

LATHBURY ROAD RESIDENTS ASSOCIATION

25 Lathbury Road Oxford OX2 7AT
Chairman Lady Pasley

Letter addressed to City Councillors

12 January 2010

*Strategic Development Control Committee – 27 January 2010
re: planning application 09/02175/FUL – 26 Lathbury Road*

We are informed that Planning Application 09/02175/FUL, which was refused by the North Area Committee on 3 December 2009, has been called in for reconsideration by your Committee. We thought it would be helpful to you to:–

- A. to explain the background to the application,
- B. to refer to the objections already represented in correspondence, and
- C. to express our views on the reasons given by the planning officer for calling it in.

I shall be grateful if you would take this letter and the enclosures into account when you come to decide the application.

A. *Background to the application*

The application relates to the development of land at 26 Lathbury Road. The house, a significant example of the work of the architect Percy Morley-Order, is on the north side of the junction with Woodstock Road. It stands at the entrance of the North Oxford Victorian Garden Suburb Conservation Area. The land has been the subject of three other recent applications, two of which have been refused consent with one being withdrawn. Each of the applications has generated a large number of representations speaking firmly and convincingly against the proposals. On the present application, objections from experts and others have been closely reasoned, leaving no doubt that the conservation area would be harmed if this application were to be given consent, consent that could on any reasonable ascertainment only be given in contravention of the City's Planning Policies. That was also the conclusion of the North Area Committee when it decided the matter on 3 December 2009.

B. *Objections to the application*

An enclosure that you will find with this letter is a parallel text showing on the one side the report prepared by officers for that December meeting of the North Area Committee, and on the other our appraisal of that report – our observations being drawn exclusively from the City Council's own official reports and its own guidance for the control of development in this conservation area and in conservation areas generally. We recommend this parallel text together with the letters

of objection for your consideration and suggest that if, like the North Area Committee, you are minded to refuse this application then you may wish to consider giving the same reasons as those in the draft minute of the December 2009 meeting of that Committee, which are as follows:

(1) The house and its verdant garden setting make a positive contribution to the character and appearance of the North Oxford Victorian Suburb Conservation Area, which are derived from the building's architectural qualities, its mature landscaped garden and garden boundary walls. The proposal, which, along with subdivision of the plot, involved prominent 2-storey extensions to the front and side of the existing building and the creation of a new access and parking area, is unacceptable, as it will reduce the extent of the garden area, erode the landscaped setting of the house and will result in the loss of part of the garden boundary wall. The house as extended would have more prominence in views from Lathbury Road and Woodstock Road and with the new parking area and access would harm the landscape setting and the contribution the house and site make to the character and appearance of the North Oxford Victorian Suburb Conservation Area. As such the proposal is contrary to Policies CP1, CP8, CP9, HE7 of the adopted Oxford Local Plan 2001-2016;

(2) A characteristic of this part of the North Oxford Victorian Suburb Conservation area is one of large dwellings set in large landscaped plots. This has helped define the garden suburb qualities and contributes to the pleasing verdant ambience and appearance of this part of the Conservation Area. The proposed subdivision of the original plot is unacceptable, as it would result in a private garden of a comparatively small size for the 3-bed semi-detached house, which runs counter to the historic layout and character of the suburb. In addition the proposed works and subdivision of the plot would impose a threat to the health of the trees on site:

- i) directly, by incursion into the root protection zone of the oak tree (T909); and*
- ii) indirectly, through requests from future occupiers wishing to prune, crown lift and/or fell trees within the resulting garden areas.*

Both individually and incrementally such proposals, if permitted, would harm the character and appearance of the North Oxford Victorian Conservation Area, contrary to Policies CP1, CP8, CP9, HE7 and NE16 of the adopted Oxford Local Plan 2001-2016.

I hope that you will agree that it is manifestly clear from the above why it was that the North Area Committee refused the application.

Please also find two photographs of the house enclosed, the second superimposed with a representation of the outline of the development scheme, showing not only the astonishing advance of the building both towards Lathbury Road and Woodstock Road, but also the collision with the oak tree, the loss of a length of the fine garden wall, and the loss of the front garden between the house and the road.

