

PLANNING APPLICATION NUMBER: P05/1679

Type of approval sought	FULL PLANNING PERMISSION
Ward	UPPER GORNAL & WOODSETTON
Applicant	DRS IRANI, DAWES, FOSTER & SINGH
Location:	RIDGEWAY SURGERY, 175, THE RIDGEWAY, DUDLEY, DY3 3UH
Proposal:	THE ERECTION OF A SINGLE STOREY EXTENSION TO CREATE AN ANCILLARY PHARMACY TO THE DOCTOR'S SURGERY INCLUDING ALTERATIONS TO THE EXISTING CAR PARKING LAYOUT (RESUBMISSION OF WITHDRAWN PLANNING APPLICATION P04/1634).
Recommendation summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is located within a predominantly residential area. The Ridgeway is a cul-de-sac comprising ten two storey terrace properties and the doctor's surgery subject to this planning application submission.
2. The doctor's surgery was built during the 1990's. The surgery comprises a central two storey block with single storey wings either side extending to the east and west. The eastern boundary of the site adjacent to the Coronation Gardens public open space comprises a number of mature trees with few trees or other landscaping being located within the grounds of the surgery.
3. The doctor's surgery comprises a total of 334 square metres of floor space. The surgery is served by a customer car park fronting onto The Ridgeway, which comprises a total of 24 car parking spaces including two disabled spaces located immediately adjacent to the main entrance into the surgery.

PROPOSAL

4. The proposal seeks full planning permission for the erection of a single storey extension to create an ancillary pharmacy to the doctor's surgery and includes alterations to the

existing car parking layout. The pharmacy would comprise a total of 73m2 gross of floor space.

HISTORY

5. Relevant planning history relating to the application site is as follows:

APPLICATION No.	PROPOSAL	DECISION	DATE
92/51049	Full planning permission for the construction of access road and the erection of a doctor's surgery.	Approved subject to conditions.	10/09/92
98/50943	Full planning permission for an extension to the doctor's surgery to accommodate a pharmacy.	Appeal dismissed.	25/11/99
P01/1481	Erection of 1.7 metre high fence and 2.4 metre high security fencing along three boundaries of the surgery premises.	Withdrawn	14/09/01
P04/1634	Full planning permission for the erection of a single storey extension to create an ancillary pharmacy.	Withdrawn	21/10/04

6. Relevant planning history that relates to land adjoining the application is as follows:

APPLICATION No.	PROPOSAL	DECISION	DATE
94/50771	Outline planning permission for residential development.	Approved subject to a S106.	21/11/95
96/51163	Reserved matters application for the erection of 10 houses at land to the rear of 111-141 The Ridgeway.	Approved subject to conditions.	24/10/96

PUBLIC CONSULTATION

7. The application was advertised by way of neighbour notification letters being sent to the occupiers of twenty-nine properties being within close proximity to the application site. The local MP was also consulted. The latest date for comments was the 31st August 2005. Twenty-two letters of objection have been received including one from the local MP and a petition signed by 1,581 people against the development proposals. A petition has also been received signed by 2,036 people in support of the proposals. The main reasons for objections are set out below:

- There are already pharmacies within the vicinity which meet the demands of patients and local residents.
- The building of the pharmacy will take business away from existing pharmacies within the vicinity resulting in their closure. The proposal would result in the decline of existing local shopping centres through the dispersal of retail uses.
- The surgery is in a residential area off a cul-de-sac and parking is already a problem for local residents and patients visiting the surgery. The pharmacy will increase traffic problems within the area increasing the numbers of vehicles parking on-street.
- Noise and disturbance to local residents.

- The proposed extension will extend some 4 metres beyond the existing building line of 161 The Ridgeway, which will result in a loss of light to the lounge to this property. The Council's concern raised in relation to planning application P04/1634 with regards to the prominence of the proposed extension has not been addressed.
- The proposed pharmacy has increased in size from 50m² to 73m² from the previous application dismissed at appeal in 1999.
- Concern about the proposed alteration to the car parking layout serving the doctor's surgery in order to accommodate the pharmacy.
- Reduction in the numbers of parking spaces proposed for a larger extension than that in 1998 (50m² to 73m²) from 27 to 24 spaces. Concerns that there will not be sufficient parking for the proposed pharmacy and doctor's surgery.
- Deliveries to the pharmacy will result in an unacceptable level of traffic generation within the residential cul-de-sac. If lorries make deliveries, it would not be possible for them to turn within the car park unless if were free of parked cars and this will result in disruption to the free flow of traffic.
- Concern about the types of drugs that the pharmacy will stock causing concerns about criminal activity and security to surrounding residential properties.
- Concern about the proposed 1.8 metre high railings with brick piers being out of character with the area which is an open plan estate.
- Concerns that the surgery will be used as a general retail outlet with many of the products to be sold available in many grocery stores. The pharmacy is not ancillary to the surgery given that it has its own separate access independent of the surgery and having regard to the range of goods proposed to be sold from the pharmacy.
- Impacts of the proposals in terms of its appearance, amenity impact on neighbours and traffic conditions are so significant that it goes beyond what could be described as ancillary. The pharmacy will constitute an entirely separate planning unit providing an

