comprises 3 separate elements, namely: the blocking up of the existing access; the demolition of the existing garage building and the partial demolition of the wall at the site frontage to provide the proposed

new means of access. For the reasons previously given I do not find that objection could be sustained to the proposal to block up the existing access, subject to the use of matching materials. Concerning the garage building, this does not appear to be a structure contemporary with the house, being of considerably later origin. It is basic in construction and not a building of particular merit. Neither its retention, nor its removal would significantly affect the setting of Piper's Forge, subject to removal of materials and reinstatement of the site of the building if demolition were effected. On the basis of this assessment it is my opinion that listed building consent for the demolition of the existing garage building could not reasonably be withheld.

14. On the matter of the proposed breach in the front boundary wall, this wall is one of a number of similar height standing close to the edge of the carriageway of Nettleden Road to enclose properties lining both sides of this highway in the vicinity of Nettleden church, which lies on the south side of the road almost opposite the east end of the site. Whilst some of these walls are built of brick many, including that at the site, are of flint construction. They feature as significant elements in the street scene, being prominent in views from both ends of this small settlement. As boundary walls to buildings it is to be expected that they would be interrupted for the purpose of providing accesses, but gates are few and generally narrow in width.

15. In contrast to the existing situation, the alterations proposed to the wall at the site frontage, as shown on the application plan, are extensive. Not only is an opening to be formed, albeit as a replacement for the sealing of an opening elsewhere, but wing walls with radiused ends, deviating from the line of the existing wall would be constructed. The extent of the works would be greater than shown if the very reasonable visibility requirements of the County Surveyor were to be met. In my view works of the nature and scale sought in the application would inappropriately disrupt the line of the largely continuous boundary feature lining the north side of Nettleden Road with consequential harm to the attractive appearance of this part of the conservation area in which the site stands.

16. Despite the fact that the matter of excavation has not been raised by the parties, it is pertinent to observe that the proposed access would run closely between 2 mature trees, with the requirement to excavate to a depth in excess of 1.0 m to provide a base for the proposed vehicular drive. Excavation of this nature, immediately adjacent to the boles of these trees, would be likely to threaten their long-term existence. It seems to me that their loss would further detract from the character of this part of the conservation area.

17. For the reasons given above, essentially relating to the works proposed in respect of alterations to the wall fronting "Piper's Forge", it is my opinion that listed building consent should be refused. This opinion necessarily influences my recommendation in respect of the application for planning permission. While the applications include a number of separate proposals, they are inextricably bound, thereby giving no opportunity to consider a split decision.

RECOMMENDATION

18. I recommend that both the appeal made under Section 36 of the Act, and that made under paragraph 8 of Schedule 11 to the Act be dismissed.

I have the honour to be
Sir
Your obedient Servant

A J. BINGHAM TD DipArch ARIBA
PINS

11 July 1988

PERSONS PRESENT AT THE SITE VISIT

Representing the Appellant

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Mr L Toes.

Representing the Council

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Miss S A Richardson.