

IN CONFIDENCE – FOR MEMBERS' INFORMATION ONLY

MINUTE: PPC/08/176

Minute of Meeting of the Pharmacy Practices Committee held on Thursday 4th September 2008 in Committee Room 1, Strathclyde Hospital, Airbles Road, Motherwell.

Chairman: Mr B Sutherland

Present: Lay Members Appointed by the Board

Mr J Murray
Mrs L Robertson
Mr C Sargent

Pharmacist Appointed by The Royal Pharmaceutical Society of Great Britain

Mr E J H Mallinson

Pharmacist Nominated by Area Pharmaceutical Committee

Mr I Allan
Mr P Aslam

Attending: Officers from NHS Lanarkshire - Primary Care

Mr G Lindsay, Chief Pharmacist
Mr A MacKintosh, Primary Care Manager
Ms K Beattie, Secretary

176

APPLICATION BY MR BRIAN GALLAGHER, 15 BERWICK STREET, SHAWHEAD, COATBRIDGE, ML5 4NH.

(a) There was submitted application by Mr Brian Gallagher, received 25th June 2007, for inclusion in NHS Lanarkshire's Pharmaceutical List.

(b) **Submissions of Interested Parties**

The undernoted documents were submitted:

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| Area Pharmaceutical Committee | Received 27/07/07 |
| Monklands Pharmacy | Received 18/07/07 |
| J E Robertson | Received 17/07/07 |
| Coatbridge Dispensary | Received 17/07/07 |
| Health Pharmacy Ltd | Received 16/07/07 |
| Boots Chemist Ltd | Received 11/07/07 |
| H McNulty Ltd | Received 04/07/07 |
| Alliance Pharmacy | Received 28/06/07 |

(c) **Procedure**

Prior to arrival of parties the Chairman asked Members to confirm that they had both received and considered the papers relevant to the meeting. Having ascertained that no Members had any personal interest in the application the Chairman confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers.

(d) **Attendance of Parties**

The applicant, Mr Brian Gallagher, and associate Mr B Semple and the interested parties, Mrs M Rodgers and Mrs I Thompson entered the meeting.

The Chairman introduced himself and the Members, as well as the officers in attendance from NHS Lanarkshire - Primary Care, and asked Mr Gallagher to confirm that he had received all papers relevant to the application and hearing.

The Chairman explained that the meeting was being convened to determine the application submitted by Mr Brian Gallagher, for inclusion in NHS Lanarkshire's Pharmaceutical List, according to the Statutory Test set out in Regulation 5(10) of The National Health Service (Pharmaceutical Services)(Scotland) Regulations, as amended (the Regulations).

The Chairman then continued to explain the procedures to be followed and ascertained that no member of the Committee had any interest in the application. The applicant Mr Brian Gallagher was accompanied by Mr B Semple.

The Chairman advised the applicant that in terms of the Regulations, he shall be permitted to be assisted in making representations by Mr Semple, but Mr Semple shall not appear in the capacity of counsel, solicitor or paid advocate, nor shall he be entitled to speak on behalf of the applicant. The applicant was in agreement with this position.

The Chairman confirmed all parties received the paperwork and that member's had made a site visit.

(e) **Evidence Led**

The Chairman invited Mr Gallagher to speak on behalf of the application.

Mr Gallagher thanked the Committee for the opportunity to attend the meeting, and thereafter presented his case in support of his application:

The location of the premises is 15 Berwick Street, Shawhead, Coatbridge. The property in question was part of a shopping parade and was currently operating as a chip shop. Photographs were circulated of the proposed premises. The proposed conversion would divide the premises in to two parts, with the proposed pharmacy on the left hand side. There would be a new dividing wall and the provision of a new shop front. The proposed premises would provide a sales area, a consultation area as well as a display and dispensing area. Addiction services, as well as cholesterol testing and blood pressure monitoring services were proposed, as was a chlamydia screening service. A store and a toilet would also be provided. Parking facilities were good

For the purposes of the application and to reference to the definition of neighbourhood, Mr Gallagher referred to a number of points raised by Lord Nimmo Smith and Lord Justice Banks. These rulings by the judges infer that the definition of neighbourhood has many meanings for many people and as an example given by Mr Gallagher, a single square surrounded by houses could be defined as a neighbourhood. Mr Gallagher defined the neighbourhood to be the A8 to the south, Whifflet to the west, the railway line to the east and Calder Street to the north. These boundaries are all significant geographical features and main roads.

Given Shawhead's population of 4,000, local healthcare services, which would include GP's, dentists or pharmacy services are not currently available.

