

Representation

To: Oxford City Council
From: Ian Salisbury
Date: ● October 2009
Subject: Planning application 09/●/FUL
26 Lathbury Road, Oxford

Ian Salisbury is a chartered architect with an Oxford practice experienced with working on historic buildings and in conservation areas. This representation is however made in his personal capacity.

Objection

1. This representation is a reasoned objection to the planning application of the Clarkson Alliance for the development of the land at 26 Lathbury Road.

Summary

2. The City Council is requested to refuse Planning Consent for this application on the basis that it fails to meet the requirements of Policies CP.1, CP.6, CP.7, CP.8, CP.9, CP.11, NE.16, NE.17, HE.6, HE.7, HE.8 and HS.19, and that there is no material consideration that would allow an exception to the application of any of these policies.

An appraisal of the conservation area

3. The North Oxford Victorian Suburb Conservation Area was one of the first in the country to receive the protection of this designation. The original area has been enlarged several times, most recently in the 1970s when Lathbury Road and the land that is the subject of this application was included.
4. The area is typically described as being a Victorian garden suburb, although much of the building work was done at its north end in Edwardian times. In fact, as the development progressed northwards along the Woodstock and the Banbury Roads, the style of architecture can be seen to change.
5. The special character and appearance of the conservation area is not, however, dependent merely upon the contribution made by its buildings. It is one that has repeatedly attracted such adjectives as *verdant*, *sylvan*, *wooded*, *leafy*, *bosky* and many others which emphasise that enjoyment and appreciation of the area are taken from the setting of the buildings within their gardens and with the contribution made by the trees to the look of the area.
6. But this leafy appearance is an illusion; and this is how it works. Along the main arterial roads, houses are built sufficiently far back from the road to allow for the growth of full-sized forest trees. Look sideways and you see the architecture, but look along the roads and the houses can be entirely hidden by the trees. Many such trees have survived along the Woodstock Road, but

conversion of most of the houses along the Banbury Road to business and academic use has ensured that the trees are now merely occasional, resulting in a stark contrast in appearance between the two roads. On the Woodstock Road the illusion persists, and it is nowhere better to be seen than on entering the city at the gateway of this conservation area – which happens to be the property now under threat of development, the house called Elmswood at 26 Lathbury Road.



The illusion of the Conservation Area – 26 Lathbury Road on the left.

7. Along the side streets, housing density is greater. Many of these houses are semi-detached. Houses in the side streets are also, for the most part, not set so far back from the road, so that only ornamental trees rather than forest trees have been planted. However, this more intense urban grain is – or at least was intended to be – hidden from the arterial roads by having large-sized corner plots. The gardens on these plots were set out to be sufficiently large to give space for trees to be planted in groups so as to hide the side streets from the main roads.
8. This is the vital ingredient of the planning of this garden suburb. The arterial roads are tree-lined, and the corner plots are wooded. A person travelling into the city would therefore be only aware of the trees and the spaciousness that this illusion imparts to the area.

Elmswood in its garden setting

9. Out of all the corner plots in the conservation area, the one at 26 Lathbury Road has best survived the pressure for development and for the removal of trees. It gives Woodstock Road, as can be seen above, an entirely wooded



26 Lathbury Road from the junction with Woodstock Road

appearance. But on turning into Lathbury Road, glimpses are given through the garden of No 26 of roofscapes and gardens, and beyond that to several trees standing outside the conservation area that are statutorily protected.

10. The house at 26 is well set back from the Woodstock Road, set precisely on the building line already made by the slightly older houses to the north: a straight line that does not curve westwards with the road, so ensuring that the

house stands sufficiently far back for the “forest” that is next to Woodstock Road, as it has affectionately been called, to have proper room to grow. A set back from Lathbury Road allows the tree planting to extend eastwards along the margin of the land, and so the illusion is completed.

