



Report of the Chief Planning Officer

PLANS PANEL SOUTH & WEST

Date: 28th MARCH 2013

Subject: PLANNING APPLICATION 12/02434/FU – PART TWO STOREY PART SINGLE STOREY FRONT, SIDE AND REAR EXTENSION INCLUDING PHARMACY, OPTICIANS AND LAYING OUT OF CAR PARK.

At: MANOR PARK SURGERY, BELLMOUNT CLOSE, BRAMLEY

APPLICANT

Manor Park Surgery

DATE VALID

31st May 2012

TARGET DATE

26th July 2012

Electoral Wards Affected:

Bramley and Stanningley

Y

Ward Members consulted
(Referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

GRANT PLANNING PERMISSION subject to the following conditions;

1. 3 year time limit
2. Development completed in accordance with approved plans
3. Surgery and pharmacy opening hours. Surgery 08.00hrs to 19.00 Mon to Fri. Pharmacy 06.00hrs to 22.00 Mon to Fri and 12.00hrs to 20.00hrs Sat and Sun.
4. Hours of construction works
5. Restriction of use of pharmacy to no other purpose within Class A1 and to remain ancillary to the surgery use. and limited to 110 sq m in size
6. Lighting details / time switch
7. Details of screening fencing
8. Provision of motor/cycle/ car parking prior to use
9. Provision of bin store prior to use
10. Development in accordance with approved Travel Plan Statement

12. Samples of external materials for inspection / to match existing
13. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any statutory and other consultees, public representations about the application and Government Guidance and Policy as detailed in the National Planning Policy Framework and (as specified below) the content and policies within Supplementary Planning Guidance (SPG) and The Development Plan with particular reference to the Leeds Unitary Development Plan Review 2006 (UDPR) policies;

GP5, BD6, N13, N25, T2, T24, S2 and S9

SPD: 'Street Design Guide'

SPD: 'Travel Plans'

On balance, the City Council considers the development should be supported and will give rise to improved health facilities for local people. Whilst the additional pharmacy is not in accordance with criterion i of policy S9 it is considered that the overall benefits of the scheme as a whole outweigh this policy breach and that the proposal represents sustainable development and will not adversely impact on the vitality and viability of Bramley Town Centre or give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance which outweigh the presumption in favour of sustainable development.

1.0 INTRODUCTION

- 1.1 This application seeks full permission for the extension of an existing doctor's surgery to provide additional consultation rooms, waiting areas, an ancillary optician and 100-hour pharmacy. The application was originally brought before the South and West Plans Panel on the 11th of October 2012 due to the high level of interest from local residents and members of the public. Following revisions to provide screening fencing and adjust the operating hours of the proposed pharmacy the application was considered appropriate in planning terms by officers and therefore recommended for approval subject to the above conditions. Members of South and West Panel agreed with the officer recommendation and the application was unanimously approved by Panel following a site visit. A decision notice was subsequently issued dated 16th of October 2012.
- 1.2 On the 20th of November Leeds City Councils Legal Services received by hand a letter from Pinsent Masons Solicitors acting on behalf of Lloyds Pharmacy. (Members will recall an unusual aspect of this application was that the proposal included not only extensions to the consulting facilities and an opticians but also an attached Pharmacy which would be in addition to an existing Pharmacy operated by Lloyds which is currently part of the Medical Practice building). The letter advised that Pinsent Masons had been instructed to challenge the decision made at Panel to grant planning permission. The formal challenge was duly made.
- 1.3 The grounds of the challenge were that the City Council had erred in law in that it:-
 - (i) failed to understand or apply S38(6) or the Planning and Compensation Act 2004; and

- (ii) failed to understand the difference between emerging and adopted development plan policy and/ or made an irrational decision by applying the former over the latter and/ or failed to provide reasons for acting as aforesaid; and
- (iii) failed to take into account UDP Policy S2; and
- (iv) failed to understand or correctly apply NPPF policy on the need for sequential assessment of retail proposals; and
- (v) failed to take into account the impact of its decision on the commercial viability of the claimant's business and/or made a decision which had a disproportionate and therefore unlawful impact on the Claimant's interests in breach of the first protocol to the Human Rights Act 1998.

1.4 The letter explained that in view of the above the City Council was requested to:-

- (i) Consent to judgement to the quashing of the decision granting planning permission dated 16th of October 2012
- (ii) Pay the Claimant's costs in respect of these proceedings.

1.5 Following the submission of this judicial review internal discussions with Legal services took place and it was determined to seek the opinion of Counsel. Counsel responded by saying that in his view the Council could not successfully defend the claim as there were elements of the report that should have been more fully considered and that in view of this and the potential for additional costs to accrue the best course of action was to agree to a 'Consent Order' agreeing to the quashing of the decision and for officers to draft a re-determination report. The Consent Order has now been agreed and the decision quashed and the costs settled.

In summary therefore the report before you now is the re-determination report for this application and picks up the points made in the JR challenge to ensure that a safe decision is made.

1.6 Members will be aware from the recommendation at the top of the report that although it is accepted that there were flaws in the original report (specifically that the previous report erred by not including policy S2 of the UDP, not being clear about the sequential test and the relevance of the NPPF and also that emerging policy does not override adopted UDP policy) officers, having reconsidered the matter, still consider that on balance the application should be approved.

