

Your Ref 22/0537/OUT
Our Ref DS/SJS/1878
Date 14th February 2023



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Christopher Cummings
Development Manager
Exeter City Council
Civic Centre
Paris Street
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EX1 1NN

Dear Christopher,

LAND AT ST BRIDGET NURSERY, OLD RYDON LANE 22/0537/OUT

We understand that our client's application was deferred from the Planning Committee meeting on 08/02/2023 due to members wishing our client to consider alternative access proposals that would require our client to seek the use of third party land.

This is a matter that our client carefully considered prior to submission of the application.

The proposed access has been carefully designed (including having been through a Road Safety Audit [RSA]) process. It is our opinion that due to the physical changes proposed to the existing junction of Old Rydon Lane/Rydon Lane the junction will be safer after those works have been carried out than it currently is.

Our client's fail to see why, when a safe junction is proposed (after an RSA process), that benefit should not be delivered.

Instead our client is asked to consider an alternative access arrangement that is not available to them (i.e. it is not within their ownership).

The application site falls within the Newcourt allocation in the Core Strategy, therefore its' redevelopment has long been 'flagged'.

Other parts of the Newcourt allocation have already been developed.

As the attached title information (appendix A) shows the adjacent land was developed by Ikea and Barratt Homes (via separate permissions), or is retained by the owners (Pratt and Wood).

At the time that those permissions were granted (by the Council) it was not seen fit, by the Council, to require roads to be taken to the boundary of the applicant's ownership. This was despite the matter being raised by the landowner of St Bridget Nursery (see attached correspondence – appendix B).

Further, you will see from the attached land registry information (appendix A) that, when the adjacent site was sold to BDW the owner (Pratt and Wood) retained a one metre strip along the boundary with St Bridget Nursery. This is the tactic often used by those who seek to ransom neighbouring land (in accordance with Stokes V Cambridge 'rules').

Our client has made it quite clear that they are agreeable to take roads and footpaths to the boundary of their ownership, including land in the ownership of Pratt and Wood, (thereby making it clear that they do not seek to ransom adjacent land) to deliver potential future connectivity through the development. Had the Council done the same when determining previous applications there would be no matter to consider now.

Therefore, we conclude that our client is doing all that they can to bring forward this long overdue housing site (the Council cannot demonstrate a 5 year supply of deliverable housing land) in a manner that will not prejudice, in any way, the development of adjacent land (either now or in the future).

There can be no reasonable objection to preventing a much needed housing site from coming forward with an access that will improve the physical layout of the existing junction arrangement.

To refuse the application on access grounds would not be reasonable.

It is contrary to Government policy to seek to impose conditions that require works to be carried out on third party land unless there is at least a reasonable prospect of those works (on third party land) being carried out within the timescale of the permission.

When faced with a third party who appears to be seeking to impose a ransom burden on the development proposed (i.e. one third of the development value of the land) then we trust you will understand that there is no reasonable prospect of those works being carried out within a three year period and, if it were (and we consider that there is no such prospect), then the very significant

cost imposed (one third of the development value of the land) would be likely to prejudice the ability of the development to deliver the extent of S106 benefits that are sought (such as affordable housing provision).

Thus, it makes no rational sense to prejudice a perfectly acceptable development proposal (with an agreed safe access strategy) in an attempt to place an adjacent landowner into a position where they can ransom the delivery of this site – that would serve only to stop the delivery of this allocated site, or to significantly reduce the level of S106 benefits that could be delivered from it.

The primary reason for the Council not being able to demonstrate a 5 year supply of deliverable housing land is the non/late delivery of allocated sites. Here is a good example of Core Strategy implementation being challenged by a third party for personal benefit to the prejudice of public benefit (i.e. the much needed delivery of an allocated site to meet identified housing needs).

It is a pity that the previous actions of the Council have served to create the potential for the adjacent landowner to seek to ransom the proposed development. We encourage the Council to weigh the points contained in this letter very carefully before finally determining this application. It appears to use that there are significant public benefits that will flow from a decision to implement the Core Strategy, whereas a decision to depart from it (by refusing the current application) will only be likely to serve private gain.

