

IN CONFIDENCE – FOR MEMBERS’ INFORMATION ONLY

MINUTE: PPC/08/177

Minute of Meeting of the Pharmacy Practices Committee held on Friday 26th September 2008 in Boardroom, Level 3, Wishaw General Hospital, Netherton Street, Wishaw, ML2 0DP.

Chairman: Mr B Sutherland

Present: Lay Members Appointed by the Board

Mrs M Carahar
Mrs M Crawford
Mr C J Sargent

Pharmacist Appointed by The Royal Pharmaceutical Society of Great Britain

Mr E J H Mallinson

Pharmacist Nominated by Area Pharmaceutical Committee

Mr P Aslam
Mrs J Park

Attending: Officers from NHS Lanarkshire - Primary Care Organisation

Mr G Lindsay, Chief Pharmacist – Primary Care
Mrs G Forsyth, Administration Manager – Primary Care
Miss K Norton, Personal Secretary – Primary Care

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APPLICATION BY BOOTS THE CHEMIST LIMITED, THANE ROAD, NOTTINGHAM.

(a) There was submitted application by Boots the Chemist Ltd, received 26th July 2007, to relocate Pharmaceutical contract from 36-38 Teviot Walk, Cumbernauld to Unit 24, The Antonine Centre, Cumbernauld.

(b) **Submissions of Interested Parties**

The undernoted documents were submitted:

Letter received 16th August 2007 from Lindsay & Gilmour Pharmacy (subsequently withdrawn by means of letter dated 12th September 2008)

Letter received 23rd August 2007 from Mr D F Doyle, t/a Condorrat Pharmacy (contract now owned by AFR Enterprises Ltd

Letter received 29th August 2007 from The Area Pharmaceutical Committee.

(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, and were aware that Lindsay & Gilmour wished to withdraw their objections to the application. 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 Boots the Chemist Ltd was represented by Mr Charles Tait who was unaccompanied, 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 Tait to confirm that he had received all papers relevant to the application and hearing. Mr Tait was advised that none of the interested parties who were entitled to attend the meeting had chosen to appear.

The Chairman explained that the meeting was being convened to determine the application submitted by Boots the Chemist Ltd, in respect of the relocation of Pharmaceutical contract from 36-38 Teviot Walk, Cumbernauld to Unit 24, The Antonine Centre, 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.

(e) **Evidence Led**

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

Mr Tait thanked the Committee for the opportunity to attend, and intimated his surprise that no other parties were present. He then stated that his statement in support would begin by outlining his definition of neighbourhood, and that as an area Cumbernauld could be likened to Rome as it is built around hills. Boots UK contend that the neighbourhood is the main part of Cumbernauld surrounded at the North by the A73 bounded by Seaton Road, Lyle Brae then completed by the railway line round and back, and that whilst there is a big dip in

the area there are sufficient walkways across the dual carriageway so people living within this area can easily access both sites.

Mr Tait then advised that the lease on their existing site has expired so they are operating under an extension, and that they wish to improve their situation and shop layout by moving to a larger unit not enter into another lease for their current unit. Indeed, the reasons behind this application are similar to the reasons leading to the application by T McLean & Sons Ltd which was granted, and to which Boots made no objection as they appreciate the restrictions of lack of space leading to poor internal layout in terms of current guidelines. Mr Tait advised that the proposed new unit would afford them sufficient space to have a full consultation area and separate room for private consumption of methadone which would shield patients from other customers witnessing.

Mr Tait then concluded by reiterating that this application mirrors that of T McLean & Sons which was granted and that Boots UK believe that it is absolutely necessary for them to move it not at least exceptionally highly desirable to secure the level of privacy necessary as services provision moves towards the aspects of the new contract, as space was not such a concern ten years ago but now there is an absolute need and the directions are contained within government guidelines in pharmacy planning, and that Boots UK were not looking for a new or additional contract but approval to move to a unit which would provide improved access and see services increase.