2.0 PROPOSAL

2.1 Permission is sought for the significant extension and alteration of the existing Manor Park GP surgery in Bramley. The applicants explain that due to significant increases both in patient numbers and the complexity of their health problems there is now an identified need for expansion including additional waiting areas and consulting rooms, an additional pharmacy with extended opening hours and new on-site opticians, and facilities for specialist GP-led clinics not currently available in the locality including diabetes management and physiotherapy. The expansion is intended to accommodate an increase in the number of GPs based at the practice partly by becoming a PCT recognised centre for the postgraduate training of GPs, as well as through the provision of enhanced facilities. The surgery currently has 9 Doctors and associated staff. In the Design and Access statement the Doctors set out the need for improved facilities as the practice serves a patient population which is now approaching 15,000.

- 2.2 The main element of the proposal will be a part single-storey, part two-storey extension to wrap-around the eastern, southern and part of the western elevations of the building. This will be constructed from red brickwork with a pitched tiled roof to match the existing and UPVC fenestration. At ground floor level it will provide 10 new consulting rooms, an optician's, pharmacy with WC, kitchen and consultation room, with the loss of two existing rooms to facilitate provision of a corridor link and new waiting area. An existing area currently occupied by stairs and partitions will be opened out to provide this, linked to the car park via a new entrance hall with reception desk and an improved access ramp.
- 2.3 The existing stairs will be relocated into the new extension to the southern side, adjacent to the proposed new pharmacy. Along with a passenger lift they will give access to the extended first floor area. This will provide four new treatment rooms, a staff room and meeting room to the new section, whilst the existing accommodation will be reconfigured to provide toilets, a waiting area and office. The existing meeting room and kitchen to this level will remain.
- 2.4 In addition to the extensions the existing ground floor will be reconfigured. The existing entrance hall will be partitioned from the existing waiting room and become part of the existing Lloyds pharmacy (total floor area approx 89sqm). So the Lloyds Pharmacy will have its own entrance but will no longer be accessible internally directly from the surgery. Lloyds Pharmacy will remain otherwise unchanged. An existing nurse's office leading off this reception area will be subdivided into an interview room and toilets, and two existing interview rooms incorporated into an enlarged administration office. A consulting room to the eastern side of the building will be opened out to provide a new link through from the existing corridor to the proposed corridor serving the new consulting rooms at the rear of the building. Where existing rooms become internal, Velux rooflights will be installed to provide ventilation in addition to retention of existing windows to make use of 'borrowed light' from the proposed glazed corridor.
- 2.5 Externally the new sections of roof will generally be joined to the existing by way of valley gutters. The new roof to the two-storey section will be hipped to match the main roof, rather than pitched in the manner of those to the existing pharmacy and two-storey element and proposed new entrance hall. Although some low shrubs and bushes will be lost to hard surfacing, the large trees (which mainly lie outside the site or on the boundary) will be retained and augmented by two silver birches adjacent to the gates.
- 2.6 The proposed extensions will occupy the existing grassed areas to the south and east, bringing the building to within 1.8m and 1.0m of the boundaries respectively. The new entrance, ramp and a proposed ambulance bay will occupy most of the existing landscaped area to the front of the premises. In addition, the car park will be extended in several directions within the site in order to increase the overall number of spaces from the current 24 to 40, including four disabled spaces adjacent to the main entrance. A row of six spaces to the east of the gates will be moved back around 6m toward the boundary to accommodate two additional spaces north of the existing pharmacy.
- 2.7 An existing grassed area to the north-western side will be used to accommodate five additional spaces, whilst a further nine will be provided to another grassed area on the south-western side. The existing eleven spaces to the front and centre of the site will be removed and relocated 90 degrees to the front of the existing pharmacy, and a new protected pedestrian walkway provided from the main gate across the car park to the entrance. Existing lighting columns will be relocated, whilst the palisade boundary

fence will be retained (with a 14m run adjacent to the rears of Nos. 2-14 Bellmount Grove to be relocated).

- 2.8 In total the proposals will add an additional 622m² of internal floorspace comprising 110m² of A1 retail pharmacy and 512m² of D1 non-residential institutional provision. This will almost double the current gross floor area of 777m². The number of employees will also increase, from 22 full-time and 8 part-time to 29 and 11 respectively, including 6 additional doctors. Operating hours for the surgery will be 08.00-19.00 Mon-Fri only, with the new pharmacy operating from 07.00-23.00 Mon-Fri, 09.00-21.00 Saturday and 12.00-20.00 on Sundays.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to the Manor Park doctors' surgery complex. This detached modern red brick building was approved in 1989 and constructed on land cleared as part of the comprehensive demolition of Bramley Town Centre in the 1970s. A projecting extension containing a retail pharmacy operated currently by Lloyds was added to the front in the late 1990s. In July 2006 the building was completely burned out by a major fire and subsequently extensively rebuilt to the original plans.
- 3.2 The building is mainly single-storey (dominated by a large expanse of hipped roof) with a small two-storey element to the southern side, originally built as a 2-bed flat but now used as ancillary office and other accommodation. It is constructed of red brickwork under smooth grey tiles with a regular pattern of UPVC fenestration and is elevated approximately 0.5m above the car park, accessed via a flight of stairs and a flagged ramp leading to an entrance hall.
- 3.3 Internally the building opens into a full-height reception and waiting area which in turn leads onto a warren of treatment rooms, administration offices and staff facilities and to a corridor leading to thirteen different consulting rooms. The pharmacy is separately accessed via the entrance hall whilst the first floor is not accessible to patients.
- 3.4 Externally the building is bounded by a grass strip to the north, east and south and protected by a 2.2m green palisade fence to the entire perimeter. It shares the southern boundary with an area of public open space, which permits medium-range views of the complex from Bell Lane. Beyond the northern and eastern boundaries there are houses; local authority terraces with short (6m) rear gardens to the former, and older semi-detached properties with 50m rear gardens to the latter. In each case there is a narrow ginnel separating the gardens from the surgery site.
- 3.5 The building is set within an area cleared of terraces in the 1970s and now dominated by local authority housing in dark brick, with some isolated earlier survivors (notably Bell Grove, a row of eight back-to-back stone and red-brick properties which lie to the north-west). It is accessed from Bellmount Grove across an informal parking and turning head which in turn opens onto a very well-used asphalt car park lit by pole-mounted globe-style fittings.
- 3.6 This car park contains 24 parking spaces arranged in three rows, with further provision adjacent to the northern boundary. It too is surrounded by grass verges with some incidental planting. There are houses to Bell Grove which abuts the north-western boundary; these face the parking area and are screened by a row of large mature sycamore trees.