11. Whereas the size of the plot and the effect that it has on the character and appearance of the conservation area were largely determined when these plots of land were created at the start of the twentieth century, the architect of the building, Percy Morley Horder, was clearly aware of this special relationship and took pains to protect it. Firstly, he built a garden wall of sufficient height, just, to stop the garden from being overlooked. Then he took the roof in a great sweep almost down to the level of the garden wall, setting the bedrooms upstairs in the roof. To light the bedrooms and to make them more spacious, he built generous dormer windows, painted white, to give the impression that the building is set back from the road further than it is. But it is much closer than can be imagined, and it is only when the front garden is glimpsed through the arched gate on Lathbury Road that a view of the very intimate relationship of the house with the road is perceived.



The intimate view of the house from the wicket gate on Lathbury Road

12. The careful planning that Morley Horder applied to the house can be appreciated from this view of the house. The gable wall is set back so as not to be overbearing, with its windows being placed in precisely the same plane as those of the dormers. But the gable bay provides a pivot – a centre of gravity to the house – which gives weight and emphasis to the route to the front door. Unusually, but very successfully, the principal door is set back from the front of the house so that visitors experience a strong transition as they pass from the public space to the intimacy of greeting. It is not surprising that English Heritage has called this “a splendid family house”, or that the City

Council has entered it on its list of Buildings of Local Interest.

Planning history

13. The house was built in 1913 for the Rt Rev'd Ulric Vernon Herford, Bishop of Mercia in the Syro-Chaldean Church, and referred to in that Church by his episcopal title Mar Jacobus. More fully he also styled himself Administrator of the Metropolitan See of India, Ceylon, Milapur etc, and Patriarchate of Babylon and the East. But despite the grand titles, Bishop Herford's following was by all accounts modest, although devoted. His congregation was in its entirety able to worship in the small chapel that is attached to the house, members approaching it from the Woodstock Road through another small gate that was bricked up (but is still evident) after his death in the 1930s. Even so, Bishop Herford was clearly held in the affection of many for his memory lives on in the stories of him cycling around the city in his full episcopal vestments. Described by his biographer George Tull as having vision and genius that was far greater than his insight into human character and his worldly wisdom, he was clearly one of the more colourful eccentrics that we are so adept at accepting in our tolerant and academic city. His memory is important and that, in part, is kept alive by his influence on the design of his house with its private chapel and baptismal pool.



Elmswood in the late 20th-century, clockwise from top left: the chapel, inside the chapel, the living room, the front hall.

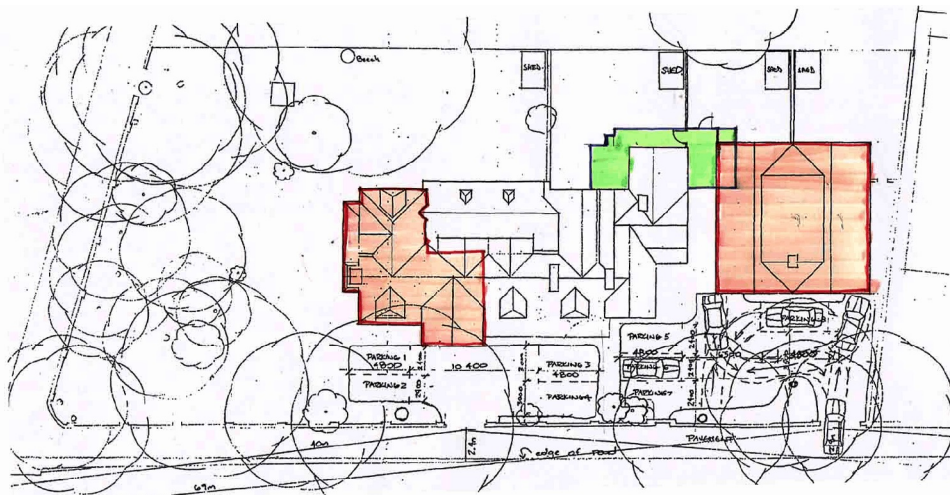
14. In the 1970s two extensions were added to the north-east corner of the house. The architects were the Oxford Architects Partnership and care was taken to produce a design that was in keeping with the original by extending the house in such a way that had the least impact, also using a hand-made brick that was close in appearance to the original. These extensions do not deserve the

pejorative descriptions given to them by the developer and its agents. They are well-mannered, modest and unobtrusive.