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

Mr Sutherland asked Mr Tait to give reassurance that if this application was granted it would be their intention to close the existing branch, to which Mr Tait confirmed that this would be the case as it would not be commercially viable for them to have two pharmacies in operation.

Mrs Park then asked Mr Tait to explain what he felt was inadequate about existing provision in the area given the services that were available. Mr Tait replied that it would be a marginal improvement however he felt that both Boots and T S McLean should seek to improve the internal layout of their stores so that at least one pharmacy could provide a degree of privacy to patients. Mrs Park then asked if that they had any intention to extend their opening hours should the application be granted. Mr Tait stated that they could probably consider an extension as many of the traders in the new area of the centre open for longer. Mrs Park then asked for confirmation that if the store opened longer hours then pharmaceutical services would be available at all times, to which Mr Tait agreed.

Mr Aslam was next to question Mr Tait and asked what if any affect the relocation would have on the numbers of prescriptions presented to the Pharmacy. Mr Tait advised that he hoped that they would stay the same but that there may be an opportunity to experience a slight increase given the

recent change in footfall of patients choosing to shop in the newer part of the centre given the lack of businesses in the older part. Mr Aslam asked if they would have sufficient staff to support an increase in business as well as the new pharmaceutical services expected. Mr Tait advised that they have a very specific workforce staffing structure and are one of the largest employers of pharmacists so that this would not present any difficulty. Mr Aslam then enquired as to whether or not Boots had secured a lease for the proposed site. Mr Tait confirmed that he had outline consent for some time, indeed before the application was made by T McLean & Sons Ltd, and that he had met with the developer and their solicitors to confirm their intentions to relocate and explain the regulatory process and timescales associated with the required process for the relocation, which resulted in them being granted an extension to taking the lease. Mr Tait reiterated that a lease would be signed as soon as he received confirmation that the application had been granted.

Mr Mallinson referred to the need to have the pharmacy open within six months of being included in the provisional pharmaceutical list and asked Mr Tait if this would be problematic to him. Mr Tait replied that the unit was built and available and that basic layout plans were in place, and that he could give reassurance at this time that they could definitely open within six months as he would ideally like to open before Christmas. Mr Mallinson then asked if the developers would agree to an extension to signing the lease should the application be rejected and the associated timescale with hearing of appeals. Mr Tait stated that the developers would be satisfied as long as he had formal evidence in writing to support the reason for a further delay. Mr Sutherland asked Mr Tait if he could anticipate any difficulties regarding securing the lease similar to those experienced by T S McLean & Sons Ltd, and was told that he did not given that they had already agreed the lease prior to Mc Lean's application being submitted.

Mrs M Crawford asked whether Mr Tait thought that patients residing within the areas of Teviot Walk, Seafar and Ravenswood would be disadvantaged should the Pharmacy relocate. Mr Tait replied that he did not think so as it is difficult to access their present location by foot and that he believes most people do not use the lane but the walkways having travelled to the area by bus or car.

Mr C Sargent asked for clarification from Mr Tait as to his comments regarding how busy the new area was, as during his site visit he found only approximately 25% of the units occupied. He was advised that there were more businesses pending to move in given the large footfall of the new centre. Mr Tait went on to state that within their present location they had been the anchor store for bringing business to the area and that a Pharmacy should not be this.

Mr Sutherland then stated that he would like to hear more from Mr Tait about what he felt the affect on adequacy of services within the area would be should the Committee decide to reject his application and Boots decide that they did not want to remain in their current location. Mr Tait replied that Boots believe that they and T S McLean & Sons are substandard by current standards, and

that by moving they could bring themselves up to the required level as stated during his submission. He expanded to state that if they failed to move then they would not retain an adequate situation as they could not continue to provide services expected of local pharmacies in the future, and that they would fall below the standard of adequacy.

Mr Sutherland then asked members of the Committee if they had any further questions to ask of Mr Tait. Mr Aslam asked if they did not move and their lease expired on their current unit whether Mr Tait thought that it would result in an inadequate service. Mr Tait replied that he was of the opinion that the population in and outwith the area would be inadequately serviced by the existing pharmaceutical contractors as they would be too busy dispensing prescriptions to be able to provide the additional modern day services expected of local pharmacies.

