

**Report to** Planning applications committee  
**Date** 6 March 2014  
**Report of** Head of planning services  
**Subject** 13/01982/F 463 - 503 Sprowston Road Norwich

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**Item**  
**4(8)**

## SUMMARY

<b>Description:</b>	Erection of metal steps to the south elevation emergency exits and provision of 1.8m fence to the southern boundary.
<b>Reason for consideration at Committee:</b>	Objection
<b>Recommendation:</b>	Refuse permission; contact applicant/agent to encourage further discussion; consider options for enforcement action
<b>Ward:</b>	Catton Grove
<b>Contact Officer:</b>	Mr Lee Cook Senior Planner 01603 212536
<b>Valid Date:</b>	07 December 2013
<b>Applicant:</b>	Aldi Stores Ltd
<b>Agent:</b>	The Harris Partnership Ltd

## INTRODUCTION

### The Site

#### Location and Context

1. The site is located on the east side of Sprowston Road towards the junction with the outer ring road. The site has been vacant for a number of years, with previous applications for a retail unit and housing submitted on the site.
2. A full site description is given in the original application report (13/00208/F which can be found here:  
<http://www.norwich.gov.uk/CommitteeMeetings/Planning%20applications/Document%20Library/156/REPPlanning511300208F463503SprowstonRoad20130418.pdf>
3. The only significant change to the site since the last report was made is the construction of the retail store.
4. With specific reference to this current application, the land around 461 Sprowston Road contains residential units to the south of the site which face onto Sprowston Road, along with workshop buildings on an un-adopted track to the south of the site.

#### Constraints

5. The site is adjacent to the Sprowston Road/Shipfield local centre. The site forms part of housing allocation HOU12 B38 under the City of Norwich Replacement Local Plan and proposed allocation R12 under the Site Allocations Plan. There is one protected tree on site to the south adjoining Anthony Drive (ref. TPO.215).

#### Topography

6. The land to the east of the site is elevated, leading to residential development along Windmill Court and Anthony Drive. As indicated above, the site of the former windmill (41

Windmill Court) is elevated compared to the rest of the site. Land along the north of the site is also elevated compared to land to the south of the site. The track adjacent to the side access slopes up from Sprowston Road.

## Planning History

7. See main committee report 18<sup>th</sup> April 2013 for site history and details of the latest application 13/00208/F which gained delegated authority to approve at the committee meeting subject to a s106 agreement and was approved on 11<sup>th</sup> June.2013.
8. Application 13/00976/D for the discharge of conditions 3a), 4), 6), 10), 17), 19), 20), 22), 31), 34), 35) and 39) of previous planning permission 13/00208/F was approved on 6<sup>th</sup> December 2013.
9. Application 13/01609/VC for variation of Condition 8 - surface treatment of the access track to the south of the application site and to the north of 461 Sprowston Road providing a pedestrian link from Anthony Drive to Sprowston Road of previous planning permission 13/00208/F was approved on 19<sup>th</sup> December 2013.

## Equality and Diversity Issues

There are some equality or diversity issues. These are discussed further in the report.

## The Proposal

10. The application is for a minor material amendment to permission 13/00208/F comprising of replacing the ramps to the south elevation emergency exits with metal steps and erection of 1.8m fence to the southern boundary. Works to install the steps has already taken place.

## Representations Received

11. Advertised on site and in the press. Interest groups, adjacent and neighbouring occupiers have been notified in writing. 2 letters of representation have been received citing the issues as summarised in the table below.

12.

Issues Raised	Response
Have a problem with this as it contravenes the building egress regulations. The replacement of a ramp with steps makes egress in a wheelchair impossible.	Paras 19 to 33
This is more than a minor material amendment. It is the removal of a ramp in favour of steps and this contravenes Part B Fire regulations for egress. B1 General Provisions :- "5.32 Final exits should not present an obstacle to wheelchair users and other people with disabilities etc..... This also contravenes the Equality Act.	Paras 19 to 33

