

IN CONFIDENCE – FOR MEMBERS' INFORMATION ONLY

MINUTE: PPC/09/181

Minute of Meeting of the Pharmacy Practices Committee held on Thursday 15th January 2009 in Meeting Room 1, Law House, Airdrie Road, Carlisle, ML8 5ER.

Chairman: Mr B Sutherland

Present: Lay Members Appointed by the Board

Mr A Baird
Mrs M Caraher
Mrs L Robertson

Pharmacist Appointed by The Royal Pharmaceutical Society of Great Britain

Mr Edward Mallinson

Pharmacist Nominated by Area Pharmaceutical Committee

Mr Ian Allan

Attending: Officers from NHS Lanarkshire - Primary Care

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

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GARTLEA ROAD, AIRDRIE, ML6 9JL**

(a) There was submitted application by Mr Kevin Tucker, received 28th January 2008, for inclusion in NHS Lanarkshire's Pharmaceutical List

(b) **Submissions of Interested Parties**

The undernoted documents were submitted:

Alliance Pharmacy	Received 05/02/08
TLC Pharmacy Group	Received 06/02/08
Boots the Chemists Ltd	Received 06/02/08
Health Pharmacy	Received 05/02/08
Sinclair Pharmacy	Received 21/02/08
Monklands Pharmacy	Received 26/02/08
Lloydspharmacy	Received 28/02/08

BBF Enterprises,
t/a Craigneuk & Petersburn Pharmacy
Area Pharmaceutical Committee
(clarifying earlier correspondence received 28th May 2008 and 3rd March 2008)

Received 29/02/08

Received 12/06/08

(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 and interested parties entered the meeting.

The Chairman introduced himself and the Members, as well as the officers in attendance from NHS Lanarkshire Primary Care, and asked that attendees confirm that they 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 Kevin Tucker in respect of WM Morrison, Gartlea Road, Airdrie, ML6 9JL, according to the Statutory Test set out in Regulation 5(10) of The National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995, 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. From the interested parties who were entitled to attend the hearing, Health Pharmacy was represented by Mr A Majid and Dr I Majid and Boots the Chemist Ltd/Alliance by Ms Maxine Marshall.

(e) **Evidence Led**

The Chairman invited Mr Tucker to speak first on behalf of the application

Mr Tucker thanked the Committee for the opportunity to attend to present his case and gave the following overview in support of the application:

Mr Tucker advised that that the map in the documents supplied has an error. The location of the Boots pharmacy at 19 Graham Street is not in our proposed area. The sticker has been placed on top of the Sheriff Court. In addition, the Monklands pharmacy is below Southburn Road closer to Rochsolloch Road.

Mr Tucker went on to explain the definition of the neighbourhood in which the proposed pharmacy would be located. The west boundary is Cairnhill Road to the edge of the retail park with the southern boundary being the open space below Hillfoot Road the eastern boundary is the A89 Carlisle Road with Graham and Clarke Street to the north. There were approximately 3,000 people in the proposed neighbourhood, with large amounts of people living in blocks of four making housing dense in the area and relatively low numbers of car ownership. Mr Tucker advised that these sections of the boundaries had been agreed by the Area Pharmaceutical Committee. This is a distinct neighbourhood because the northern boundary is a busy road and separates the neighbourhood from the town centre. The nature of the town centre is also different from that of the proposed neighbourhood. The town centre is pedestrianised and comprises mainly of businesses and shops which trade Monday to Saturday and not on a Sunday. Morrison's is within a neighbourhood which has businesses of a similar nature open seven days a week and a defined retail park.

Mr Tucker advised that there was a distinct demarcation in the type of housing, being mainly social housing with a small number of owner occupied properties. The neighbourhood has a higher than average number of households with no car. The population of the neighbourhood is estimated at 3,000. There are also significant pockets of deprivation within the neighbourhood and therefore logical to expect residents to travel short distances to access pharmaceutical services. It is known from customer feedback that many residents visit the Morrison's store as part of their everyday lives in order to purchase food and other essential items. It would be desirable for residents to access pharmaceutical services within their neighbourhood and the proposed pharmacy within Morrison's would provide this. Parking within the town centre is restricted and will require patients to walk to a pharmacy.

The neighbourhood is considered different on a Sunday and with limited opening of other services, means that people will travel further to access services. In this regard, Morrison's may be seen as a destination and therefore would be desirable for a pharmaceutical service to be available.

