

12 February 2010

REF: SHA/15347

**APPEAL AGAINST WOLVERHAMPTON CITY PCT  
DECISION TO REFUSE AN APPLICATION BY  
PHARMAUNISON LTD FOR PRELIMINARY CONSENT  
PRIOR TO INCLUSION IN THE PHARMACEUTICAL LIST  
AT NEW STREET, ETTINGSHALL, WOLVERHAMPTON**

**1 Preliminary Consideration**

- 1.1 The Pharmacy Appeals Committee appointed by the Family Health Services Appeal Unit of the NHS Litigation Authority ("the Committee") had before it the papers considered by the PCT, together with a plan of the area showing existing pharmacies and doctors' surgeries and the site of the proposed pharmacy. It also had before it the responses to the Authority's own statutory consultation.
- 1.2 The Committee was of the view that an Oral Hearing should be held before the appeal is determined.

**2 Oral Hearing**

- 2.1 An Oral Hearing was therefore held on Friday, 8 January 2010 at Coniston House, West Entrance, Chapel Ash, Wolverhampton WV3 0EX.
- 2.2 A copy of the Oral Hearing report is attached.

**3 Further Consideration by the Committee**

- 3.1 Each member of the Committee had read the Oral Hearing report in full which was considered together with all the other documents previously referred to.
- 3.2 The Committee had regard to Regulation 12(1), the necessary or desirable test, and in considering that test, had regard in particular to 12(2) of the National Health Service (Pharmaceutical Services) Regulations 2005 (as amended) ("the Regulations").
- 3.3 The Committee dealt with the application by way of reconsideration of all the issues.
- 3.4 The Committee noted the Oral Hearing Panel's recommendation for the defined neighbourhood as shown in yellow on the Panel's map. The Committee adopted this recommendation, made after a site visit, for the purpose of this application.
- 3.5 The Committee noted at paragraph 9.2.5 on Page 42 and paragraph 9.2.87 on Page 45 of the Oral Hearing Report, the Panel had considered adequacy in respect of the general area. In doing so, it concluded there was more than an adequate number of pharmacies. It also felt the distribution of those pharmacies left something to be desired.
- 3.6 The Committee reminded itself that its consideration was in respect of securing adequacy in the defined neighbourhood. It concluded the OH Panel had identified a number of gaps in provision sufficiently high on the spectrum to conclude adequacy was not secured and it was therefore desirable to grant the application.

**4 Decision**

The Committee was of the view that the proposed pharmacy was at least desirable, to secure the adequate provision of services in the neighbourhood. Accordingly the Committee allows the appeal.

**Ray Bushell**  
**Appeal Officer**

A copy of this decision is being sent to:

Mr R Ghateaura – Applicant/Appellant  
Mrs G Shelley – Wolverhampton City PCT  
Mr K Tucker – Wm Morrison Supermarkets plc  
Ms K Saunders – Superdrug Stores plc  
Ms J Watson – Boots UK Ltd  
Mr M Cox – Lloyds Pharmacy Ltd  
Mr T Wedgbury – Wolverhampton City LPC and Dudley LPC  
Oral Hearing Panel Members