## **Consultation Responses**

13. CNC Building Control: have visited the property, met the duty manager and walked the escape routes. The exits where Aldi have changed the external escape route from a ramp to steps only effects staff. They are from the staff room, toilets & office and the warehouse; as the layout plan. As far as the public are concerned they would not have access to these exits and any wheelchair bound shopper would be able to escape via the signed exits and make their way to safety without any additional assistance from staff (provided they can propel themselves). There is no problem as far as the public are concerned.... At present no wheelchair bound staff are employed. Due to the nature of the work in the warehouse it is unlikely any wheelchair bound person would be working in that area. There is a possibility however that a wheelchair bound person could be employed in the office and or on the tills. When staff are in the public areas they would have adequate escape provisions, it would only be the staff areas where additional provisions would need to be in place. ... As long as they do not employ any wheelchair bound staff the provisions are adequate for the current arrangements. By signing up to making changes in the future, should the situation alter they have some insurance against any discrimination claim being brought against them. ... You have the upper hand in as much as the original approved details show full compliance, whoever they employ whereas the amendment would not be suitable without future work being undertaken.... In addition should the premises change hands and or the internal layout alter bringing into play the stepped exit routes as part of the public's means of escape it would not be appropriate without additional works being undertaken.
14. Fire Service: For clarity, the Means of escape is to be managed by the Responsible Person of the business, and the compliance with Building regs for new build will be the building control (or Approved Inspector). This is essentially a planning matter, and in the presence of Nadia's comments hopefully demonstrates the general view of the City Council how they will consider the application.
15. Norfolk Constabulary: No comments

## **ASSESSMENT OF PLANNING CONSIDERATIONS**

### **Relevant Planning Policies**

For National Planning Policy Framework;  
Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011;  
Relevant Saved Policies of the adopted City of Norwich Replacement Local Plan 2004;  
Supplementary Planning Guidance, Supplementary Planning Documents;  
Other Material Considerations;  
Development Management Policies Development Plan Document – Pre-submission policies (April 2013);  
Site Allocations Development Plan Document – Pre-submission policies (April 2013).  
Development Management Policies Development Plan Document – Pre-submission policies (April 2013); and  
Procedural Matters Relating to the Development Plan and the NPPF.

See main committee report 18<sup>th</sup> April 2013.

## **Principle of Development**

16. The application seeks a minor material amendment to the scheme under Section 73 of the Planning Act by way of varying condition 6 ii) L relating to details of landscaping as imposed on application 13/00208/F. The condition states that no development shall take place until details have been agreed. Such MA applications normally seek to vary conditions relating to the agreed development drawings on the permission. These types of application related specifically to a details/drawing condition are determined before commencement or completion and seek to give options as to which permission could be implemented. However; as well as the works being undertaken the development appears completed and shop unit is occupied. This is confirmed by the application form. The situation is further complicated by the issuing of an additional planning permission under application 13/01609/VC and approval of details under application 13/00976/D which has approved all landscaping details including ramps to the two fire escapes concerned and boundary treatments.
17. It is noted that the scale and nature of the works is not sufficient to render the whole development as being unauthorised and that a lawful development has primarily taken place although possibly in breach of some site details information. These points do; however, raise questions about the application as submitted. The application is also one which is not explicitly asking for development of land without complying with conditions of a previous permission or importantly has not been submitted under section 73A of the Act for retrospective permission for works already carried out which would be a more appropriate vehicle to determine the works applied for.
18. Given that the works applied for have taken place (likely as stated on the application form before the submission of the application) as such it is not considered possible to determine the application favourably under the terms of section 73 of the Act. In a similar case recently the Inspectorate considered the use of Section 73A rather than Section 73 to determine an appeal case at King Street. It is therefore considered appropriate to proceed to consider the application along these terms. Issues related to the stepped access are considered below. The proposed alternative fence is considered to have limited visual or amenity impacts within the area.

## **Equality and Diversity Issues**

### **Disability**

19. The Equality Act came into effect in 2010 and the public sector Equality Duty came into force on 5 April 2011. The latter duty means that public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.
- It also requires that public bodies:
- have due regard to the need to eliminate discrimination prohibited under the Act;
  - advance equality of opportunity; and
  - foster good relations between different people when carrying out their activities.
20. Having due regard to the need to advance equality of opportunity involves considering the need to:
- remove or minimise disadvantages suffered by people due to their protected characteristics;
  - meet the needs of people with protected characteristics; and
  - encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

21. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to – (a) tackle prejudice, and (b) promote understanding. Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.
22. The result of the actions taken as part of the works to form two emergency exits with steps rather than ramps as incorporated within this application has an impact upon the relevant protected characteristic under the Act of disability and to a lesser extent age. As information it is recognised that the Act includes requirement that steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
23. Within the assessment of this application the weight given to the Equality Duty, compared to other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. Guidance suggests that public bodies should take a proportionate approach when complying with the Equality Duty – in practice, this means giving greater consideration to the Equality Duty where a function or policy has the potential to have a substantial effect on discrimination or equality of opportunity for the public, and less consideration where the potential effect on equality is slight.
24. Although the works have been carried out and are technically incapable of further assessment under this application it is appropriate to highlight at this time the impacts of the scheme of works undertaken could disadvantage people due to their protected characteristics e.g. appropriate disabled access.
25. Comments by the Fire Officer indicate that the final decision is a matter for the planning service as they consider that there is a technical compliance with legislation controlling means of escape from a building. Comments from CNC Building Control again highlight technical compliance but they do raise comment on the long term suitability of the operation and compliance of the escape should circumstances change in terms of employees working for the company within this building.
26. In particular they advise that as far as the public are concerned they would not have access to these exits and any wheelchair bound shopper would be able to escape via the signed exits and make their way to safety without any additional assistance from staff (provided they can propel themselves). In terms of the rear exits changing from a ramp to steps means a wheelchair bound member of staff would need assistance to get to a place of safety once they leave the building and arrive at the top of the external exit steps. Provided there is a process in place to safeguard the wheelchair users and provide a place of relative safety (refuge point) the final evacuation can be a managed process. The process would need to include, as part of the evacuation plan; checking the refuge(s) and the ability to assist people to a place of safety.
27. At present no wheelchair bound staff are employed. There is a possibility however that a wheelchair bound person could be employed. When staff are in the public areas they should have adequate escape provisions, it would only be the staff areas where additional provisions would need to be in place.
28. With the type of construction they have it would be easy to alter the platform and move the

steps to achieve an enlarged platform at the top of the steps to act as a refuge. This would need to be in place before any wheelchair bound member of staff took up employment. Their evacuation plan would need to include provision to identify anyone using the refuge and have the ability to then assist them to a place of safety from one or both exits. Alternatively they could replace the metal steps with a metal ramp or a landscaped ramp could be constructed as the original proposal.

29. If their access statement is amended to cover these points and acknowledge that the changes would be put in place prior to any wheelchair bound employee taking up employment it would satisfy the requirements of the regulations. As long as they do not employ any wheelchair bound staff the provisions are adequate for the current arrangements.
30. The original approved details show full compliance whoever is employed whereas the amendment would not be suitable without future work being undertaken. Should the premises change hands and or the internal layout alter bringing into play the stepped exit routes as part of the public's means of escape it would not be appropriate without additional works being undertaken.
31. There is, therefore, some doubt about the suitability of the means of escape. Further information would not be required now due to the technical nature of compliance which has been confirmed but information may be needed in the future should circumstances change. A decision in planning terms; however, would need to be made at the time of considering a planning application rather than under a regime of ongoing re-consideration of site circumstances unless it was deemed reasonable to impose a condition on the grant of any planning permission requiring updated details over time. Due to the physical nature of the works this is unlikely to be acceptable as compliance could require removal of the steps and introduction of a ramp over time which would in effect change the nature of development being proposed and affect the Council's ability to lawfully determine such details applications under the Planning Act.
32. The applicants are an independent company with their own set circumstances for complying with the Equality Act. They do not have a public duty in terms of compliance with the Equality Duty. However; within the Council's scope is the requirement to foster good relations including tackling prejudice and promoting understanding between people who share a protected characteristic and others. In the circumstances of this particular development it would be reasonable for the planning service to write to the applicant setting out the above points to suggest to the applicant that they try to seek a resolution to objections raised by third parties to this application.

## **Conclusions**

33. In terms of procedure the application is being determined under S73A of The Town and Country Planning Act. The consultation arrangements have been consistent with this and it is not considered that this would prejudice any interests and would not alter the development for which consent is being sought.
34. The scheme for replacement steps has been considered having regard to the requirements of the Equality Act and appropriateness of providing suitably designed and detailed emergency escape and access to the building. A suitable means of providing ramped access/egress along this side of the building has previously been agreed and details approved under applications 13/00208/F and 13/00976/D. Concerns have been