Mr Tucker explained to the Committee that an adequate pharmaceutical service consists of dispensing prescriptions and providing all pharmaceutical services and a good range of medicines. Simply considering the proposed neighbourhood, there are no pharmaceutical services within it. If the application was granted, Morrison's pharmacy will provide all of the services for an extended period, seven days a week. Other Morrison's pharmacies in Scotland provide the Minor Ailment Scheme (MAS) and the Acute Medication Scheme (AMS) as well as all of the national services. In particular, it is important to highlight the success that Morrison's has had in helping people quit smoking. This service is essential for people in the neighbourhood as well as the wider population in Airdrie where figures indicate that the incidence of smoking is one of the highest in the UK. Figures available for Morrison's stores in Glasgow show that there is a 60% quit rate.

When considering adequacy, Morrison's provide a raft of benefits for their customers. These include DDA compliant facilities for accessing the store as well as 370 car spaces, 20 of which are for the disabled and mother/toddler. Electric mobility scooters are also available and customers are able to speak to personal assistants, if required.

In conclusion, no single pharmacy provides all pharmaceutical services. The current pharmacies which have extended opening hours do not provide all services, for example palliative care, compliance needs assessment, Bupomorphone, methadone and oxygen. This is inadequate, and services outside the neighbourhood are also inadequate and therefore it is necessary and desirable to grant this application.

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

Ms Marshall advised the Committee that in his statement Mr Tucker made reference that other pharmacies within Airdrie did not provide the full range of services and advised the Committee that all services were provided.

At this point Mr Lindsay advised that not all services were commissioned from all pharmacies.

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

Mr Allan asked Mr Tucker to outline details of the proposed pharmacy and to advise the Committee how the pharmaceutical services can be provided and within what timescale.

Mr Tucker advised that he felt confident that he could have the premises up and running within 12 weeks, possibly shorter, and explained that the area requires to be fitted out and advised that there would be a dispensary and consultation area.

Mr Mallinson asked Mr Tucker what services he deemed to be essential and should be provided 7 days a week. Mr Tucker advised that the provision of oxygen was important.

Mr Mallinson sought clarification from Mr Tucker regarding the 24 hr cover required for oxygen. Mr Tucker was unaware of this requirement.

Mr Mallinson sought clarification from Mr Tucker regarding the provision of emergency hormonal contraception and specifically, any conscience issues. Mr Tucker was able to provide an assurance that all employed pharmacists would not have a conscience clause and this service would be guaranteed including from locums.

Mr Mallinson sought further clarification regarding the policy for under 16s and over 16s with regard to emergency hormonal contraception. Mr Tucker advised this would not be an issue and advised that this was already provided in Livingston.

Mr Mallinson asked Mr Tucker to provide further information regarding the smoking cessation rates in Glasgow. Mr Tucker advised that a CO2 test was carried out after a 12month period and whilst the Glasgow rate was 6%, the corresponding rate for the service provided by Morrison's was 11.7%. Mr Tucker put this higher than average success rate down to a higher than average commitment from patients and added that ease of access to services may also contribute to this higher success rate.

Mr Mallinson explained to Mr Tucker that whilst he had advised that Morrison's were in a position to provide all services 7 days per week, NHS Lanarkshire would not necessarily require the provision of all services and sought clarification on this issue as the provision of such services was a key aspect of the application. Mr Tucker advised that if NHS Lanarkshire did not

wish to commission services this was a matter for them and Morrison's would still be content to open the pharmacy regardless of this position.

Mr Sutherland asked Mr Tucker if he was able to differentiate of those 31,000 visits to the store each week, how many customers made this as a single visit and how many customers made several visits. Mr Tucker advised that he did not have this information to hand but that previous published data indicated that large numbers of customers who lived within one mile of a corner shop on average would visit this 2 to 3 times per week. Mr Tucker also advised that the neighbourhood on Sundays would be considerably larger as other shops in the area would be closed.

Mrs Robertson asked Mr Tucker if he could provide further information regarding the thought process for defining the neighbourhood in the way outlined to the Committee. Mr Tucker advised that the neighbourhood was as defined and that busy roads and the obvious space at Gartlea, then Clark Street to Graham Street coupled with a crossing point, felt that these were major barriers and also alluded to the psychological barrier people may have. Mrs Robertson enquired as to what percentage of the approximate 3,000 local population shop in the Morrison's store. Mr Tucker estimated this to be in the region of 75%.