- 3.7 The existing pharmacy is open from 08.30 to 18.30 Mondays to Fridays, with no operations on weekends and Bank Holidays. The main surgery is open from 08.00 to 19.00 on weekdays, with the last hour reserved for enquiries and collection of prescriptions. There are no surgeries on weekends or Bank Holidays.
- 3.8 The site is within walking distance of the defined Bramley District Centre (some 460m from the entrance to the edge of the centre via the main roads of Bell Lane and Upper Town Street but reduced to about 270m if the public footpath to the rear of the surgery to Upper Town Street is used). There are two pharmacies contained within the District Centre (Boots and The Co-operative) and two opticians. The District Centre contains a broad range of shopping and other services – a recent site visit has indicated that there appear presently to be two of the existing shop units which are not occupied. On the opposite side of Upper Town Street from the District Centre is Bramley Clinic. There is an additional Lloyds pharmacy on Upper Town Street opposite the junction with Bell Lane some 150-200m from the surgery which is also outside of the boundary of the defined District Centre.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The original application for the surgery (reference: H24/19/89/) included consultation / treatment / waiting and staff rooms, toilets and a 2-bedroom caretakers' flat. It was approved on 6th March 1989 and constructed shortly thereafter.
- 4.2 In 1997 an application (ref 24/208/97/FU) was received to add a front extension (the existing Lloyds Pharmacy) and extend the car parking area. This was approved on 16th September of that year. Two replacement signs were added to the pharmacy under application 06/00318/ADV, approved on 3rd March 2006.
- 4.3 However shortly thereafter the surgery was badly damaged by a major fire incident necessitating a substantial rebuild within the surviving walls. Whilst this was underway a temporary surgery was erected in the car park to allow continuity of services to the patient base.
- 4.4 This was granted temporary consent on 16th October 2006 under application reference 06/05122/FU and was removed from site on completion of the repairs to the main building, in accordance with the conditions of the approval.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 In response to the comments of the Highways officer revised plans have been provided showing cycle and motorcycle parking, shower facilities and locker rooms for staff. A Travel Plan Statement has also been submitted and agreed.
- 5.2 Following a public meeting the applicants agreed to alter the pharmacy weekday opening hours from 7am-11pm to 6am-10pm in order to reflect resident concerns about the late opening and associated potential for noise and ASB. A condition has also been agreed to provide fencing to the north-eastern boundary to screen the rear elevations / gardens of houses on Bellmount Close from vehicle movements and headlight glare.

6.0 PUBLIC/ LOCAL RESPONSE:

- 6.1 A General site notice was posted on 15th June 2012. 15 objections have been submitted by local residents and by solicitors acting on behalf of the existing Lloyds' Pharmacy.
- 6.2 A total of 292 standard letters of objection from people in the area dated 27th September 2012 have been received objecting on the grounds of amenity and opening hours, the additional pharmacy which is not needed and should be in the town centre, the methadone needle exchange is not appropriate in a residential area and possible job losses from the existing pharmacy if a second pharmacy is allowed to open on site.
- 6.3 A petition of support containing 1089 signatures (mainly of practice users) to bring a much need extension to the local community and patients of the surgery has been submitted.
- 6.4 A letter of support for the application has been submitted by Rachel Reeves MP. She has discussed the application with the Doctors and feels that the expansion of the surgery would benefit many of her constituents. She states that Manor Park Surgery is an extremely popular surgery and provides an excellent service to the local community but that a number of constituents have found it difficult to get appointments due to the large volume of patients the surgery cares for – six new doctors will offer an increased capacity. Extended opening times will also mean a more comprehensive service at times to suit people's lifestyles.
- 6.5 A survey of local residents has been carried out by the agent for the surgery, although several of those named have subsequently advised that their support for the scheme has been misrepresented. Caution ought therefore to be exercised in attributing weight to this survey.
- 6.6 In addition and due to the levels of interest in the proposals, a public meeting was called by the Ward Members which took place on August 29th 2012 at the nearby community centre. This was well attended by local residents and by representatives and the agent for Manor Park Surgery, employees / agent of the existing Lloyds outlet, the operators of the proposed pharmacy and the Ward Members.
- 6.7 A lively debate took place with widespread support for the improved facilities tempered by concern over the highways and parking implications, increased activity levels and potential for the loss of the existing pharmacy to competition along with the employment of its staff.
- 6.8 The level of interest displayed at this meeting informed the decision to determine the application at Panel and the issues raised have been covered in greater detail within the Appraisal of this report.
- 6.9 The main issues raised in response to the initial publicity and at the subsequent meeting can be summarised as follows:

Support:

- The proposals will result in improved services within a popular surgery;
- Greater availability of appointments at times which are more convenient particularly for working people;

- Improved parking and pedestrian access will improve the situation on Bellmount Close.