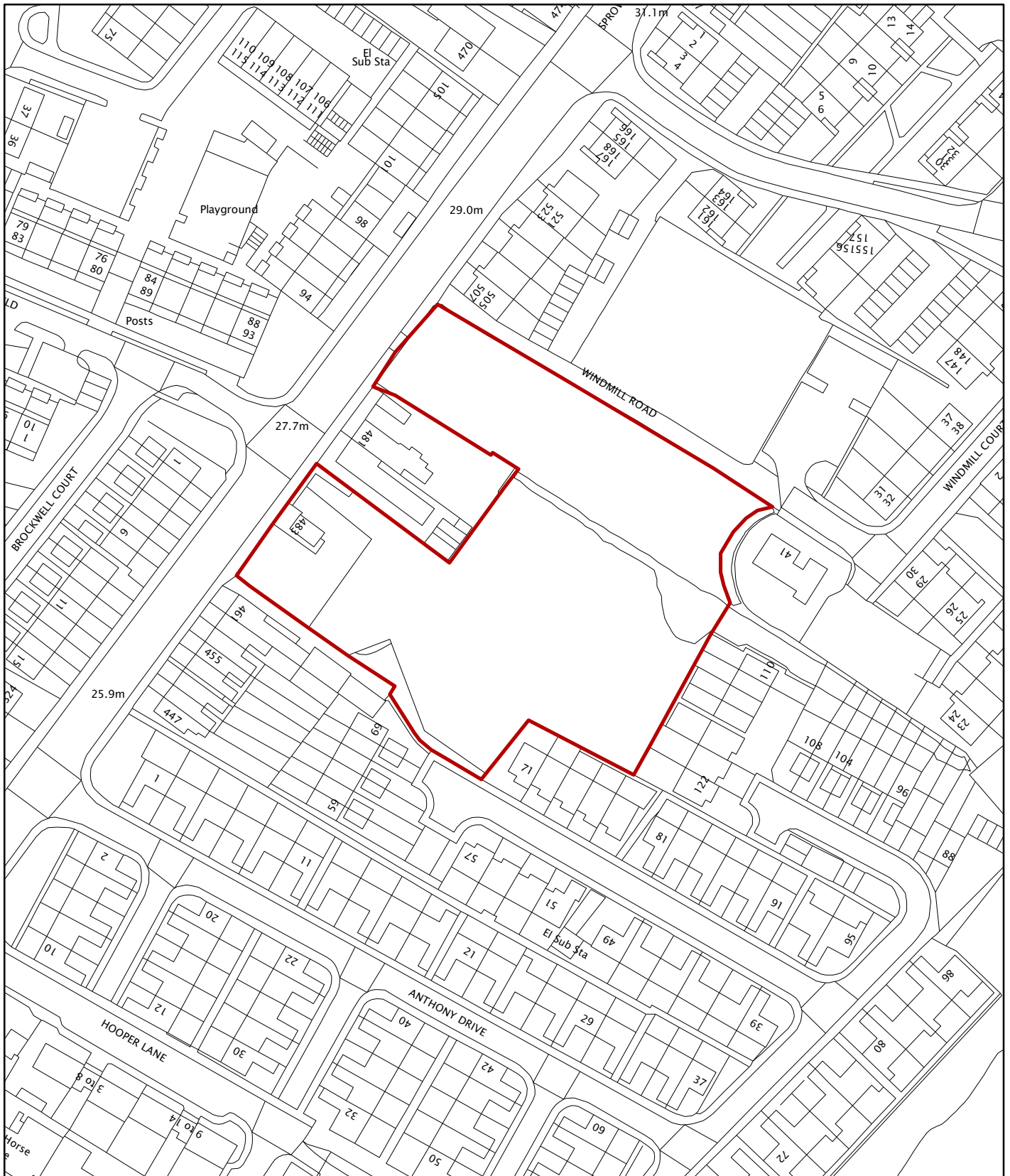
expressed that the scheme as submitted provides a less than adequate alternative and is therefore considered to be an inappropriate form of emergency escape and access to the building

35. Should it be possible to determine the application under section 73 it should also be noted that the application is not accompanied by a deed of variation to the section 106 agreement attached to the earlier permission 13/00208/F.

## **RECOMMENDATIONS**

To:-

- (1) refuse planning permission for Application No 13/01982/MA 463 - 503 Sprowston Road Norwich for the following reason:-
  1. The scheme for replacement steps has been considered having regard to the requirements of the Equality Act and appropriateness of providing suitably designed and detailed emergency escape and access to the building. A suitable means of providing ramped access/egress along this side of the building has previously been approved. Concerns have been expressed that the scheme as submitted provides a less than adequate alternative and is therefore considered to be an inappropriate form of emergency escape and access to the building.
  2. The application is not accompanied by a deed of variation to the section 106 agreement attached to the earlier permission 13/00208/F and does not make appropriate provision for planning obligations related to this development.
- (2) authorise the Head of Planning Services, in consultation with the chair, to write to the applicant/agent to encourage further discussion with interest groups and others to seek to facilitate an alternative form of emergency access to this side of the building
- (3) authorise enforcement action to secure the removal of the unauthorised steps and replacement with ramps as approved and the taking of legal proceedings, including prosecution if necessary.



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Planning Application No 13/01982/F

Site Address 463-503 Sprowston Road

Scale 1:1,250



**NORWICH**  
City Council

PLANNING SERVICES