Mr Sutherland noted that the Area Pharmaceutical Committee defined the boundary in quite different ways and sought clarification from Mr Tucker why he had chosen to define Graham/Clark Street as the northern boundary. Mr Tucker advised that a busy road is a clear demarcation from the town centre and defines the area as a retail park, further, the area around the shopping centre is not pedestrianised and advised that he did not view the Area Pharmaceutical Committee's definition as accurate as there were a number steep hills in the area as defined by the Area Pharmaceutical Committee.

Mr Sutherland asked Mr Tucker that if the Committee was minded to accept the neighbourhood as defined by the Area Pharmaceutical Committee, what the inadequacies would be. Mr Tucker advised that if the Area Pharmaceutical Committee's definition was to be accepted this would include several pharmacies. However they would not provide adequate services based upon information provided to Mr Tucker.

Mr Baird asked Mr Tucker if Morrison's had submitted a blanket application to NHS Lanarkshire to provide pharmacies in all of

their stores. Mr Tucker advised that this was not the case and an individual assessment was made for each store and this applied for all Morrison's stores throughout the UK and no blanket applications would have made to any Health Board. Mr Baird sought information regarding the number of Morrison's stores within Lanarkshire. Mr Tucker advised that there were 5 Morrison's stores throughout Lanarkshire where 1 pharmacy application had been granted and there were 2 pending.

Mr Mallinson referred to the previous response by Mr Tucker regarding the proportion of the local population using the Morrison's store and sought clarification from Mr Tucker what this figure was based upon. Mr Tucker advised that stores do annual surveys and also there was national data showing that on average a figure ranged from 60% to 80%.

The Chairman, having ascertained that there were no further questions to Mr Tucker, invited Ms Marshall to state her representation.

Ms Marshall advised that she believed the neighbourhood in question to be as defined by the Area Pharmaceutical Committee, all of which is within reach of Airdrie town centre. The population of this central area of Airdrie is estimated to be 20,019 as of the mid year estimates for 2007 and is served by 4 pharmacies within the neighbourhood and a further 4 pharmacies just outside the neighbourhood boundaries. The population of Airdrie is given as 36,326 people as of the 2001 census, while the mid year population estimates given in the Scottish neighbourhood statistics for 2007 would suggest that the population has decreased by up to 10% in the period since the last census. The applicant describes their identified neighbourhood as being deprived, as indeed the area around Graham Street and to the south of the railway line is ranked just within the bottom 25% in deprivation ranks using the Scottish Index of multiple deprivation rankings, with a ranking of 1476 from a possible ranking of 6505. The same area, however, is ranked in the top 20% for access to service provision with a ranking of 5296, which should not be surprising given it is basically in the town centre, with ease of access to all services.

Within the neighbourhood we have defined, all possible pharmaceutical services are provided for the population of

Airdrie, both core services and additional know core services, they are:

- Palliative care
- Methadone
- Needle exchange
- Oxygen – 7 days per week
- Public health including sexual health
- Monitored dosage trays
- Minor ailments
- Care home provision
- Delivery service

With additional services such as an on call provision to the Airdrie Hospice and nurse led minor ailment clinics within pharmacy directed by NHS24.

Ms Marshall advised that although the 12hr/7 day per week pharmacy is not in the palliative care network they actively keep all required palliative care medication readily available by working closely with the palliative care pharmacy in South Bridge Street.

The applicant claims that access to pharmacy will be enhanced by this application with free parking at the site and extended hours of opening, yet parking throughout Airdrie is free in the multiple car parks surrounding the town centre and pharmacy is accessible basically from 9am until 9pm 7 days a week from current pharmacy provision. The town centre also acts as the hub for all local and national public transport enabling all of the population ease of access to pharmaceutical services as part of their normal daily life. Most of the pharmacies within the town centre have good disabled access and this will be further enhanced when we refurbish two of the existing pharmacies in the near future. We are actively seeking new improved premises for one of the other pharmacies to yet again improve disabled access and provide suitable private consultation space.

The Chairman then invited questions from the Applicant, to Ms Marshall.