Objection:

- The proposals will increase traffic levels and demand for parking;
- Needle exchange and methadone prescriptions will attract crime, ASB and discarded needles into a residential area (the applicant has subsequently confirmed that there will be no needle exchange or methadone prescriptions);
- The extended opening hours will result in additional noise-generating activities at unsociable hours;
- There are more suitable places for the pharmacy and needle exchange including the nearby Bramley District Centre which has a vacancy rate which could accommodate the additional pharmacy;
- The retail element is not policy compliant – under Policy S9 and the new NPPF, out-of-centre retail should be justified in sequential terms;
- The existing pharmacy operators have not been properly involved in the proposals and have been misrepresented within the Design and Access Statement regarding performance and capacity.

7.0 CONSULTATION RESPONSES:

Highways: initial concerns regarding lack of cycle, motorcycle and bin facilities were subsequently overcome by minor revisions to the plans. A Travel Plan Statement has been provided and conditions recommended.

Public Rights of Way: the proposal does not affect the public right of way which crosses the adjacent open space and therefore there are no objections on this matter.

Neighbourhoods and Housing: recommended restricting hours of work during the construction phase in order to preserve the amenity of surrounding residents.

8.0 PLANNING POLICIES:

8.1 Section.38(6) Planning and Compensation Act 2004 states that:-

“if regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise”.

This is the starting point for determination of an application. The Development Plan now comprises the Leeds UDP (Review 2006) and supporting Supplementary Planning Guidance (SPGs) and Supplementary Planning Documents SPDs .

Local Planning Policies:

8.2 Work continues on the Core Strategy and Site Allocations DPD as part of the Local Development Framework (“LDF”) and in the . interim period a number of the policies contained in the Leeds Unitary Development Plan (“UDP”) have been ‘saved’. The Leeds UDP Review was adopted in 2006. The most relevant Policies in the adopted Leeds Unitary Development Plan in relation to this application are listed below: -

- GP5 seeks to ensure all detailed planning considerations are resolved as part of the application process including the protection of local residents amenities.
- BD6 seeks to ensure that all extensions and alterations to existing buildings respect the materials and design of the existing building and its context.
- N13 seeks to ensure that the design of all new buildings should be of a high quality and have regard to the character and appearance of their surroundings.
- N25 seeks to ensure that boundaries of sites should be designed in a positive manner and be appropriate to the character of the area.
- T2 seeks to ensure that new development should be served adequately by existing or programmed highways and by public transport, make adequate provision for cycle use and parking, and be within walking distance of local facilities.
- T24 seeks to ensure parking provision reflects the guidelines set out in UDP Appendix 9.
- S2 outlines the 'centres first' approach used for retail development.
- S9 considers smaller retail schemes that are out of centre.

Relevant Supplementary Guidance:

8.3 Supplementary Planning Documents provides a more detailed explanation of how strategic policies of the Unitary Development Plan and Core Strategy can be practically implemented. The following SPDs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- Leeds Street Design Guide
- Travel Plans SPD

Emerging Core Strategy

8.4 The publication draft of the Core Strategy was issued for public consultation on 28th February 2012 and the consultation period closed on 12th April 2012. The Core Strategy sets out the strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. On 14th November 2012 Full Council resolved to approve the Publication Draft Core Strategy and the sustainability report for the purpose of submission to the Secretary of State for independent examination pursuant to Section 20 of the Planning and Compulsory Purchase Act 2004. Full Council also resolved on 14th November 2012 that a further period for representation be provided on pre-submission changes and any further representations received be submitted to the Secretary of State at the time the Publication Draft Core Strategy is submitted for independent examination. As the Council has resolved to move the Publication Draft Core Strategy to the next stage of independent examination, some weight can now be attached to the document and the policies within it, but recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the

future examination. The Publication Draft Core Strategy continues the centres first retail policy and the need for a sequential approach and in policy P8 sets out some criteria for when the sequential approach should be applied.

Government Planning Policy Guidance/Statements:

- 8.6 In addition to the Development Plan documents, the Coalition Government's National Planning Policy Framework replaced more than 40 Planning Policy Statements and Guidance Notes in March 2012. Relevant sections include chapters 2 (town centres, which advocates a centres first approach), 7 (design) 8 (healthy communities), and the decision taking section at paragraph 186 onwards.

9 MAIN ISSUES:

- 9.1 Having considered this application and the representations made, the main issues for consideration are ;
1. Principle of development and retail policy
 2. Design and visual appearance
 3. Amenity of surrounding residents
 4. Highways, access and parking
 5. Other Matters

10.0 APPRAISAL

- 10.1 It is acknowledged that the previous report to Panel erred by not including policy S2 and not being clear about the sequential test and the relevance of the NPPF and that emerging policy does not override adopted UDP policy

Section.38(6) Planning and Compensation Act 2004 states :

"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 material considerations indicate otherwise."

This is the starting point in determining this application as considered in the following paragraphs.

Principle of Development

- 10.2 The D1 doctors' surgery use is existing and subject to other relevant policies concerning design, parking and access and residential amenity being met, an expansion of this within the capacity of the site is considered acceptable in principle. As the proposed opticians will only be accessible from within the surgery during opening hours and the submitted plans indicate an area of about 31sqm (about twice the size of the other consulting rooms) it is accepted as an ancillary A1 use linked to the medical and health facilities provided within the building. This is consistent with recent case law where a lawful development certificate was issued on appeal at a Kent health centre for a pharmacy which would be served by the same entrance, be open for 100 hours a week and would sell medicine over the counter as well as dispensing GP's prescriptions. In this case the Inspector placed weight on the fact that the pharmacy would be operated as a joint venture with the doctors and

occupied only 6% of the floorspace and much of its activity would be focussed on dispensing prescriptions issued by the centre's GPs. In this case the Inspector considered that the pharmacy would operate as an ancillary facility to the site's primary use as a health centre.