The last significant application before the one now under consideration was made in 2008. The division and extension of the house was in that application exactly the same as is currently being proposed. But the 2008 application also contained a proposal to build two new houses, a proposal that has been omitted in this application. The 2008 application was recommended for refusal by officers largely on grounds of potential intrusion and loss of privacy to neighbours arising from the two new houses; the division and extension of the house was not objected to. But the members disagreed with the officers' appraisal and decided to include a third reason in

the refusal notice on grounds of harm to the conservation area. The many members of the public who heard the discussion at the December 2008 North Area Committee Meeting were left with the impression that for Members, this was a cardinal factor in their decision – which was to be expected because it was also the reason why the Members had decided not to allow the decision to be taken under delegated powers.

In the rush of the 2008 meeting officers may not have had time to compose suitable wording that adequately reflected the rationale of the Members' conclusion. Instead the conservation officer presented a pre-prepared reason which did not match the Members' discussion. Also, owing to the pressure of business, even though the officer read out the reason, the disparity was not picked up. Nevertheless the extended reasons for the refusal given during the debate were heard by all present including the applicant's representatives Kemp & Kemp. There can therefore be no doubt that the whole scheme, including the extension of the house, the loss of the garden, the threat to the trees and the excessive parking was thought to harm the conservation area and was a reason for refusal.

C. Our views on the reasons for the call-in

I now wish to draw your attention to the email sent to members of the Strategic Development Control Committee by Niko Grigoropoulos on 4 December 2009. It is this that precipitated the call-in. Mr Grigoropoulos appears concerned that if reasons are given for refusing the current application in terms that should perhaps have been recorded fully and accurately in writing at the 2008 meeting, but which were not, a risk will arise that the Council might expose itself if appealed to adverse orders for costs on two grounds: firstly owing to the introduction of 'new' reasons for a similar proposal which might attract a criticism of "unreasonable behaviour", and secondly for not dealing with similar applications in a "like manner".

Despite the officer's misgivings, it appears to us that those earlier reasons, if read objectively, are sufficiently widely framed to show that when the North Area Committee reached its decision on the current application, far from appearing capricious it was in fact being entirely consistent with its 2008 decision. For the 2008 reason for refusal, even as recorded, emphasized that the "verdant setting" of the house was an important feature of the conservation area, and that the proposal would damage the "garden setting" of the house and thus bring "harm" to the "character and appearance of the conservation area":

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 CP1, CP8, CP9 and HE7 of the Oxford Local Plan 2001-2016.

Mr Grigoropoulos' concern is that the lack of an express reference to the division and extension of the house opens the door to an application for costs against the Council if now a more elaborated reason is given. We do not accept this reservation, believing that reasons are effective even if expressed in general rather than particular terms. We think that the reason given, despite the procedural shortcomings of the meeting, was sufficient. It will also be recalled that the so-called 'new' aspects of the reasons as now drafted were specifically criticised in the debate on the 2008 application (principally by Councillors Goddard and Fooks). These observations were plainly heard by the members of the public who were present and by Kemp & Kemp, agents for the applicant, who were present at both the December 2008 and the December 2009 meetings.

The applicant has therefore no reason to take comfort from the fact that the house division and extension was not specifically mentioned in the written record of the earlier meeting.

Our Residents Association respectfully suggests that even if the risk identified by Mr Grigoropoulos is accepted, this not a matter that should impinge on the determination of this present application. Beyond any doubt, the application must be considered and determined on its merits alone. Favouring the applicant by overturning the recent decision of the North Area Committee as an expedient to lessen the chance of an adverse costs order cannot, in our view, be legitimate.

We believe the correct reasons for refusal have now been expressed by the North Area Committee in exemplary terms. Moreover, the suggestion that Members should be “mindful” of the risk of an adverse costs award should in no circumstance be a hidden agenda for the Strategic Development Control Committee’s meeting. We therefore urge you, in the strongest terms, to take no account of the officer’s suggestion for expediency; alternatively, if that is now impossible, then as a recommendation it should be rejected out of hand.

Request

For these reasons we urge the Strategic Development Control Committee to concur with the decision of the North Area Committee and to refuse this application. This letter has been read in draft by those listed on the following pages, who have either endorsed it in person or who have asked for their names to be added.

Virginia Pasley

Enclosures:

1. List of local residents and other supporters of this letter
2. Officers’ report for the North Area Committee, annotated with LRRRA observations in a parallel text;
3. Photograph of 26 Lathbury Road, with similar showing the proposal drawn superimposed

A copy of this letter is being sent to the other members of the SDCC and the Clerk to that Committee, to the Ward Councillors Campbell and Royce, and to the Head of City Development.