Mr Tucker sought clarification from Ms Marshall regarding the population as defined by the Area Pharmaceutical Committee as being circa. 2000 and sought her views on this definition. Ms Marshall thought that this applied to the number of people in and around central Airdrie.

The Chairman then invited members of the Committee to question Ms Marshall.

Mr Mallinson asked Ms Marshall to confirm the number of Boots stores in the area and to advise on the status of the provision of services such as emergency hormonal contraception, smoking cessation and Chlamydia testing. Ms Marshall advised that there were four Boots stores providing these services as well as other pharmaceutical services.

Mr Allan sought clarification from Ms Marshall regarding the AMS service. Ms Marshall advised that one store was up and running and the other three would be providing AMS within a few weeks.

Mr Sutherland asked Ms Marshall for her view on Mr Tucker's assertion that the Morrison's store was part of a retail complex. Ms Marshall advised that most people do not have access to a car and gain access to pharmaceutical services in the town centre.

The Chairman then invited Dr I Majid to state his representation.

Dr Majid advised the Committee that many of the points he wished to raise had been covered by Ms Marshall.

Dr Majid did not agree with the neighbourhood as defined by Mr Tucker; however he was more in agreement with the Area Pharmaceutical Committee's definition of the neighbourhood. Dr Majid advised that consideration of the neighbourhood should be given to Broomknoll Street to the west where pharmacy number 3 is depicted on the map supplied. Thereafter, up to Hallcraig Street and Flowerhill Street to the north and North Biggar Road to the east.

Dr Majid queried why the applicants' neighbourhood definition at Graham Street should end at the particular point with Broomknoll Street. Dr Majid was of the view that it should not end in the way that the applicant defines it.

Mr Sutherland asked Dr Majid for clarification on why he had elected to define Hallcraig Street to north. Dr Majid advised that the importance of this is that there would be three pharmacies in this definition of the neighbourhood and all provide all services, and therefore there is no need for another pharmacy.

Dr Majid advised that there were also pharmacies outside his definition of the neighbourhood and that there was adequate pharmaceutical provision both within and adjacent to the neighbourhood as he defined it.

Dr Majid referred to statistics used by Mr Tucker which indicated that a large percentage of the local population frequent the store and was concerned that if the application was granted customers would come from outside the neighbourhood to use Morrison's. This would affect his viability and that of other pharmacies in the area. Dr Majid was concerned that some services would have to be cut as a result and this would have a direct impact on patients.

Mr Sutherland asked Dr Majid what pharmacies could be affected if the application was granted. Dr Majid advised that his own pharmacy would certainly be affected and would impact on the number of dispensed scripts; he would also lose customers, possibility affecting viability.

In closing, Dr Majid advised that Mr Tucker had not provided any evidence to support his application or complaints regarding the lack of services in the area.

The Chairman then invited questions from the Applicant, to Dr Majid.

Mr Tucker asked the Committee to note that the viability of existing pharmacies is not contained in the statutory test.

Dr Majid agreed that this may well be the case; however it would be at the expense of losing other pharmaceutical services.

Mr Tucker advanced the point that should another pharmacy open, this is a clear benefit for patients.

Dr Majid suggested people would use Morrison's on convenience grounds.

Mr Tucker stated that in his view, people would use the services based on desirability.

The Chairman then invited members of the Committee to question Dr Majid.

Mr Allan observed the proximity of Dr Majid's premises to the GP surgeries of Dr Idrees and Dr Zaman and sought clarification on the provision of emergency hormonal contraception, smoking cessation and Chlamydia testing. Dr Majid advised that all three were provided.

Having ascertained that there were no further questions, the chairman then invited the Interested Party to sum up their representations

Ms Marshall stated that the test for this application is whether it is necessary or desirable to secure adequate pharmaceutical provision within the neighbourhood and yet it offers no service provision that is currently not available within the neighbourhood and in actual fact it offers less than currently exists both in terms of services and access over time.

Ms Marshall referred to a judgment by Lord Drummond-Young that having defined the neighbourhood, you must assess current adequacy of pharmaceutical provision in the neighbourhood, if it is judged adequate, then the application must fail.

I would strongly suggest that pharmaceutical service provision in the neighbourhood in question is exactly that, adequate and therefore this application must fail.

Dr Majid reiterated the points raised by Ms Marshall and advised the Committee that the application was neither necessary or desirable.