10.3 Concerns were initially raised regarding the proposed additional pharmacy unit, since this would be in addition to an established pharmacy operated by Lloyds and due to its extended operating hours and arrangement could become an independent A1 unit in an out of-centre location. Additional information was therefore sought from the surgery regarding the need for a second pharmacy on the site.

10.4 The applicant responded explaining that the extended operating hours and additional services (ie consultations and advice) were requirements of the Primary Care Trust. In addition the expansion of the surgery would in part be funded by leasing the pharmacy to an outside operator. The existing Lloyds Pharmacy had been approached with a view to fulfilling this role, occupying the proposed new pharmacy and providing these enhanced services / extended opening hours, but agreement has not been reached to do so. The current practice generates about 30,000 prescription items per month and a busy pharmacy is understood to process about 12-15,000 items a month. The local pharmacies to the surgery including Lloyds, Boots and The Co-operative close at either 6 or 6.30pm and are not open at weekends. At present it is understood that the Doctors at the surgery send their prescriptions to over 15 local pharmacies. The provision of a '100-hour' pharmacy within the locality would benefit working patients and those reliant on public transport, whilst the need for integration between the GP surgery and pharmacy rendered alternative in-centre options impracticable. An application to open a new 100 hour pharmacy at Manor Park surgery was approved by the PCT on 8th November 2012 – all of the local pharmacies were informed of the decision and allowed 30 days to lodge an appeal – it is understood that no appeal / objections have been lodged. The take up of the pharmacy is time limited and given the delay in getting planning approval it is understood that the Doctors at the surgery are considering the start up of an in-house pharmacy within the existing surgery premises to dispense prescriptions which would be an ancillary part of the surgery and not require planning permission.

10.5 Turning to the policies which apply to retail development regard needs to be given to policies S2 and S9 in the adopted UDP (The Development Plan) and guidance in the National Planning Policy Framework (NPPF).

10.6 Policy S2 of the UDP states;

“ THE VITALITY AND VIABILITY OF THE FOLLOWING TOWN CENTRES WILL BE MAINTAINED AND ENHANCED, IN ORDER TO SECURE THE BEST ACCESS FOR ALL SECTIONS OF THE COMMUNITY TO A WIDE RANGE OF FORMS OF RETAILING AND OTHER RELATED SERVICES:

- BRAMLEY (plus 28 other centres)

.....”

The policy goes on to state that non-retail development within the list of centres will not normally be permitted and that retail development will generally be encouraged within centres. The approach therefore is a “centres first” one and is about maintaining and enhancing the vitality and viability of the S2 centres, including

Bramley. It is about trying to ensure that investment in retail and related development is channeled into the S2 centres rather than dispersed in out-of-centre locations . .

10.7 Policy S9 follows on from S2 and deals with smaller , non –major retail developments, as is the case here. It states;

“ RETAIL DEVELOPMENTS, SMALLER THAN THOSE DEALT WITH IN POLICY S5, OUTSIDE THE DEFINED S1 AND S2 CENTRES OR LOCAL CENTRES WILL NOT NORMALLY BE PERMITTED UNLESS:

- i. THE TYPE OF DEVELOPMENT CANNOT SATISFACTORILY BE ACCOMMODATED WITHIN AN EXISTING S1, S2 OR LOCAL CENTRE (OR IN THE ABSENCE OF AN IN-CENTRE SITE, ON A SITE ADJACENT AND WELL RELATED TO AN S2 OR LOCAL CENTRE); AND
- ii. IT CAN BE DEMONSTRATED THAT BY REASON OF THE SCALE AND TYPE OF RETAILING THE PROPOSAL DOES NOT UNDERMINE THE VITALITY AND VIABILITY OF ANY S2 OR LOCAL CENTRE OR PREJUDICE THE LOCAL PROVISION OF ESSENTIAL DAILY NEEDS SHOPPING. IT WILL OCCASIONALLY BE NECESSARY FOR THE APPLICANT TO CARRY OUT A FORMAL STUDY OF IMPACT ON NEARBY CENTRES AND AN ASSESSMENT OF THE CHANGES IN TRAVEL PATTERNS. NORMALLY CONDITIONS WILL BE IMPOSED OR A LEGAL AGREEMENT WILL BE REQUIRED TO ENSURE THAT THE SCALE AND TYPE OF RETAIL DEVELOPMENT DOES NOT CHANGE ITS COMPOSITION WITHOUT THE PRIOR CONSENT OF THE CITY COUNCIL; AND
- iii. IT ADDRESSES QUALITATIVE AND/OR QUANTATIVE DEFICIENCIES IN SHOPPING FACILITIES; AND
- iv. IT IS READILY ACCESSIBLE TO THOSE WITHOUT PRIVATE TRANSPORT, AS WELL AS THOSE WITH CARS, AND RESULTS IN A NET REDUCTION IN THE NUMBER AND LENGTH OF CAR JOURNEYS; AND
- v. IT DOES NOT ENTAIL THE USE OF LAND DESIGNATED FOR HOUSING OR KEY EMPLOYMENT SITES, OR LAND LOCATED IN THE GREEN BELT OR GENERALLY IN THE OPEN COUNTRYSIDE

DEVELOPMENT WHICH PREJUDICES THE LOCAL PROVISION OF ESSENTIAL DAILY NEEDS SHOPPING SERVICE LEVELS WILL NOT NORMALLY BE ALLOWED. RETAIL DEVELOPMENT (INCLUDING CHANGE OF USE) WHICH MIGHT THREATEN THE LEVEL OF PROVISION OF ESSENTIAL DAILY NEEDS SHOPPING TO LOCAL RESIDENTS WILL NEED TO BE SUPPORTED BY EVIDENCE OF ITS LIKELY RETAIL IMPACT.”