Kind regards,



David Seaton, BA (Hons) MRTPI
For PCL Planning Ltd
e: d.seaton@pclplanning.co.uk

Appendix A

APPENDIX A

Subject: FW: Old Rydon Lane/St Bridget Nurseries third party land [ASHFORDS-LLP.FID8204707]
Attachments: Title Plan land to the East - DN624349.pdf; MapSearch-20230213-173932.pdf

From: Richardson, David <d.richardson@ashfords.co.uk>
Sent: Monday, February 13, 2023 6:02 PM
To: David Seaton <d.seaton@pclplanning.co.uk>
Cc: Gerry Keay (gerry@greendalecourt.com) <Gerry@greendalecourt.com>
Subject: Old Rydon Lane/St Bridget Nurseries third party land [ASHFORDS-LLP.FID8204707]

Dear David,

I attach for your information:

- a) The registered title plan for DN624349. This is the BDW title for the residential development to the east of the St Bridget Nurseries application on the other side of a tarmacked track.
- b) A mapsearch snapshot from the land registry portal showing the extent of various titles in this location.

In relation to the title plan at (a) above, you will note in blue the letters A, B and C along the western boundary of the BDW development. These letters denote a 1m wide strip of land that was retained by seller when land was transferred to BDW. It sits between our site and the BDW site, on the BDW side of the track referred to above. This strip is just visible as a gap between the red lines in this location on the mapsearch plan attached at (b). It forms part of wider title DN396634, which is land which is owned by Mr Eric Nicholas Pratt and Mr David Leslie Wood.

The mapsearch snapshot at (b) above shows:

- the eastern part of the St Bridget Nurseries site (DN626137);
- the BDW development to the east of that which is now a patchwork of separate plot titles;
- the relevant extent of title DN396634 referred to above which is owned by Mr Pratt and Mr Wood; and
- in the south east corner of the Pratt and Wood title DN396634 as it meets the BDW development, the 'Ikea roundabout' beneath the pink colour wash.

You can see from this information that for a connection to be made to the Ikea roundabout from the St Bridget Nurseries site, title DN396634 would need to be crossed. Equally, to connect in any way into the BDW development along its western boundary would involve crossing the 1m strip in that same title DN396634.

Kind regards

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Partner and Head of Planning

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David Richardson



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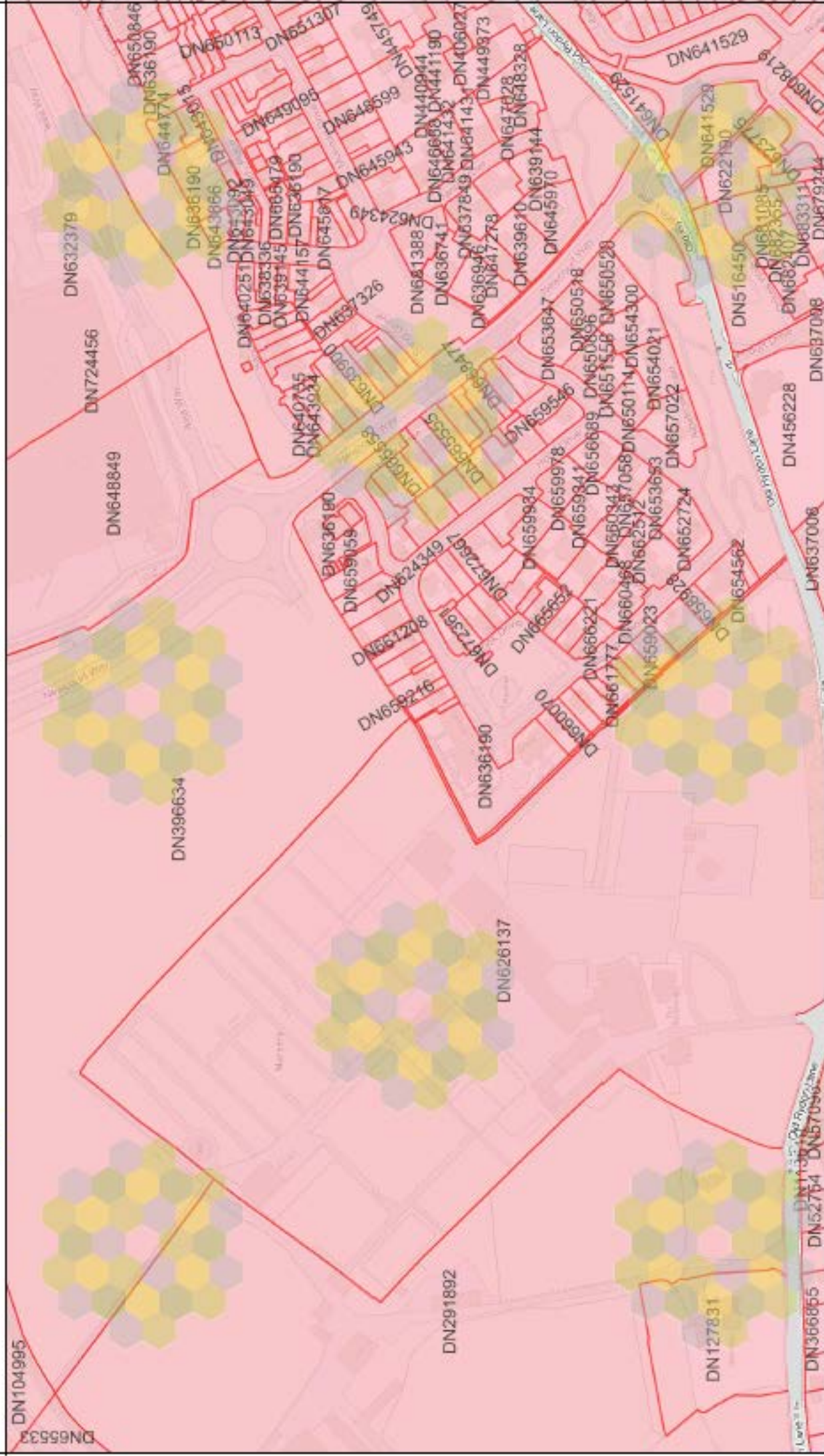
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Map scale 1:2500