Mr Tucker was then invited to sum up in relation to the application.

Mr Tucker thanked the Chairman and members of the committee for the opportunity to present his case and reiterated the defined neighbourhood and believed that the contract was necessary and desirable.

(f) **Retiral of Parties**

The Chairman then invited the Applicant and Interested Parties to confirm that they had received a fair hearing, and that there was nothing further they wished to add.

Having being advised that both parties were satisfied, the Chairman then informed the Applicant and Interested Parties that the Committee would consider the application and their representations and make a determination, and that a written decision with reasons would be prepared, and a copy sent to them as soon as possible. Parties were 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 Party withdrew from the meeting

(g) **Supplementary Submissions**

Following consideration of the oral evidence

THE COMMITTEE

noted:

- (i) that members of the Committee had visited the proposed site and surrounding areas
- (ii) the location of the Doctors' surgeries in relation to existing Pharmacies in Airdrie and Coatbridge, and the site of the proposed pharmacy
- (iii) prescribing statistics of the Doctors within Airdrie and Coatbridge during quarter ended April 2008
- (iv) the dispensing statistics of the existing Pharmacies in Airdrie and Coatbridge during quarter ended April 2008
- (v) demographic information on Airdrie and Coatbridge taken from the 2001 Census
- (vi) Comments received from Interested Parties including existing Pharmaceutical Contractors in Airdrie and Coatbridge

(vii) Information containing the range of Pharmaceutical Services provided by existing contractors within Airdrie and Coatbridge.

(h) **Decision**

THE COMMITTEE

then discussed at length the oral representations of both the Applicant and the Interested Parties, 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

Deemed the neighbourhood in which the proposed premises were located to be Airdrie Town Centre and defined this as being an area bounded on the North by High Street, thereafter moving down South Bridge Street and along Hallcraig Street and Flowerhill Street to the junction with North Biggar Road, thereafter extending down North Biggar Road to the railway line as the eastern boundary. The southern boundary extends from the intersection of North Biggar Road and the railway line, extending along the railway line to the intersection with Bell Street. The Western boundary extends from the intersection with the railway line and Bell Street up Bell Street to the intersection with High Street.

(ii) **Existing Services**

THE COMMITTEE

Prior to considering existing services within the neighbourhood, paid due regard to the requirements of the statutory test which specifies that the granting of applications should be made only when it can be satisfied that the provision of pharmaceutical services at the premises is necessary or desirable in order to secure adequate provision of those services.

The Committee noted the provision of four existing Pharmacies within the neighbourhood. Members also noted that a significant

aspect of the rationale for seeking a new contract was the additional access to be available through extended opening hours. Members took consideration of the opening times and services provided from the four pharmacies within the neighbourhood and concluded that there were no barriers to accessing such services.

(iii) Adequacy

THE COMMITTEE

The Committee in considering adequacy acknowledged that there had been no objections or complaints received by NHS Lanarkshire concerning the lack of provision of Pharmaceutical Services by residents of the neighbourhood. Boots Chemist Ltd and three Alliance Pharmacies and several other Airdrie Pharmacies are in close proximity to the proposed site, and provide a full range of services consistent with the breadth and standards of service delivery which can reasonably be expected in 2009.

Accordingly, the Committee deemed that services available to residents of the neighbourhood could be considered adequate.

(iv) Adequacy of Proposed Services

THE COMMITTEE

Deemed that services available to residents of the neighbourhood could be considered adequate.

(v) Ability to Open within Six Months

In discussing the ability of the applicant to open within six months:

THE COMMITTEE

Noted the information provided by the applicant.

The proposed timescales given for the fitting out were considered to be in keeping with the size of the proposed premises. There were no issues regarding the premises and there were no anticipated issues regarding local authority permissions.

Accordingly, the Committee deemed that for those reasons, the application would be able to open the proposed pharmacy within six months.

(v) Necessity

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

THE COMMITTEE

Was mindful of their remit with regards to the provision of an adequate pharmaceutical service.

The Committee in discussing the necessity for an additional contract reviewed the existing comprehensive Pharmaceutical Provision, and standards, deemed easily accessible to residents of the neighbourhood, 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.

(vi) Desirability

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

THE COMMITTEE

were conscious that services were deemed adequate and accessible. 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 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

was unanimous in its decision 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 Allan returned to the meeting