15. In 2006, this developer applied to demolish the house, replacing it with 5 tall town houses on 5 levels, with roof gardens overlooking the area. That scheme was turned down with the Council giving the following as a reason:

“...the proposed demolition of the dwelling ..., a building of local interest in its own right, would be harmful to the special character and appearance of the part of the North Oxford Victorian Suburb Conservation Area in which it is sited and of which it forms an important component.”

16. A second application was then made (in 2008) which incorporated the existing house but with the 1970s extensions removed. It was clear that these extensions were removed to make way for two new houses placed within the gap created between No 26 and its neighbour, No 24.



The 2008 proposal – new work in red, demolitions in green

17. This scheme was also rejected, with conservation as a reason for refusal being introduced by the members (the officers recommending the opposite) at their meeting on 4 December 2008. Included in those reasons was the following statement:

“The verdant setting of 26 Lathbury Road and the spaces between buildings are important characteristics of the site and its context, contributing to the character and appearance of the Conservation Area. The proposal involves the loss of a gap between the buildings and will have an adverse impact on the garden setting of the house, causing harm to the character and appearance of the Conservation Area, contrary to national guidance and policies CPI, CP8, CP9 and HE7 of the adopted Oxford Local Plan 2001-2016.”

18. The Members of Council, during their Committee Meeting, had unequivocally criticised the harm to the garden setting of both the extension and the new

building, despite their officers having said in their committee report that the proposed alterations and extensions would “pass the statutory test and preserve the essential character of the conservation area”. But unfortunately this was recorded somewhat ambiguously, for in the current application and the last which was similar, the developer has felt able to declare:

“The scheme remains unchanged from the earlier refused proposals as in the Officer’s report presented to the committee in December 2008 [sic], and it is evident that this application was refused on the basis of the additional proposed dwellings, rather than the works to No 26 Lathbury Road ... It is considered that since this aspect of the proposals remains unaltered from the previous scheme, Officers will once again be able to support the proposals”.

19. The correct account is that the officers did not support the proposals but recommended the 2008 application be refused. But their view was based upon intrusiveness and loss of privacy, not because the proposal was harmful to the conservation area. That reason was added at the insistence of the members against the advice they had been given. It is suggested that now the officers may well be persuaded not to omit harm to the conservation area from their recommendations, due not only to the views expressed by the members and the very many articulate and erudite objections (including among them those of experts, historians, architects and learned societies) but also owing to the view of the Planning Inspector who has recently refused to allow an appeal to develop land at 29 Charlbury Road. Here the inspector said:

“... because [the development] would occupy a significant portion of the present rear garden it would unacceptably intrude upon and erode the historical integrity and layout of this part of the Conservation Area ... In addition, the proposed dwelling would be clearly visible from first floor windows to the rear of a number of these adjacent dwellings; a situation which would be harmful to their aforementioned outlook and setting.”

20. It is understood that at first instance, this application to erode the garden space of a house in the North Oxford Victorian Garden Suburb Conservation Area had originally been supported by the officers, but it was refused by the members who did not accept the advice given to them.

Past planning failures in the conservation area.

21. There have been a number of instances in the conservation area where, since the area was designated, corner plots with their essential trees and screening have been lost. No words are necessary to demonstrate the way in which the three buildings in Staverton Road illustrated here are wholly out of keeping and scale with the special character and appearance of the conservation area.



Examples of the erosion of corner plots in the Conservation Area

22. There are many instances of similar losses, not all recent, but some – particularly at the cross-roads of Woodstock Road and St Margaret’s Road, that are even more devastating. As Professor Clyde Binfield OBE, FSA says in his letter to the Head of City Development dated 26 September 2009:

“What might be called the gardenscape of a conservation area is an indispensable part of what justifies that area’s designation. It relates buildings to each other and it defines and describes a community.”