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Data last updated 10:00pm 10 FEBRUARY, 2023

Appendix B



Disposals • Acquisitions • Planning • Architecture • Valuations • Consultancy

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Your Ref: 12/0921/02

Our Ref: HRW/ORL

E-mail: hwilliams@fulfords.co.uk

Mobile: 07887 557 862

03 August 2012

Dear Mr Higgins

RE: APPLICATION 12/0291/02 - LAND NORTH OF OLD RYDON LANE, EXETER

Redevelopment to provide 233 dwellings (approval of reserved matters on Ref. 07/2169/01 granted 17/05/10) for access, appearance, landscaping, layout and scale.

We are instructed by St Bridget Nurseries to respond to the above application.

1. Access

Broadly speaking, St Bridget Nurseries is satisfied with the proposed access arrangements which are generally in accordance with those detailed on the Code Masterplan approved pursuant to Condition 4 of Decision Notice 07/2169/01. It is however noted that the Planning Layout (RPS Drawing No: JBR/100 Rev K) indicates a hedgerow crossing the carriageway of the western section of Old Rydon Lane. This appears to be a drawing error as the application does not otherwise suggest the closure or alteration of Old Rydon Lane and there is no similar detail on the Wildlife Corridor Landscape Proposals (RPS Drawing No: JBR1631/300 Rev B). It may well be that the hedge indicated is that which existed prior to the implementation of the one-way connection to the A379 link road and which of course has now been removed. However, our client would be strongly opposed to any proposal to close or further downgrade access rights along Old Rydon Lane and, for the avoidance of any confusion, we would request that the Planning Layout be corrected by the deletion of the apparently errand hedge detail.

The provision of a footpath link through the wildlife corridor proposed along the north side of Old Rydon Lane is very much supported by St Bridget Nurseries, although we believe that this should be upgraded to shared footway/cycleway standard. It is also noted that at its western end where the path connects to Old Rydon Lane, the Wildlife Corridor Landscape Proposals (RPS Drawing No: JBR1631/300 Rev B) labels the connection:

"Future footpath link following the upgrade to Old Rydon Lane."

To maximise public benefit, we believe that connection to Old Rydon Lane should be brought forward as soon as practicable. Our client is not aware of any proposal to 'upgrade Old Rydon Lane', but should such a proposal exist, we would ask that details be provided as a matter of urgency.

With regard the detail of the "future footpath link", we note that it is shown to connect to Old Rydon Lane several metres to the east of the limit of the applicant's ownership/control (i.e. away from the site boundary adjoining the nursery, which is of course allocated for residential development). This appears to be in response to the presence of a short section of low walling that extends from the exit of the nursery onto Old Rydon Lane. However, to avoid the need for pedestrians and cyclists to join the carriageway of Old Rydon Lane and to facilitate future connection to any westward extension of this route, we believe that the Council should secure the delivery of the path link through the wildlife corridor to the nursery boundary and/or along the highway edge to the nursery boundary. As the adjoining owner, St Bridget Nurseries are prepared to facilitate such provision without charge or hindrance and would very much welcome a meeting with Council Officers and the applicant's professional representatives to discuss how delivery of this link may be brought forward as part of the proposed development.

