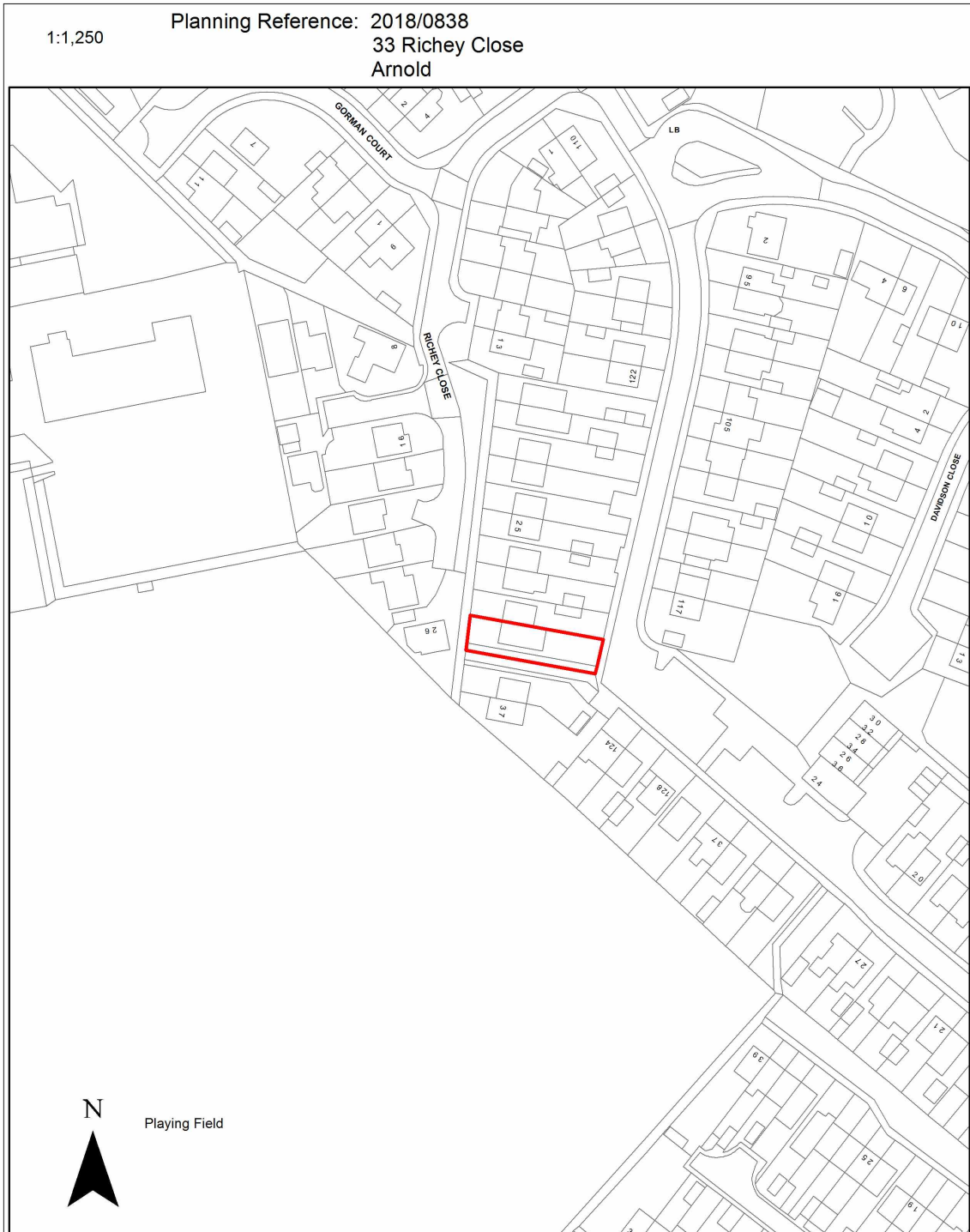




Planning Report for 2018/0838



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.
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Report to Planning Committee

Application Number:	2018/0838
Location:	33 Richey Close Arnold
Proposal:	Change of use to residential garden land
Applicant:	Rajendra Kanani
Case Officer:	Cristina Dinescu

The application site is within the ownership of the Borough Council and therefore, in accordance with the Council's Constitution, this application has been referred to Planning Committee.

1.0 Site Description

- 1.1 The application site is a grass verge strip of land that runs along a public footpath, adjacent to a residential property at no.33 Richey Close, within the built up area of Arnold.
- 1.2 The strip of land measures subject to the change of use measures 1.57m in width and approximately 33m in depth (length) and it is currently maintained by the Borough Council.
- 1.3 The public footpath adjacent to the strip of land is registered as Arnold FP2, measures approximately 2.36m in width and connects Richey Close to Darlton Drive. The public footway forms part of a network of public rights of way in this locality.
- 1.4 Another grass verge strip of land is present on the opposite side of the public footpath adjoining a residential property at no.35 Richey Close. This strip of grass verge is narrower than the application site.

2.0 Planning History

- 2.1 2000/0873 – Planning permission was granted to replace the fence and relocate 0.6m from Richey Close boundary.
- 2.2 Single storey rear extension at no.33 Richey Close erected under Permitted Development since 2010.

3.0 Proposed Development

- 3.1 The proposal seeks Planning Permission to change the use of the land to residential garden land and move the fence to the back edge of the public footpath. As a result the grass verge would form part of the residential curtilage of no.33 Richey Close.
- 3.2 The fence would measure from front to rear 1.2m in height for the first 5 wooden panels then it would measure 1.8m in height for the next 13 wooden panels.