And of Elmswood he says:

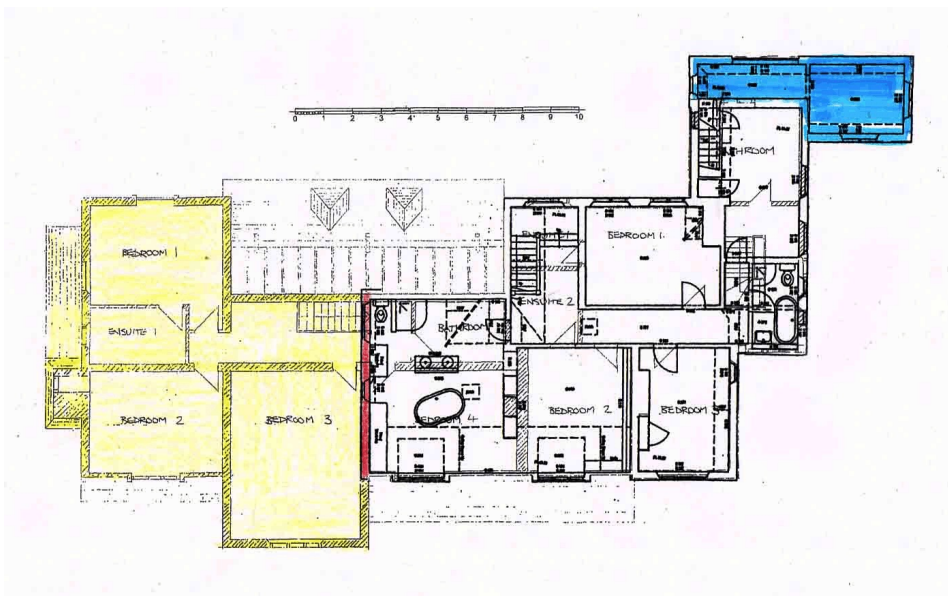
“Elmswood is as important to its conservation area as it is vulnerable to predatory development. The present application is as harmful as its predecessors. It deprives the existing house of its character and distinction; the implications of the proposed demolition, subdivision, and extension – notably the new access and parking area – would make the garden vulnerable to further development because the conservation value of the site would have been wholly undermined. And if that were to happen, what price the status of the North Oxford Victorian Suburb Conservation Area? This really is a landmark case.”

In an earlier letter concerning the 2008 application, he had said:

“The next generation of planners would find it incomprehensible”

The present application

23. Owing to the way (as earlier described) that the house nestles behind its garden wall, the most appropriate plan to use to gain an impression of the impact of the enlargement of the building on its setting is at first floor level:



First floor plan - extensions in yellow, demolitions in blue.

24. This drawing illustrates the dominating effect that the new gable will have on Lathbury Road, standing as it does very far forward of the dormer windows and the existing gable wall. The effect will be just the same as was just a few days ago criticised by the planning inspector for the proposed development that has already been referred to at 29 Charlbury Road, namely that:

“the proposed dwelling would be clearly visible from first floor windows ... of a number of ... adjacent dwellings; a situation which would be harmful to their aforementioned outlook and setting.”

25. But in this instance, the extension would not only be visible to a few back rooms of adjacent houses, it will be plainly visible from both Lathbury and Woodstock Roads, as well as from the windows of a number of local houses.
26. The increase in frontage, turning the house into a terrace-like building rather than keeping it as a villa in a garden setting, will be harmful to the character and appearance of the area. The “leafiness” that was planned for this corner plot and its contribution to the illusion will be lost. Rather than nestle in the gardenscape, as Professor Binfield might describe it, the double-fronted house will heavily dominate the corner.



The prososed extension

27. There are other harmful consequences. The 2x2m vision splays required by the County Council will result in an opening of 7.2m wide in the garden wall, which is itself a valuable contributor to the special character and appearance of the area. Such return walls were referred to as being of particular value to the appearance and character of the conservation area by the Planning Inspector who dismissed an appeal for the development of the return plot attached to 109 Banbury Road in 2003. But this wall is better built than the

wall in Banbury/Rawlinson Roads. Also, the opening will result in the loss of well used short-term public street parking.