The neighbourhood has 4,000 residents, 28% of whom are 60 years or older (national comparison figure 19%). Other figures of note, with national comparison figures in brackets are 22% (14%) over occupancy; 9% (7%) with children and unemployed, 57% (64%) in good health. People were less healthy and the area is in relative terms, deprived with clear mobility issues. Further housing was being developed by Barratt Homes.

Mr Gallagher advised that in an area of dense population, public transport provision was insufficient to meet residents' needs and that there were only two buses that took residents in to the town centre. Given this poor provision of public transport facilities it is necessary and desirable to grant the application in order to secure adequate provision of pharmaceutical services in the neighbourhood.

Mr Gallagher advised that his proposals were not about augmenting existing services but were creating services where none currently existed.

Mr Gallagher circulated a number of photographs, including aerial pictures, which showed a bus stop and the underpass residents need to use the cross the busy main road to reach the bus stop. Mr Gallagher advised that the photograph of the underpass demonstrated an unpleasant environment for residents to use and highlighted reports of assaults in the underpass.

Mr Gallagher summarised by stating that it is necessary and desirable to grant the application in order to secure adequate pharmaceutical services reflecting the modern changing needs of the neighbourhood and NHS Pharmaceutical care services.

The Chairman then invited questions from Interested Parties to Mr Gallagher.

Mrs Rodgers was of the view that McNulty's Chemist did provide Pharmaceutical services for Shawhead and that this was easily accessible to the people from Shawhead and Whifflet. Mr Gallagher responded by passing round a map and following a number of observations, he was of the view that McNulty's Chemist was not in the neighbourhood of Shawhead.

Mrs Thompson asked Mr Gallagher if this area was deprived and if there was a drug problem. Mr Gallagher agreed that there was a drug problem, and this was a result of people being relocated from parts of Glasgow and which reinforced the need for a pharmacy within the neighbourhood. Methadone and needle exchange services were proposed and a private area in the pharmacy would be provided for this service. Mrs Thompson asked Mr Gallagher what new services would be provided by his pharmacy which was not already provided. Mr Gallagher again stressed that he was not seeing to augment what services were already provided but to provide new services to residents of the

neighbourhood who were socially deprived and had difficulties accessing the current range of services provided.

The Chairman then invited questions from Members of the Committee to Mr Gallagher

Mr Mallinson asked Mr Gallagher to outline the dimensions of the proposed Pharmacy. Mr Gallagher advised that the premises would be approximately 12 feet wide and 36 feet long and was of the view that this size was adequate given that he would not be providing a predominantly retail Pharmacy as the provision of retail services were already provided. Mr Gallagher sought to concentrate on dispensing and displaying NHS notices. Mr Mallinson had reservations regarding the size of the proposed premises.

Mr Aslam was in agreement with Mr Mallinson and expressed concerns over the size of the unit and asked if there would be a separate area for Methadone. Mr Gallagher confirmed that there would be a dedicated area which would be discreet and private. Mr Allan advised Mr Gallagher that he was aware that there was an interest in a Pharmacy in the area several years ago and sought clarification regarding the necessity for local authority building warrants. Mr Gallagher confirmed that local authority permissions would be required and advised that the owner of the premises intended to develop the premises whether it became a pharmacy or not. Mr Allan asked Mr Gallagher where the nearest GP surgery was and whether there would be a prescription delivery service. Mr Gallagher advised that the majority of GP practices were in the Health Centre in Coatbridge and he was aware of a practice in Church Street, Coatbridge. Mr Gallagher confirmed that a collection and delivery service would be provided.

Mr Murray advised Mr Gallagher that he had conducted a site visit the previous week and had concerns that as the adjoining chip shop would remain open at lunchtime for school children how Mr Gallagher planned to keep methadone dispensing discreet. Mr Gallagher advised that he had a petition with in excess of 300 signatures from local residents with only a very small minority raising concerns regarding Methadone. Mr Sutherland asked Mr Gallagher to clarify how he would deal with methadone patients at lunchtimes. Mr Gallagher advised that he had significant experience in dealing with such patients and he intended to provide a separate area within the premises for such patients and further advised that they did not anticipate having Methadone patients attending the Pharmacy during lunchtimes.