4.0 Consultations

- 4.1 Highways Authority (NCC) – No observations are required.
- 4.2 Rights of Way (NCC) – No objection to the proposed change of use subject to an informative regarding safety, state and obstruction of the public right of way.
- 4.3 Parks and Street Care – No comments to make.
- 4.4 Estates Surveyor – No comments to make.
- 4.5 Neighbouring properties have been notified and a Site Notice posted. No letters of representation were received as a result.

5.0 Planning Considerations

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that: 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless other material considerations indicate otherwise'.
- 5.2 The following policies/documents are relevant to this proposal:
- National Planning Policy Framework (2018): 8.Promoting healthy and safe communities (paragraphs 91-101); 12.Achieving well-designed places (paragraphs 124-132);
 - Gedling Borough Aligned Core Strategy: Policy 10 – Design and Enhancing Local Identity.
- 5.3 The Local Planning Authority adopted the Local Planning Document (LPD) on the 18th July 2018. The relevant policies to the determination of this application are as follows:
- LPD 32 – Amenity;
 - LPD 35 – Safe, Accessible and Inclusive Development;
 - LPD 58 – Cycle Routes, Recreational Routes and Public Rights of Way.
- 5.4 In my opinion, the main planning considerations in the determination of this application are as follows:

- The impact of the proposal on the safety and accessibility of the public footpath;
- The impact of the proposal on residential and visual amenity.

5.5 The impact of the proposal on the safety and accessibility of the public footpath;

5.5.1 I note that there are currently no side facing windows onto the footpath presently that offer natural surveillance over Arnold FP2 footpath. I also note that the footpath without the grass verges would measure 2.36 metres in width. When referring to the Highway Authority 6C's Design Guide a footpath in a normal residential area should have a minimum width of 2 metres. In this instance I am satisfied that the change in use of grass verge adjacent to the footpath would not restrict the safe passage of pedestrians as it would accord with the 6Cs Design Guide. Whilst I note that there are no residential windows overlooking the site providing natural surveillance the length of path measures 33 metres and pedestrians could see the whole length of the path; in my view, this would not compromise the safety or security of users. Whilst the works would narrow the path I consider a width of 2.36 metres along with the narrow grass verge to the south to be sufficient to not result in an enclosed, cramped or overbearing development.

5.5.2 I note the comments received from the Area Rights of Way Officer with regards to the information that should be passed to the Applicant and as such, I would suggest, should planning permission be forthcoming, attaching the suggested information to the Decision Notice.

5.6 The impact of the proposal on residential and visual amenity;

5.6.1 Given the proposed height of the fence, the residential character of the area and relationship with adjoining properties, I am of the opinion the proposed development would have no undue impact on neighbouring residential amenity.

5.7 Conclusion;

For the reasons set out above I consider the proposal to accord with the above mentioned policies and would therefore recommend that Planning Permission be granted.

6.0 Recommendation: **GRANT PLANNING PERMISSION** subject to conditions:

Conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.
- 2 This permission shall be read in accordance with the application form and drawing received on 13th August 2018, Certificate B received on 31st August 2018, site location plan received on 4th September 2018, and e-mail regarding the proposed fence received on 24th October 2018. The development shall thereafter be undertaken in accordance with these plans/details.

Reasons

- 1 In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt.

Reasons for Decision

In the opinion of the Borough Council the proposed development would result in no significant undue impact on the safety of pedestrians and accessibility of the public footpath and it would have no undue impact on neighbouring residential amenity. The proposal therefore accords with the guidance set out in the National Planning Policy Framework (July 2018), policy 10 of the Aligned Core Strategy (2014) and policies LPD 32, LPD 35 and LPD 58 of the Local Planning Document (July 2018).

Notes to Applicant

Positive and Proactive Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraph 38 of the National Planning Policy Framework. During the processing of the application there were no problems for which the Local Planning Authority had to seek a solution in relation to this application.

The footpath should remain open, unobstructed and be kept on its legal alignment at all times. Vehicles should not be parked on the RoW or materials unloaded or stored on the RoW so as to obstruct the path. There should be no disturbance to the surface of the footpath without prior authorisation the Rights of Way team. The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route on should be provided if possible. If the route is to be fenced, ensure that the appropriate width is given to the path and that the fence is low level and open aspect to meet good design principles. If a structure is to be built adjacent to the public footpath, the width of the right of way is not to be encroached upon. Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of Way team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed. The existing boundary hedge/tree line directly bordering the development/boundary etc is the responsibility of the current owner/occupier of the land. On the assumption that this boundary is to be retained it should be made clear to all new property owners that they are responsible for the maintenance of that boundary, including the hedge/tree line ensuing that it is cut back so as not to interfere with right of way. Should scaffold be required on or over the RoW then the applicant should apply for a license and ensure that the scaffold is constructed so as to allow the public use without interruption. <http://www.nottinghamshire.gov.uk/transport/licences-and-permits/scaffolding-hoarding-and-advertising-boards> If this is not possible then an application to temporarily close the path for the duration should also be applied for (6 weeks' notice is required), email countryside.access@nottscc.gov.uk If a skip is required and is sited on a highway, which includes a RoW then the company

supplying the skip must apply for a permit.

<http://www.nottinghamshire.gov.uk/transport/licences-and-permits/skip-permit> and also ensure that the RoW can still be accessed appropriately by the users permitted by its status i.e. equestrians if on a bridleway, motorised vehicles if on a byway open to all traffic

The applicant is advised that all planning permissions granted on or after 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.gedling.gov.uk/cil. The proposed development has been assessed and it is the Council's view that the development hereby approved is not CIL Liable as the development is for a use that is not chargeable on Gedling Borough Council's Community Infrastructure Levy Charging Schedule.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.