Policy S9 indicates that smaller retail proposals out of centre will not normally be permitted unless 5 conditions are met. Criterion i) requires a sequential approach.. There are currently vacant units within Bramley Town Centre that could accommodate an additional Pharmacy and based on this information it is clear the application would fail a sequential test and so the applicant has not been asked to undertake this exercise. Criterion ii) deals with impact of development on the vitality and viability of town centres. It is considered that because of the scale and type of provision along with the existing pharmacies (2 of which are out of centre) and the fact that the

additional pharmacy is part of an expansion of provision due to growth in health provision locally there is unlikely to be an undermining of the vitality or viability of Bramley District Centre or prejudice the local provision of daily needs shopping. Criterion iii expects the development to address qualitative and/or quantitative deficiencies in shopping facilities. It is considered that this proposal will provide enhancement to pharmacy facilities in making provision available in the same building as a GP surgery over longer opening hours. Criterion iv expects the development to be readily accessible to those without private transport, resulting in a net reduction in the number/length of car journeys. Whilst this usually means that town centres are better placed for non-car transport, the connection of this proposal to a GP surgery as well as its location in a residential area means that customers who have visited the GP surgery will not have to make a further journey and that many of the local people served by the GP surgery will be able to walk to the chemist. Finally, criterion v says that certain land designations should not be used. In this case, the proposal does not involve any such designations. Overall it is considered that the proposal satisfies all but criterion i of Policy S9. However it can also be argued that because of the close functional relationship between the surgery and a 100 hour pharmacy in terms of providing integrated local healthcare facilities, that the pharmacy could not be adequately located in the S2 centre given the need to be integrated with the surgery. It is now common practice for larger surgeries to have a pharmacy as part of the same building offering a service to patients. In these circumstances the sequential test is not failed.

- 10.8 The UDP is the current Development Plan for Leeds but this is due to be replaced in time by the emerging Core Strategy. This document has yet to undergo examination and consequently cannot overrule the UDP, but it sets out the direction of travel for future retail policy and has undergone several rounds of consultation, therefore, it can be given some weight. Policy P8 outlines the need for a sequential test for retail development like the UDP but goes into more detail over when this should be applied. Size thresholds are used to determine the range of the sequential test. It is considered that size thresholds in combination with the catchment areas are a necessary refinement of national policy which simply expects sequential testing for out-of-centre retail proposals. Without thresholds and catchment areas, a sequential test would have to look at every centre for every proposal regardless of size and distance. The development plan process is the obvious place to set out and test such thresholds and catchment areas that would be appropriate for localities, but where they have not yet been adopted in a plan, rules of thumb may be helpful for day to day development management. At present, thresholds and catchments were set out in the Publication Draft of Leeds' Core Strategy and have been refined in the Pre-Submission Changes (December 2012). In this instance the existing Pharmacy and the one proposed give a total area of just under 200 sqm. This falls under the first threshold of 200 sqm and consequently if policy P8 were used the Pharmacy would not require a sequential test as it is considered too small. Whilst the Core Strategy is emerging and can only be given limited weight policy P8 takes a pragmatic and sensible approach in relation to the sequential test.
- 10.9 Having assessed the application on relevant local policy, national guidance needs to be considered. The NPPF continues with support for the centres first approach and recognises town centres as the heart of their communities and urges LPAs to pursue policies to support their viability and vitality. Paragraph 24 states that "Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to date Local Plan". Para 27 goes on to state that "where an application fails to satisfy the sequential test or is likely to have significant adverse impact..... it should be refused". In considering the sequential approach further in para 24, however, the

NPPF states “ When considering edge of centre and out of centre proposals , preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on such issues as format and scale.” In terms of looking at impact in para 26 the NPPF sets a default threshold of 2,500 sq m where this is not set locally.

- 10.10 Current policy therefore is that a sequential test should be applied to retail development outside of a centre. It should be remembered that in this case the additional pharmacy is part of a much larger package of improvements to the surgery designed to improve health care for local people in the range and capacity of services which are offered to meet existing and future needs. The pharmacy is an integral part of the proposals and part of the submission sets out the needs and benefits which will be met if the extension goes ahead. Taken on its own the pharmacy would clearly fail the sequential element of the policy test but it is considered in this case that the particular circumstances should be recognised. Given the size of the pharmacy it is unlikely to harm the vitality or viability of Bramley Town Centre, the fundamental aim of the policies, and falls well below the threshold set out in the NPPF where an impact assessment is required. Furthermore, the Pharmacy is a complementary use to the surgery with a close functional connection to it and will offer more choice to patients as it offers additional opening hours. Clearly the ideal solution would be to have a single pharmacy at the surgery which would be open for extended hours for patients to use and it is unusual to have a proposal with two competing pharmacies in close proximity. However as part of an extended medical practice which is expanding and increasing the number of GPs operating from within it an argument can be made that whilst unusual it is not harmful to the nearby S2 centre and offers benefits to the patients of the extended surgery. The new pharmacy has been designed to be an integral part of the new extended surgery and offers improved facilities for users.
- 10.11 NPPF as well as suggesting in para 24 that LPAs and applicants should demonstrate flexibility on issues such as format and scale is clear that LPAs should approach decision taking in a positive way to foster the delivery of sustainable development (para 186) and that decision- takers at every level should seek to approve applications for sustainable development where possible.(para 187). In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. Overall it is considered on balance that the development in principle should still be supported as it is sustainable development which will not lead to adverse impact on the adjoining local centre and will bring substantial benefits to local people through improved facilities on the site close to the town centre. Due to the close functional relationship between the extended hours pharmacy and the surgery it can be argued that policy S9 is not breached and even if strictly criterion i) is not met there are other weightier material considerations which outweigh this technical breach of policy in terms of improved health facilities for local people.