extensive range of goods and services and operated by an independent body from the surgery. It can therefore not be considered ancillary to the surgery.

- The pharmacy constitutes A1 retail development and is therefore subject to the tests of national planning policy. The applicants have not demonstrated a need for the proposed pharmacy in this location; the pharmacy will result in the closure of the Arcade Pharmacy at Upper Gornal, which would in turn have a detrimental impact on this Local Shopping Centre.
- Concern that the methodology adopted in the submitted Transport Statement to estimate the likely traffic generation of the proposed surgery is simplistic and that traffic generation is likely to have been underestimated.
- Inspector in previous appeal decision stated that additional traffic caused by the proposed surgery would have “an adverse impact on the living conditions of residents in terms of noise and disturbance.”
- Insufficient evidence submitted to substantiate the claim that 90-95% of business at the pharmacy will be generated by the host surgery.
- Concerns about the trip rates used within the Transport Assessment.
- Proposed car parking layout does not make provision for any landscaping.
- Concern about impacts on trees especially those protected by Tree Preservation Orders that overhang the site from Coronation Gardens.
- It is claimed that the Lloyds High Street pharmacy will close regardless of whether this application is approved or not. This was first stated 6 years ago yet the store has remained trading for the last 6 years.

OTHER CONSULTATION

8. The Head of Traffic and Road Safety raises no objections to the proposed development. The Transport Assessment states that the additional traffic generated by the pharmacy

will not have an adverse impact on the highway network adjacent to the development, the Head of Traffic and Road Safety agrees with these findings. The re-located angled parking spaces comply with parking guidelines in terms of their width, depth and distance between each of the bays.

9. The Head of Traffic and Road Safety does state that the maximum vehicle accumulation (vehicles using the car park at any one time) for the pharmacy is 6 vehicles. The parking survey for the existing surgery shows the maximum vehicle accumulation of 21 vehicles, which leaves three parking spaces. The Head of Traffic and Road Safety does state that there may be potential for vehicles to be displaced onto The Ridgeway.
10. The Head of Traffic and Road Safety does not consider that the potential shortfall in parking spaces is an issue capable of sustaining a recommendation for refusal especially having regard to national planning policy relating to maximum parking standards (PPG13).
11. The Council's Tree Officer raises no objections to the proposed car parking layout subject to conditions requiring the specialist construction of the car parking spaces to avoid damage to the roots of the mature trees within and outside of the site. All of the new parking spaces will need to be constructed to the standards set out in BS: 5837-2005 (Trees in Relation to Construction) and the Arboricultural Advisory and Information Service Practice Note: APN1 (Driveways Close to Trees).