28. The private parking spaces, given the existing garage and two hard standings, will be increased to 7. Although it may be made a condition that any new hardstanding be porous, because the car parking runs right up to the oak tree shown in the picture above, damage to its roots will be inevitable.
29. As shown on the plans (but not as declared) the development will result in an increase in accommodation of just one bedroom over the present, taking account of what must by any credible reckoning be considered the temporary conversion to a bathroom of the largest bedroom in the house. That appears to provide no justification for the development on social grounds.
30. The picture shown back a page describes precisely and accurately what is proposed – better in fact than any of the drawings – for the submitted elevations fail adequately to describe the increased impact that the house will have on the street.
31. The developer also fails properly to describe the inevitable impact that this proposal will have on the natural environment. In order to make a proper assessment for the purposes of these representations, it has been necessary to take the information provided by the developer and to impose upon it better information than that provided.
32. There is a rule of thumb that may be applied to healthy and growing trees: that the extent of the roots is greater than half the height of the tree. At the edge of a group of trees or woodland, that extent increases to the equivalent of the full height of the trees at the edge. The following photograph is a montage. Firstly, a photograph was taken in 2006 of the oak tree (the same as the



Photomontage showing 3 years tree growth

picture used earlier). Imposed on that photograph is a washed-out negative of a photograph taken last week-end from precisely the same viewpoint. A corona is visible around the margins of the trees. This shows the extent of the growth that has taken place in three years.



Photomontage of the developer's drawing on a 2008 satellite image.

33. Next, the extent of the canopies of the trees can be illustrated and compared with the developer's submitted drawings by superimposing the drawing onto a 2008 satellite photograph.
34. Several observations on this montage can be made. A tree adjacent to Lathbury Road west of the extension has been removed; the trees immediately and directly to the west of the extension have grown considerably; and the oak tree adjacent to Lathbury Road has been pruned drastically.
35. The west elevation drawing submitted by the developer can now therefore be placed precisely in the context of the trees, in this example the large beech tree, and the pruned (and now rapidly re-growing) oak tree.
36. At the top of the next page a drawing illustrates the inevitability of the damage that will be caused to the tree roots and, incidentally, the wholly inadequate parking area adjacent to the oak tree. It shows that even now the building would push into the canopy of the oak tree and be within the reach of the beech tree.
37. Of equal concern will be, as has been expressed by many others, the inevitable pressure to hack and prune these trees if this extension were to be built so as to admit sufficient light. And, of course, when eventually the trees die they will not be replaced because it will be said that they will damage the buildings. So the illusion of the garden suburb will be lost.



Breach of Policies of the Oxford Local Plan 2001-2016

38. **Policy CP.1** This new development would fail to enhance the quality of the environment. This is central to the Local Plan and is to be applied to all development irrespective of the proposed use. In particular, by this Policy the development would fail to “show a high standard of design, including landscape treatment, that respects the character and appearance of the area”. Additionally it would fail to “retain and protect important landscape and ecological features”, would fail to “retain important open spaces of ... amenity value” and fail to “safeguard ... the amenities of adjoining land users”. Factually it can be demonstrated that these policies are not met because the City Council has expressed its opinion on what makes north Oxford attractive. It said in its draft Appraisal of this conservation area:

The attractive quality of North Oxford is due in large part to the trees, shrubs, ground cover and climbing plants that soften the architecture and add contrasting colours and textures.

The proposal fails to meet the requirement of this policy.

39. **Policy CP.6** The City Council recognises the need to void “town cramming”, stating that the appropriate density for a site will depend on the context and nature of the proposal. In particular the development would fail to meet the requirement of this Policy “to make best use of site capacity in a manner compatible with both the site and the surrounding area” because in its draft Appraisal of this conservation area the City Council marks out as a special feature of the area:

Open space is mainly privately owned in the form of gardens and

college grounds, but the high degree of visual access enforces the impression of spaciousness...