Design/ Appearance

- 10.12 The design of the proposed extension generally reflects that of the existing building and on this basis is considered acceptable. The surgery as it stands is dominated by a large expanse of roof with a small two-storey element. It is functional rather than attractive but does correspond in terms of its overall design ethos with the ‘cleared’ areas of modern social housing to the north and east (if less so with the Victorian proportions of the terraced housing to the west). It is also set back within its own site and well-screened by trees and surrounding housing.
- 10.13 The two storey element will be located to the southern part of the building and will correspond with the existing first floor former flat on this side. This section will be

visible across the area of public open space to this side but is not considered detrimental in terms of its design, scale, form or massing. External materials are proposed to be brick and interlocking concrete tiles to match the existing.

- 10.14 On balance it is considered that subject to the use of materials which respect those of surrounding dwellings, the proposal is appropriate to its context and complies with policies GP5 and BD6 of the Adopted UDP.

Amenity Considerations

- 10.15 Similarly it is considered on balance that the proposed extension and expansion is acceptable in terms of the likely impact on the amenity of surrounding residents. The extension has been designed in a way that most of the development will take place on existing grassed areas to the east, where the houses are separated from the site by generous rear gardens, and the south, which overlooks open space. The eastern section will be single storey, located between 1m and 2m from the site boundary behind a palisade fence and separated from adjacent gardens by a 2m-3m ginnel and screening hedging. The main impact of the two-storey section will be onto the public open space and thus it will not result in over dominance, overshadowing or overlooking of any residential properties. Similarly the angled pharmacy / entrance hall extension to the front is located some 50m from the nearest houses on Bell Grove and again will not result in direct harm to the amenity of these residents.
- 10.16 The reconfiguration of the car park involves the creation of five new spaces to an existing grassed verge to the north-western corner and the relocation of six spaces to the north-eastern corner approximately 7m closer to the rear boundaries of Nos. 2 & 4 Bellmount Close. The former is not considered to be of concern due to the retention of the existing palisade fencing and screening shrubbery and trees which will serve to screen Nos. 2 and 4 Bell Grove to the north-west. However due to a change in levels between the car park and the rear gardens of Nos. 2 & 4 Bellmount Close, the open boundary treatment, and the limited garden depths to these houses, potential exists for disturbance arising from vehicle movements and headlight glare, particularly given the proposed extension of the pharmacy opening hours, and a condition has been agreed to provide details of a suitable screening fence to the north of these spaces. In addition, glare from car park security lighting has been mentioned as a concern by residents, and it has therefore again been agreed with the applicant that a condition to prevent any external fixture being angled at surrounding properties and to restrict the hours of operation by way of time switches will be recommended.
- 10.17 The majority of the concerns raised by local residents relate to the pharmacy element, which will be independent of the main surgery and close at 10pm on weekdays, 9pm on Saturdays and 8pm on Sundays, as opposed to the surgery which will open on weekdays only and close at 7pm. Whilst this represents a considerable extension of the current period during which the site is active it is accepted that levels of after-hours custom will be relatively light, not least because with the surgery closed there will be fewer opportunities for 'linked trips', and predominantly drawn from within the local area. It is considered on balance that subject to the aforementioned conditions to minimise the effects of vehicle movements and lighting that the impact on residential amenity will be within acceptable limits. The Environmental Health officer has not objected to the proposed operating hours, instead recommending conditions to limit the potential from noise during the construction stage.

Parking / Highways

- 10.18 The existing gated access from Bellmount Close is existing and will not change. However the car park will be extended and reconfigured to provide an additional 16 spaces including 4 disabled spaces and an ambulance bay. The Highways Officer is

satisfied that this level of provision is sufficient to accommodate the additional patient and staff numbers generated by the proposed extensions and has no objections to the revised layout, which through the provision of clearly marked and segregated pedestrian routes offers a considerable improvement in terms of accessibility over the current situation where pedestrians and drivers regularly conflict. A number of amendments were recommended including provision of cycle / motorcycle parking, bin storage, facilities for cyclists including lockers and showers and a Travel Plan Statement to encourage the use of sustainable modes of travel, and following the inclusion of these it is considered that the proposal is acceptable in terms of its impact on access, parking and highway safety, and complies with relevant policies including GP5, T2, T24 and the LCC Street Design Guide.

Other Issues

- 10.19 Many of the local objections related to concerns that the surgery would incorporate a needle exchange service and dispense methadone prescriptions to intravenous drug users, which in turn would attract this group of people and related social problems (including crime, vagrancy and irresponsible needle disposal) into a predominantly residential area with a high proportion of family housing. The applicant has clarified that whilst the surgery will offer substance addiction counselling there will be no dispensing of sharps or heroin substitutes from the pharmacy. The existing Lloyds pharmacy has a license from the PCT to provide this 'enhanced service' (although it is unclear whether this currently occurs) and in addition there is a second Lloyds outlet on nearby Town Street which also offers these facilities.
- 10.20 The issue of the impact upon the existing Lloyds Pharmacy in terms of competition and potential loss of jobs referred to previously in paragraph 1.3 above which was raised in the Judicial Review submission in which it says that The First Protocol to the Human Rights Act 1998, Article 1 states :-

'Protection of property: right to peaceful enjoyment of his possessions; no-one to be deprived of his possessions except in the public interest and subject to the conditions provided for by law ...the provisions do not impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest'.