Having ascertained that there were no further questions for Mr Tait, the Chairman asked if he wished to give a summary in relation to the application.

Mr Tait thanked Mr Sutherland and stated that this application was akin to that granted by T McLean & Sons and that Boots UK did not make any objections to that, furthermore that this application is to secure adequate pharmaceutical services present within the town centre excluding the periphery and that they believe it 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 being advised that Mr Tait was satisfied, the Chairman then informed him that the Committee would consider the application and representation 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 Tait 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 Mr Tait withdrew from the meeting

(g) **Supplementary Submissions**

Following consideration of the oral evidence

THE COMMITTEE

noted:

- (i) that all members of the Committee had visited the proposed site

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

(h) **Decision**

THE COMMITTEE

noted that whilst the application was for a relocation of existing pharmaceutical contract the "statutory test" still applied, and that the application should be considered in the context of whether the location of existing Pharmacies in Cumbernauld today provided an adequate Pharmaceutical service to the residents of the town, or whether a relocation of Boots the Chemist Ltd Pharmacy was necessary or desirable to secure an adequate service.

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 the Town Centre, bounded by the green field open space area (finishing above Our Lady's High School) to the North, A73 to the West, railway line to the South, and extending up to Vault Glen and then a line from Vault Glen to Wilderness Brae to the South and West of Cumbernauld House.

in reaching its definition:

THE COMMITTEE

acknowledged the draw and sphere of influence that the town centre has on the residents of Cumbernauld.

(ii) Existing Services

THE COMMITTEE

noted that there were five Pharmacies and four General Medical Services Practices within the neighbourhood.

(iii) Adequacy

THE COMMITTEE

noted that whilst the report on Pharmaceutical Services provided by Mr G Lindsay, Chief Pharmacist – Primary Care, indicated that the pharmacies within the town of Cumbernauld provided a broad range of services consistent with the standards of delivery which can reasonably be expected in 2008, recalled Mr Tait's comments that he considered the current premises to be falling behind the current government pharmacy planning guidelines, and that a move to a larger unit was necessary in order to provide satisfactory consultation and private areas necessary for services such as Chlamydia testing, emergency hormonal contraception, and Smoking Cessation advice, and private consumption of Methadone, and that failure to relocate would result in them providing a less than adequate modern day pharmaceutical service. Furthermore, that an application had been made by T S McLean & Sons Ltd, 2-4 Clyde Walk, Cumbernauld for similar reasons which had been granted however had since lapsed due to difficulties with securing a lease.

THE COMMITTEE

Paying due regard to the above agreed that the totality of services available within the neighbourhood were less than adequate due to the constraints placed on Boots the Chemist by their current premises which has resulted in bringing the standard of practice within the neighbourhood below modern day expectations.

- (iv) Necessity

THE COMMITTEE

in considering the factor of necessity was mindful that whilst the current level of service was deemed inadequate for future pharmaceutical services, there was a question about whether it was necessary for the pharmacy to relocate or whether the inadequacy could be addressed by Boots the Chemist undergoing a major refit of the current store. Thus necessity for the relocation could not be wholly supported.

- (v) Desirability

THE COMMITTEE

in considering the factor of necessity was mindful that whilst the current level of service was deemed inadequate for future pharmaceutical services, there was a question about whether it was necessary for the pharmacy to relocate or whether the inadequacy could be addressed by Boots the Chemist undergoing a major refit of the current store. Thus necessity for the relocation could not be wholly supported.

Following the withdrawal of Mr P Aslam and Mrs J Park, 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

voted unanimously that the relocation of existing Pharmaceutical contract was not necessary to secure adequate Pharmaceutical Services within the neighbourhood

THE COMMITTEE

then considered whether or not it was desirable to grant the application to secure adequate Pharmaceutical Services within the neighbourhood and voted unanimously that it was

THE COMMITTEE

therefore agreed to approve 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 Mrs J Park returned to the meeting.