The long rear gardens and the gaps between the properties are important elements to the character of this area. The gaps enable views through to the planting in the gardens and the rear of adjacent properties, and are important in strengthening the sense of openness that prevails throughout the suburb. It is a planned suburb; the plots were large with the extensive gardens often dwarfing the actual houses.

40. **Policy CP.7** The City Council here gives an assurance that it will reject designs that are inappropriate to their context or out of scale or incompatible with their surroundings. In particular, in the context of the Conservation Area, this proposal fails to demonstrate good urban design that is appropriate to the site and the surrounding area and thereby fails to comply with the requirement of this policy. In the respect the Council in its draft Appraisal of this conservation area has said:

Change of ownership and use together with different lifestyles and needs have resulted in plots being subdivided, with additional buildings being built as backland and infill development. Whilst the original layout of the estate can cope with this type of development due to the amount of garden space available, it is detrimental to the character and appearance of the conservation area. The spatial dynamics are being compromised, the gaps between buildings being swallowed by supplementary building works creating a more enclosed streetscape. Front gardens are being lost to car parking, boundary walls are being removed, detached houses are become almost terrace like in form.

41. **Policy CP.8** This Policy requires that design of development should respect the defining form and grain of the local area, which in this instance is a Conservation Area. This proposal would fail to achieve that. In particular, the Policy states that planning permission will only be granted where “the siting, massing and design of [the] proposed development creates an appropriate visual relationship with the form, grain, scale, materials and details of the surrounding area”. The proposal therefore fails to meet the requirement of this policy.
42. **Policy CP.9** The City Council states that good design includes retaining existing landscape features of value, which this proposal does not. In particular, the policy states that planning permission will only be granted where “existing features of value, whether natural, functional, historic or local character, and existing routes or views into and out of the site are properly respected and incorporated into the development proposal”. The proposal fails to meet the requirements of this policy.
43. **Policy CP.11** The Council states unequivocally that it will only grant planning permission where “the landscape design relates to the function and character

of the spaces and the surrounding buildings” and where “buildings and paved spaces are located far enough away from existing trees and hedges to avoid damage to roots from sub-surface work”. This proposal would fail these Policy requirements on both counts. In its draft Appraisal of this conservation area the Council have said:

Planting in North Oxford is almost all within the private areas of the original Victorian houses. The houses are large in scale with generous front gardens and that scale is reflected in the choice of planting eg large forest sized trees. The trees are the key element in the landscaping structure. The smaller trees and flowering shrubs are of secondary importance but provide an element of screening and contribute to the overall character of the area. Front garden planting enlivens the buildings and makes a valuable contribution to the street scene, the flowering trees in North Oxford creating one of the most beautiful and unforgettable gateways into the city.

44. **Policy NE.16** Although not immediately requiring the loss of significant trees, the reality is that the trees will immediately be damaged by excavation and that the proximity of the extension to the existing trees will mean an increase in the demand to have them lopped, topped and crown-raised. The Council undertakes to consider carefully the impact of the development on existing trees, not limited to those that are to be removed. In particular it states that planning permission will not be granted for proposals that would “destroy or involve major surgery to protected trees if it will have a significant adverse effect upon public amenity”. Given the importance of the trees on this corner plot, this policy is of cardinal importance. This proposed development cannot comply with this Policy. In particular recognising the value of the trees, the City Council has said in its draft Appraisal of this conservation area:

There are long views down Woodstock and Banbury Roads, where optical illusions take over with the roads narrowing to a point and the trees appear to meet, creating a dead-end to the roads. The mature trees shield the houses from sight. The skyline plays an important role in these vistas, as it is a major contributor to the overwhelming sense of space.