RELEVANT PLANNING POLICY

Regional Spatial Strategy

Policy PA13 Out-of-Centre Retail Development

Policy T2 Reducing the need to travel

Adopted Dudley Unitary Development Plan

Policy 77 Out of Town Retail Development

Policy 85 Development in Residential Areas

Policy 98 Parking

Policy 99 Highways and New Development

Revised Deposit Dudley Unitary Development Plan

Policy DD1 Urban Design

Policy DD2 Mixed Use

Policy DD4 Development in Residential Areas

Policy CR6 New Retail Development – Comparison Goods

Policy CR9 Edge-of-Centre and Out-of-Centre Development

Policy NC9 Mature Trees

Supplementary Planning Guidance

PGN 17 House Extension Design Guide

ASSESSMENT

12. In consideration of this planning application, the starting point is the development plan for the Borough. Section 38 (6) of the Planning and Compulsory Purchase Act states that any determination must be made in accordance with the plan unless material considerations indicate otherwise.
13. Section 38 (3) of the Planning and Compulsory Purchase Act 2004 states that the 'development plan' is the regional spatial strategy for the region in which the area is situated (in Dudley's case the RPG for the West Midlands) and the development plan documents (taken as a whole) which have been adopted or approved in relation to that area (in Dudley's case the adopted and the Revised Deposit Plan). The implications of this are that both the adopted and the Revised Deposit Plans need to be considered as the development plan.
14. Dudley Borough has two Unitary Development Plans to consider, the adopted Dudley Unitary Development plan which was adopted in 1993 and the Revised Deposit Unitary Development Plan which was published in February 2002. In relation to the emerging UDP, the Council has published its notice of intention to adopt the plan in July 2005 with a view to formal adoption on the 18th October 2005.

Is the pharmacy ancillary to the doctor's surgery?

15. The key consideration in assessing the suitability of the proposals is whether the proposed surgery is ancillary to the doctor's surgery. If the proposed pharmacy is

considered ancillary to the doctor's surgery then it is not necessary to assess the proposals against national retail policy (PPS6 – Planning for Town Centres), Policy 77 (Out of Town Retail Development) of the adopted Dudley Unitary Development Plan or Policies CR6 (New Retail Development – Comparison Goods) and CR9 (Edge-of-Centre and Out-of-Centre Retail Development) of the Revised Deposit Dudley Unitary Development Plan (As Modified) since the proposals would not be classified as an A1 retail use but a use ancillary to the doctor's surgery (D1).

16. Key factors in assessing whether the proposed pharmacy is ancillary to the doctor's surgery is ensuring that the scale of the development is appropriate, an assessment of the range of goods to be sold and the proportion of turnover from goods sold which are not directly related to the doctor's surgery. These considerations are in accordance with advice set out at Paragraph 3.30 of PPS6.
17. The proposed pharmacy would comprise a gross floor area of 73 square metres. Of this, around 40 square metres will be used as retail floor space with the remaining space providing a secure area for the pharmacist and pharmaceutical equipment and including a private consultation room. The existing doctor's surgery comprises a gross floor area of 334 square metres. The total combined gross floor area of the surgery and pharmacy would be 407 square metres with the pharmacy comprising 18% of the gross floor area. The retail component would only account for 10% of the gross floor area.
18. The range of goods to be sold within the pharmacy will only comprise pharmaceutical supplies associated with medical surgeries. The pharmacy will not sell goods associated with pharmacies within high street locations. PPS6 advises that it is appropriate to attach conditions to ensure that a use remains ancillary. This can include restricting the range of goods sold, which in this case will ensure that the proposal does not have a negative impact on existing retail units within nearby local shopping centres as well as ensuring that the development does not become an independent A1 retail outlet to the doctor's surgery.
19. In terms of the proportion of turnover from goods sold which are not directly related to the main use (doctor's surgery) the applicant's consultant has confirmed that evidence gathered from other surgery based pharmacies suggests that only between 5-10% of goods sold at the pharmacy would not be connected to the surgery, i.e. 90-95% of pharmacy visits will have originated at the surgery.

20. Whilst the pharmacy has an independent access from the car park the pharmacy can also be reached internally via the surgery. The direct access into the pharmacy from the surgery demonstrates that the pharmacy is ancillary and directly connected to the surgery therefore not constituting a free standing development.
21. The proposed pharmacy by virtue of its scale, the range of goods to be sold, the proportion of turnover from goods sold which are not directly related to the main use (doctor's surgery) and having regard to the layout of the proposed development demonstrates that the proposed pharmacy is ancillary to the main D1 use of the Ridgeway Surgery.

Traffic Impact

22. The application is supported by the submission of a Transport Assessment seeking to assess whether additional traffic movements from the proposed surgery will result in disturbance to local residents.
23. Whilst the Head of Traffic and Road Safety raises some concern that the proposal may result in a slight shortfall in parking provision for both the surgery and pharmacy it is not considered that this is a sufficient reason to warrant the refusal of planning permission given national government advice seeking the application of maximum rather than minimum parking standards.
24. The proposals will reduce the need to travel through the creation of a mixed-use development whereby patients to the surgery will be able to pick up prescriptions on site rather than having to travel to other pharmacies within the local area. This general pattern of development is encouraged by national (PPG13), regional (Policy T2 of RSS) and local planning policy (Policy AM14 and DD2 of the Revised Deposit Dudley Unitary Development Plan (As Modified)).