Mrs Robertson expressed concerns that after 15 months in the application process would the lease still be available if the application was granted. Mr Gallagher assured the panel that the lease would be available to him if the application was granted. Mr Sutherland asked Mr Gallagher in the event that the application was granted if 6 months was sufficient time in which to open the proposed Pharmacy. Mr Gallagher advised that there was some bulk bearing work to be undertaken such as dividing the premises into two separate units and was confident that all local authority permissions would be granted and that 6 months would be sufficient time to undertake these modifications. Mr Mallinson sought clarification regarding why there were no definitive plans ready to be submitted to planning. Mr Gallagher advised that the plans had not been completed yet and therefore there were no accurate measurements to provide. Mr Sutherland asked Mr Gallagher what support he had for establishing a Pharmacy in the area. Mr Gallagher advised that there was a petition in the shops, Post Office and chip shop and proceeded to read out the wording of the questionnaire in the petition. Mr Gallagher advised that 350 signatures had been collected in 3 weeks which was approximately 10% of the population. A petition was still ongoing. Mr Sutherland sought clarification if there was any other support for the provision of the Pharmacy. Mr Gallagher advised that there was no other support however he had notified the local Councillor. Mr Sutherland sought clarification on what everyday issues and services would residents travel out with the neighbourhood to access. Mr Gallagher stated that residents would travel out with the neighbourhood to access Pharmaceutical services as well as accessing shopping facilities within the town centre.

The Chairman then invited the interested parties to state their representations

Mrs Rogers advised that McNulty Pharmacy was number 3 on the map provided to members and wished to voice her objection to the application by Mr Gallagher. Mrs Rogers advised that her Pharmacy was in the Northern area of the ward of Shawhead and outlined that this fact was confirmed by North Lanarkshire Council. An audit had been carried out in July which highlighted that approximately 70% of prescriptions were for people of Shawhead. Mrs Rogers agreed with Mr Gallagher that the population of Shawhead was approximately 4,000, however allowing for variations in the definition of the neighbourhood the actual number of residents could be significantly less than the 4,000 quoted. Mrs Rogers then outlined issues regarding

viability of such a Pharmacy and referred to documentation which outlined that an average Pharmacy would serve a diverse population of around 4,500 people. Mrs Rogers outlined to the Committee that she had undertaken a journey on foot towards the proposed new Pharmacy which was on a very steep incline and suggested that the elderly, infirm or those with respiratory or heart conditions would in her opinion find it difficult to walk to the proposed Pharmacy when coming from the direction of Rosehall Avenue or other surrounding streets. Mr Rogers outlined that most of the residents of Shawhead would have to travel over 1 mile on a daily basis to go about their normal daily tasks such as attending the supermarket and doctor and in doing so, find it convenient to access pharmaceutical service whilst undertaking those tasks. Thus services were convenient as was the nearby Whifflet train station. Mrs Rogers advised that in her opinion people from the neighbourhood can access her Pharmacy and all other amenities in just a few minutes either on foot or by car or by bus. Mrs Rogers outlined the long and distinguished history that H McNulty Ltd had in the area and outlined the facilities and services available to patients and the level of investment undertaken. Mrs Rogers alluded to a former Pharmacy which opened in Calder Street around 19 years ago which was in the proposed neighbourhood which had to close down after approximately 2 years of trading as this was not a viable proposition. Mrs Rogers raised her concerns that should an additional Pharmaceutical Contract be awarded, as a result of the volume of prescriptions dispensed by McNulty's Pharmacy Ltd for residents of the proposed neighbourhood, this could have a detrimental effect on the ongoing business of McNulty Ltd. Mrs Rogers advised the Committee that she has demonstrated that the pharmaceutical services to the proposed neighbourhood are adequate and asked that Mr Gallagher's application be rejected.

Mr Gallagher asked Mrs Rogers if she was able to clarify whether McNulty's Pharmacy was in Whifflet or Shawhead, making the distinction that a local authority ward is not necessarily the same as the neighbourhood. Mrs Rogers replied that she was not certain of the answer to this question. Mr Gallagher went on to discuss Mrs Rogers's route that she had taken whilst walking from Shawhead to her own Pharmacy and thought that the route she had taken was unsafe. A further discussion ensued regarding the condition of the pavements.

The Chairman then invited questions from the Committee to the interested parties.

Mr Mallinson asked Mrs Rogers to clarify her prescription delivery service. Mrs Rogers advised that patients would either come into the shop or contact the shop via telephone with repeat prescriptions and these would be taken to surgeries on the same day. If the prescriptions were ready before 4.30pm they would be delivered to the patient that day. Mrs Rogers advised that the pharmacist would deliver prescriptions if urgent.

Mrs Thompson's representation was that she objected to the application as the residents of the neighbourhood were already well served by a number of pharmaceutical providers such as McNulty's, the Health Centre dispensary and the Monklands Pharmacy. In response to Mrs Thompson, Mr Gallagher advised that in his view a collection and delivery service was not equal to normal pharmaceutical provision.

Mr Mallinson asked Mrs Thompson to explain the services provided by the collection and delivery service. Mrs Thompson advised that a full time driver was employed and would visit GP surgeries approximately 3 times daily, with the pharmacy also taking telephone requests and requests handed in by patients. This amounted to a maximum turnaround of 2 days. The collection service was made to practices just before closing time and then delivered later. Mr Mallinson asked Mrs Thompson how many deliveries were made to Shawhead; Mrs Thompson was not sure of the exact number but thought this would be relatively few in number.