The argument here is that a grant of planning permission would have a disproportionate effect on the applicant because it would cause great harm to the applicant's commercial interests without justification. This is essentially a competition argument which should be accorded little weight in the consideration of this application.

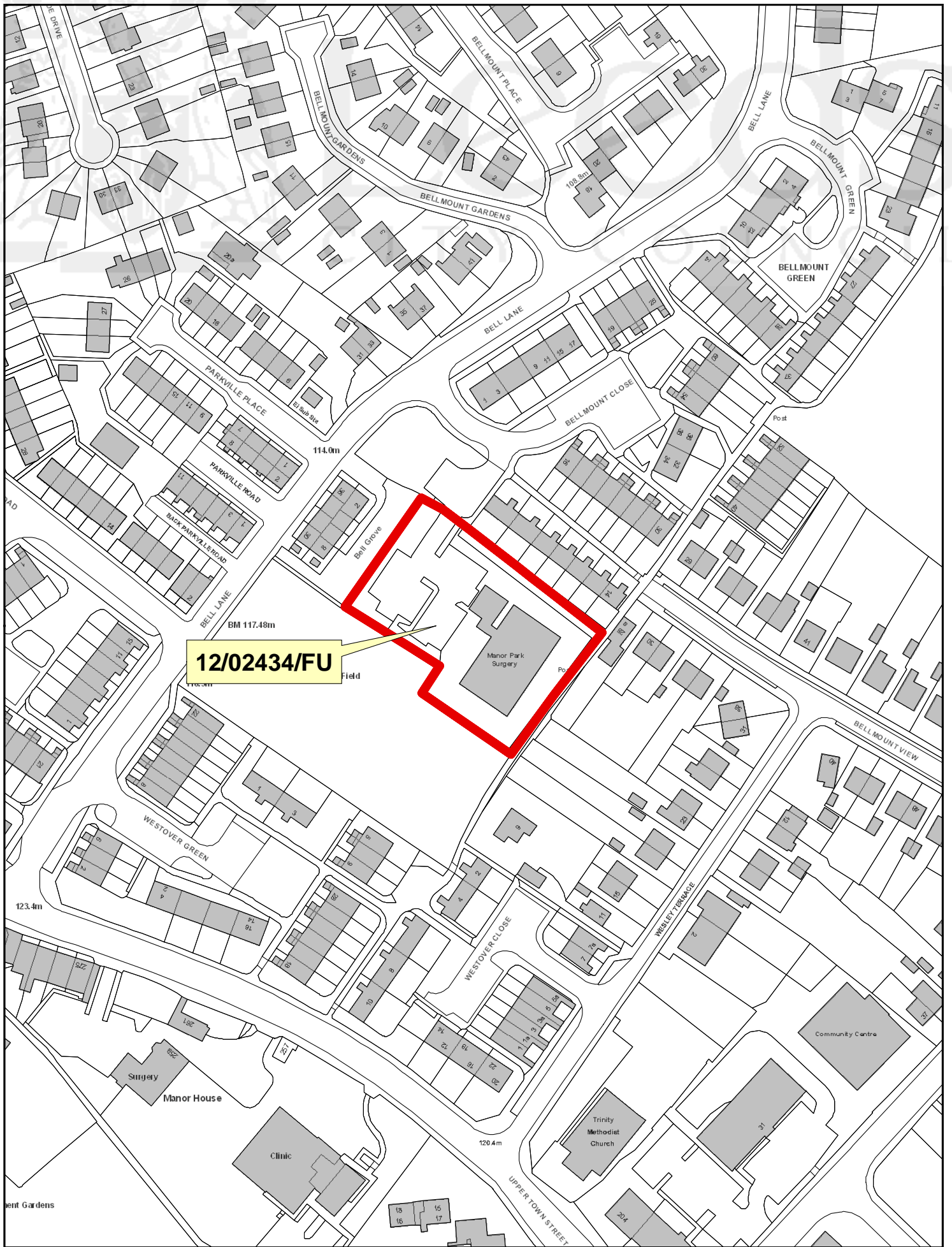
11.0 CONCLUSION

- 11.1 To conclude, the application has generated considerable public interest and concerns regarding the potential for increased parking / traffic movements and late night activity within the site. However these are considered to have been satisfactorily addressed through a combination of amendments to the proposal and conditions restricting operating hours and requiring the provision of facilities to encourage alternative means of transport. The proposal has therefore being considered in accord with Section.38(6) Planning and Compensation Act 2004 in that the application must be determined in accordance with the plan unless material considerations indicate otherwise. On balance it is questionable whether policy S9 is breached and the sequential test is failed but even if it is that needs to be weighed against the other material considerations – the pharmacy is only part of the broader package of

improvements being brought forward on the site, that extensions to the surgery would represent sustainable development and offer a range of enhanced health facilities for local people in terms of the range of facilities, the capacity to deal with prescriptions and longer opening hours for improved services and that apart from the retail element within the surgery for the pharmacy the proposal is otherwise compliant with policy and acceptable. . It is not considered that the proposal will adversely affect the vitality and viability of Bramley S2 centre. Weighing these matters it is considered that the benefits to health care for the local population by allowing the surgery to extend should be accorded greater weight than any technical non compliance of the pharmacy element with policy S9 of the adopted UDP and permission is therefore recommended subject to conditions. It is considered important to ensure that the pharmacy remains an ancillary part of the surgery and is not used for any other purpose within class A1 and is limited in size so a condition is recommended to ensure this (Condition 5).

Background Papers

Application File 12/02434/FU



SOUTH AND WEST PLANS PANEL