Trees

25. A Tree Survey and Assessment has been submitted in support of the proposed development. This demonstrates that the proposed extension and the alterations to the car parking layout will not have a detrimental impact on the health of the mature trees located within and overhanging the site. The Council's Tree Officer supports the

conclusions of the Tree Survey and Assessment raising no objections to the proposals subject to conditions.

Design of the proposed Pharmacy

26. The proposed extension will extend some 4 metres beyond the front of the adjoining residential property (161 The Ridgeway). This property comprises a lounge window to its front elevation. Whilst the extension would extend beyond the existing building line it would not contravene the 45 degree code as set out by PGN 17 (House Extension Design Guide). The 45 degree code aims to guide the size of extensions in order to ensure that they do not seriously affect the outlook from a property or daylight.
27. In view of the above, whilst the single storey pharmacy extension would protrude 4 metres in front of the existing building line, given that there is no contravention of the 45 degree code indicates that harm to the lounge window within 161 Ridgeway will not be so serious as to warrant the refusal of planning permission. The orientation of the extension from 161 Ridgeway (east) will also ensure that the residential property still enjoys a suitable amount of daylight and sunlight from those windows serving habitable rooms within the property.
28. Whilst the proposals will involve in a front extension to the main surgery, the scheme will involve amendments to the existing car parking layout. This includes removing four spaces and re-allocating them elsewhere within the site. The existing car parking layout comprises six parking spaces close to the boundary with 161 The Ridgeway. The proposed development will reduce the number of car parking spaces within this part of the site to two. It is considered therefore that scheme does provide an opportunity to reduce the existing impact of the surgery onto the occupiers of this property by removing car parking spaces close to the boundary with this dwelling thereby reducing noise impact caused by the parking and manoeuvring of vehicles within the site.
29. The proposed pharmacy is shown to the front of the doctor's surgery in order to allow ease of access for those wishing to pick up prescriptions following a visit to the doctor's. The design of the extension including its scale and detailing would match that of the original surgery with the proposed hip roof integrating with the existing single storey elements of the surgery.

Competition

30. A number of those raising concerns with the proposals state the pharmacy will have a detrimental impact on existing pharmacies operating within the area. The applicant's agent has confirmed that the closure of Lloyds pharmacy in Sedgley High Street is imminent regardless of the outcome of the current proposals at The Ridgeway surgery. Concerns have also been raised about the potential impact on the chemist in Kent Street, Upper Gornal.
31. Given that the proposed pharmacy is ancillary to the main doctor's surgery, retail policy does not apply in this case and therefore an assessment of the scheme in terms of its impacts on existing centres is not appropriate. In addition, PPS6 makes it very clear that it is not the role of the planning system to restrict competition or to preserve existing commercial interests.

Crime

32. The pharmacy will by virtue of the nature of its business store various drugs on its premises. The applicant's agent confirms that the operator would intend to install internal shutters to the entrance to the pharmacy and security lights. Both of these elements would not require planning permission but the measures demonstrate that the operator will take measures to ensure that the pharmacy is kept secure.
33. The proposed railings with brick piers to be erected along the frontage of the site to The Ridgeway will also help in improving security in relation to the doctor's surgery and pharmacy.
34. The proposed fencing will stand 1.8 metres high from ground level comprising 1.2 metres railings and 0.6 metres of dwarf brick wall. The means of enclosure will be broken up by 1.8 metre high brick piers placed between each railing section every 1.2 metres. The design of the means of enclosure with railings will ensure that it improves security within the site whilst retaining openness and visibility into and out of the car park.

Noise and disturbance to local residents

35. The applicant's agent has confirmed that the pharmacy would only be open when the surgery is open. Given this and having regard to the fact that the pharmacy is ancillary

to the main surgery will ensure that the proposals will not result in an adverse impact in terms of noise and disturbance over and above what is already experienced by the occupiers of the dwellings on The Ridgeway living within close proximity to the surgery. A condition can also be attached to restrict the hours of deliveries made to the pharmacy to limit impacts on neighbouring properties.

Implications of planning history

36. The previous planning application to extend the surgery in order to provide a pharmacy dismissed at appeal was considered in 1999. The planning policy context in which to assess the current similar proposals has changed significantly since this time with national planning guidance (PPS1 and PPG13) promoting mixed-use developments in order to reduce the need to travel and the publication of PPS6 providing specific advice in relation to the assessment of ancillary retail uses.
37. The previous planning application was withdrawn on the 21st October 2004 (P04/1634) in order for the applicant to provide additional information. This related to details on whether the pharmacy would be ancillary to the doctor's surgery, amendments to the proposed design of the pharmacy in order to reduce its prominence, further information in relation to the impact of the proposals on the mature trees within the site and demonstration that the scheme will not generate additional traffic movements sufficient to cause significant disturbance to local residents.