45. **Policy NE.17** This proposal would fail to safeguard the trees in their role of being of ecological importance. Oak trees in particular support a wide and diverse flora and fauna in their canopy which will be adversely affected by continuous topping, lopping and crown-raising. The proposal does not address this Policy which in consequence will not be complied with.
46. **Policy HE.6** Elmswood is listed by the City Council as a Building of Local Interest because it is of historic interest and contribution to the area’s character and local distinctiveness. In the refusal of planning application 06/0186/FUL, the City Council said that Elmswood is:

... a building of local interest in its own right.

Moreover, as evident by the number of letters sent to the City Council, all of which are (at the time of writing) from objectors, the building is clearly valued by the local community. This building is to be so radically altered that it is effectively being demolished: for it will entirely lose its distinctive identity.. The City Council in this circumstance gives an assurance that planning permission will only be granted to proposals “that would have an adverse impact on the building or its setting if ... the development will make a more positive contribution to the character and appearance of the area”. There is no question but that this proposal would harm the area, not benefit it and in consequence this proposed development cannot comply with this Policy.

47. **Policy HE.7** The City Council states that “Planning permission will only be granted for development that preserves or enhances the special character and appearance of the conservation areas or their setting” and that “Planning permission will not be granted for proposals involving the substantial demolition of a building or structure that contributes to the special interest of conservation areas”. This proposal would signally fail to meet these Policy requirements, causing immense and irreparable damage to the conservation area and the loss of a most special contribution to the area.. Members of Council will recall how at the meeting of the North Area Committee on 4 December 2008 they insisted on the reason for refusal being included that referred to the particular contribution of this house and the garden all around it, including the trees, to the special character and appearance of the area. The City Council has also published what in essence will be eroded if this plot were to be developed in the manner proposed, when it said in its Overview of the Area:

The houses, often semi-detached, or detached, have deep front gardens, planted with trees and shrubs, many of the former having reached their prime, but all contributing a character which anticipated the Garden City ideal. Victorian love of the exotic or innovative led to the introduction of new plant species and a new building type, the conservatory, examples of which survive.

While the architecture of the individual houses is not always of an exceptionally high standard, there is an overall harmony of great interest and since the houses have all been built by a handful of local architects and builders, they achieve coherence despite variety in design and materials. They are also bound together visually by their planting and boundary walls.

Parts of this description fit this house and the contribution that it makes to the conservation area particularly well, including the references to deep front gardens, mature trees, local architect and builder, coherence despite variety, planting and boundary walls.

48. **Policy HE.8** Given the damage that would be done by this proposal to the garden setting of the house, the importance of which has been expressly recognised by the City Council when determining earlier applications, it is

reassuring that the City Council have asserted that “Planning Permission will not be granted for any development that will adversely affect the visual, historical or horticultural character of an historic ... garden or its setting.” This proposed development cannot comply with this Policy for reasons which have already been referred to in extracts from the Conservation Area Appraisal and the Overview, but which have also been taken into account and decided upon by the two Planning Inspectors referred to in these representations.

49. **Policy HS.19** The Planning inspector for 29 Charlbury Road considered that the setting of a building in the conservation area was not only of amenity to the area, but also to local residents. There can be no doubt that the local community values the amenity of the landscape setting of this house, and that this would be harmed by this development. The City Council states that “Planning permission will only be granted for development that adequately provides for the ... amenity of the occupants of the proposed and existing neighbouring, residential properties”. With an undersized garden and the loss of landscape quality enjoyed by the local community, this proposal fails to meet the requirements of this policy.

The duty to apply the Local Plan policies

50. The local authority is bound by section 38(6) of the Planning and Compensation Act 2004 to determine this application in accordance with the Oxford Local Plan 2001-2016 unless “material considerations indicate otherwise”. There are a dozen policies cited above, each one of which if not satisfied by the proposal should *by itself* result in this application being refused. No material consideration, and particularly with this proposal signally failing to meet any identifiable social or community need, can counteract the strict application of these policies that is the requirement of a valid determination of this proposal.
51. The City Council is therefore requested to reject this proposal identifying in its refusal notice each and every breached policy while avoiding any ambiguity of the kind introduced into the reasons for the last refusal.

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