2. Layout

With regard layout, our client is naturally most interested in the proposals for that part of the site that adjoins their property. In this regard we note that Plot Nos. 197-211 align the common boundary and that flats (Plot Nos. 238-249) and an associated parking court are proposed at the northern end of the boundary in the north-western corner of the proposed development. Whilst this arrangement is not of itself necessarily objectionable, the details of the current proposal are unacceptable for the following reasons:

- I. Plots 198-202 have indicated back garden depths of approximately 8 metres. Those at Plots 208-211 range from approximately 9.5 to 10 metres. Such distances are inadequate. The adjacent nursery land is allocated for housing and replication of the current proposal as might reasonably be anticipated given both the orientation of the proposed dwellings and the boundary treatment detailed on the Planning Layout (see landscaping section below) would produce substandard separation distances. Paragraph 7.16 of the Council's Residential Design SPD provides that:

"People should be able to enjoy a degree of privacy which makes them comfortable in their dwellings and to enjoy their gardens without feeling overlooked or hemmed in.

A minimum back to back distance of 22 metres is required between habitable room windows."

Accordingly, we would suggest that minimum rear garden depths of 11 metres should be achieved to the neighbouring residential allocation.

- II. The proposed siting of the three-storey flats and the associated rear parking court in the north-western corner of the site is also unacceptable, the building being only 2 metres off the boundary and the parking court being adjacent to the boundary with little or no opportunity left for effective landscaping. It is noted that paragraph 6.9 of the Council's Residential Design SPD provides that rear courtyards should only

be used as a last resort in support of frontage parking. No frontage parking serves the proposed flats, yet the street scene of this corner of the development will be dominated by roadside parking. Generally, we consider that the proposals for this corner of the site are overly intensive, clearly contrary to the Council's design policies and SPD and should be reconsidered. We also note that the proposals are very different from those indicated on the approved Code Masterplan and do therefore comply with the requirements of Condition 4 of Decision Notice 07/2169/02.

- III. Paragraph 10.5.5 viii of the Council's Core Strategy requires that residential development **must** integrate affordable housing seamlessly into the layout and paragraph 50 of the Council's Affordable Housing SPD provides that:

"In order to achieve mixed communities ... affordable housing units should be distributed singly (pepper-potted) or in small groups agreed with the Housing Enabling Team around the development."

The current proposal falls considerably short of the development plan requirement, with affordable units concentrated in blocks positioned at the margins of the site. The units do not therefore *"integrate seamlessly into the layout"*. Indeed, all 29 of the affordable units proposed to the west of the A379 link road are concentrated in a single, continuous block at the north-western corner of the site. Again, this element of the proposal should be reconsidered to better reflect the requirements of the development plan and the Council's SPD.

3. Landscaping

Our client's interest is again naturally focussed on their boundary with application site. The proposed Planning Layout (RPS Drawing No: JBR/100 Rev K) indicates that the back of the plot boundaries will be defined by a *"Fence (close boarded)"*. The Plan does not detail the existing hedgerow, suggesting that it would be lost to the proposed development. However, the Engineering Concept Plan (Healer Associates Drawing No. 3679-SK10) indicates that the hedge will be retained and the Wildlife Corridor Landscape Proposals (RPS Drawing No: JBR1631/300 Rev B) notes *"Existing hedge to be retained and gapped up where necessary"* but does not accurately define its location nor detail the proposed close boarded fence. The Arboricultural Constraints Report notes that the hedge is predominantly bramble and recommends that the hedge be cleared and replanted with suitable native species. Generally, this aspect of the proposal needs to be clarified, but our view is that the existing hedgerow should be maintained or replaced. In isolation, a close boarded fence would not provide an appropriate means of enclosing the site. It is noted that the approved Code Masterplan indicates a green boundaries to the both the west and north of the western section of the site.

4. Appearance & Scale

At three storeys tall, the units proposed for Plots 207 and 208 are out of character with the general street scene within this part of the proposed development. Moreover, in view of the inadequate rear garden depths proposed, development of this height would have an undesirable overbearing impact on adjacent plots within the neighbouring allocated housing land leading to overlooking and a feeling of being hemmed-in. Very much the

same applies for the three-storey flats proposed in the north-western corner of the site, which we note are omitted from the street scene.

We trust that above comments will be taken into consideration and look forward to discussing the future access arrangements with you shortly.

Kind regards.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Huw Williams', with a stylized, flowing script.

Huw Williams
SENIOR PLANNING CONSULTANT