CONCLUSION

38. The current proposals have provided the additional information sought by the withdrawal of planning permission in 2004 and with the exception of changes to the design of the extension all issues have been addressed. The proposed pharmacy is ancillary to the surgery and conditions will ensure that this remains, the proposals will not have an adverse impact upon trees and the scheme given its ancillary nature will not generate additional traffic movements sufficient to cause disturbance to local residents. Whilst the design of the extension has not been amended from the planning application that was withdrawn, the extension will not contravene the 45 degree code and will therefore not result in an unacceptable loss of daylight or sunlight to habitable rooms serving 161 The Ridgeway. The proposals will to some extent improve upon the current relationship of the surgery with 161 The Ridgeway through reducing the amount of car parking spaces close to the boundary with this residential property. This will slightly reduce impacts

associated with the parking and manoeuvring of vehicles into car parking spaces close to the boundary with 161 Ridgeway.

RECOMMENDATION

39. It is recommended that that planning permission is approved subject to conditions:

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The pharmacy hereby permitted shall only be open when the surgery is open with the exception of operating 30 minutes after the surgery has closed in the evenings.
3. The main use of the proposed pharmacy hereby permitted shall be for the dispensing of prescriptions from The Ridgeway Surgery with ancillary retail sales comprising no more than 40 square metres of the proposed gross floor area of the pharmacy. At no time shall the pharmacy become an A1 retail unit.
4. The proposed pharmacy hereby permitted shall only be used for the sale of medical products and appliances which may be prescribed or purchased, a range of nutritional products and supplements for patients with special dietary requirements, special formula baby milks, milk substitutes and appropriate feeding devices, diagnostic services including the sale of diagnostic testing kits, disinfectants and antiseptics, first aid products, chiropody products, medicated scalp and skin preparations, sanitary products, dental, oral and personal hygiene products, family planning products, distress purchases and vitamin/mineral supplements unless otherwise agreed in writing by the local planning authority.
5. The proposed internal door connecting the pharmacy and doctor's surgery shall be implemented and made available for use as soon as the pharmacy is opened and shall be retained for the lifetime of the development as shown on drawing no: L (0) D7 Rev D.
6. No goods shall be delivered to or despatched from the pharmacy before 08:00 hours on Mondays to Saturdays inclusive or after 18:00 Mondays to Saturdays inclusive. There shall be no deliveries at any time on Sundays or Bank Holidays.
7. All the existing trees and hedges indicated on the approved drawings to be retained shall be protected by suitable fencing and at a suitable distance as outlined in BS: 5837 – 2005 (Trees in Relation to Construction), or such alternatives as may be

agreed in writing by the Local Planning Authority. Such fences shall be erected before any materials are brought onto site or development commences. No materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence(s) unless previously agreed in writing by the Local Planning Authority.

8. The existing trees shown on the approved plans to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be agreed in writing by the local planning authority.
9. Trees – Excavations: All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication Number 10 ‘Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees’.
10. Trees – Parking Area Construction: No development shall take place until there has been submitted to and approved in writing by the local planning authority technical details of any proposed driveway/parking area within 3 metres of the outer canopy spread of any existing tree situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely BS 5837: 2005 ‘Trees in Relation to Construction’ and ‘Arboricultural Advisory and Information Service Practice Note ‘Driveways Close to Trees’ (1996). Any driveway/parking areas within 3 metres of existing trees must be constructed using minimum excavation techniques incorporating appropriate surfaces to avoid damage to trees and to prevent any potential direct or indirect damage caused by trees.
11. This permission relates to drawing numbers L (0) D2 Existing Site Layout, L (0) D3 Existing Ground Floor Plan, L (0) D4 Existing Elevations 1, L (0) D5 Existing Elevations 2, L (0) D6 Rev G Proposed Site Layout, L (0) D7 Rev D Proposed Ground Floor Plan, L (0) D8 Rev B Proposed Elevations 1, L (0) D9 Rev C Proposed Elevations 2, A (9) 101 Boundary Wall & Palisade Fence and 0065/F/001 Rev A Proposed Internal Layout.