Mr Sargent asked Mrs Thompson if she was able to give the percentage of patients in the neighbourhood, Mrs Thompson was not sure of these figures.

The Chairman then invited the applicant to sum up in relation to the application.

Mr Gallagher stated that in his view both the McNulty and Monklands Pharmacy were not in Shawhead and he was dubious about the percentage of Shawhead patients that used these pharmacies. Mr Gallagher was of the view that he has adequately defined the neighbourhood and that in his view there is no Pharmacy within the defined neighbourhood and that the deprived, elderly and immobile patients of Shawhead do not readily have access to travel to the town centre. In this regard Mr Gallagher was of the view that a new Pharmaceutical service is both necessary and desirable and should be granted.

(f) **Retiral of Parties**

The Chairman then invited the Applicant to confirm whether or not he had received a fair hearing, and that there was nothing further he wished to add.

Having been advised that Mr Gallagher was satisfied, the Chairman then informed him that the committee would consider the application and representations made and make a determination, and that a written decision with reasons would be prepared, and a copy sent to them as soon as possible. Mr Gallagher was also advised that anyone wishing to appeal against the decision of the Committee would be informed in the letter as to how to do so and the time limits involved.

At the Chairman's request the Applicant and Interested Parties withdrew from the meeting.

(g) **Supplementary Submissions**

Following consideration of the oral evidence

THE COMMITTEE

noted:

- (i) the location of the Doctors' surgeries in relation to existing Pharmacies in Coatbridge, and the site of the proposed pharmacy
- (ii) prescribing statistics of the Doctors within Airdrie & Coatbridge during the period February to April 2008
- (iii) the dispensing statistics of the Pharmacies in Airdrie & Coatbridge during the period February to April 2008
- (iv) demographic information on Coatbridge taken from the 2001 Census
- (v) Comments received from Interested Parties including existing Pharmaceutical Contractors in Coatbridge and Airdrie
- (vi) Information containing the range of Pharmaceutical Services provided by all contractors within Coatbridge and Airdrie

(h) **Decision**

THE COMMITTEE

then discussed the oral representation of the Applicant, and the content of the supplementary submissions received, prior to considering the following factors in the order of the Statutory Test contained within Regulation 5(10) of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995, as amended

(i) **Neighbourhood**

THE COMMITTEE

following lengthy deliberation deemed the neighbourhood in which the proposed premises are located to be within the boundaries of Calder Street to the North, Hagmill Road to the South, the railway line to the East and Whifflet street to the West

(ii) **Existing Services**

THE COMMITTEE

was mindful that the residents of the neighbourhood were able to access the existing pharmaceutical services from a pharmacy which is very close to the neighbourhood and within approximately 1 mile of the proposed site and also the Pharmaceutical services provided in Coatbridge town centre which is within approximately 2 miles of the proposed site. The Committee was also mindful that the residents of the neighbourhood accessed pharmaceutical services via a collection and delivery service, provided by local pharmacies and also via face to face or telephone consultation if required. It was agreed that there were no barriers to accessing such services given the road links and bus services available.

(iii) **Adequacy**

THE COMMITTEE

in considering adequacy paid due regard to the following factors:

that there had been no objective evidence provided by the applicant to suggest that services to the neighbourhood were not adequate.

noted that the report on Pharmaceutical Services indicated that the pharmacies within the towns of Coatbridge and Airdrie provided a broad range of services consistent with the standards of delivery which can reasonably be expected in 2008.

(iv) Necessity

in discussing the necessity for an additional Pharmaceutical Contract:

THE COMMITTEE

reviewed the existing, comprehensive Pharmaceutical Provision and standards against the criteria for adequacy, and was of the opinion that it was not necessary to provide a new contract in order to provide an adequate Pharmaceutical service.

(v) Desirability

In considering the factor of desirability for an additional Pharmaceutical Contract:

THE COMMITTEE

were conscious that services were deemed adequate and accessible, and acknowledged that the applicant had not produced any documented evidence to suggest otherwise. Members were also mindful to ensure that they differentiated between the concept of desirability for adequacy, not convenience, and that existing Pharmaceutical provision could be judged adequate.

Following the withdrawal of Mr P Aslam and Mr I Allan, in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of The National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995, as amended.

THE COMMITTEE

agreed unanimously that an additional contract was neither necessary nor desirable to secure adequate Pharmaceutical Services within the neighbourhood, and agreed to reject the application subject to the right of appeal as specified in

Paragraph 4.1, Schedule 3 of the National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995, as amended.

Mr P Aslam and Mr I Allan returned to the meeting