

Oral Hearing Report

17 November 2009

REF: SHA/15290

**APPEAL AGAINST PETERBOROUGH PCT DECISION
TO REFUSE AN APPLICATION BY REPEAT
PRESCRIPTION ORDER LINE LTD FOR PRELIMINARY
CONSENT PRIOR TO INCLUSION IN THE
PHARMACEUTICAL LIST WITHIN NORTH
BANK/EASTGATE AREA OF PETERBOROUGH**

1 The Application

By application dated 20 January 2009, Repeat Prescription Order Line Ltd ("the Applicant") applied to Peterborough Primary Care Trust ("the PCT") for preliminary consent prior to inclusion in the pharmaceutical list on the North Bank spreading into the residential area of Eastgate as per the attached map or in very close proximity too, Peterborough. In support of the application it was stated:

Neighbourhood

- 1.1 We believe the neighbourhood to be to the River Nene to the South, the A1139 (Frank Perkins Parkway) to the east, Boongate to the North and St Johns Street to the West, which is better by the attached map (appendix A). The neighbourhood has been defined by natural boundaries and busy main roads, which become physical obstacles.
- 1.2 There are currently no pharmacies within the neighbourhood.
- 1.3 The neighbourhood has a number of existing businesses and services.
- 1.4 Granting this application will promote more competition and improve the choice of where people access the range of pharmaceutical services available through the new pharmacy contractual framework and get advice for self care. Currently in the neighbourhood, there is no pharmaceutical provider and therefore no choice within the neighbourhood.
- 1.5 By allowing the pharmacy to establish in North Bank will improve access to medicines, health care professional, resources and health information. Provide the above services to the neighbourhood. To improve services by securing adequate provision of pharmaceutical services in the neighbourhood.
- 1.6 By having a pharmacy in the area the new and existing residents will have easy access to a pharmacy, this will additionally benefit many of the people visiting the area.
- 1.7 The neighbourhood comprises an existing deprived population comprising a significant proportion of social housing in addition to many new retail stores to be created and there is the possibility that the new long awaited university campus will be located in the neighbourhood.
- 1.8 The pharmacy will be providing pharmaceutical services to people who are resident in the neighbourhood as well as people who are travelling to the neighbourhood in the course of going about their daily lives.

- 1.9 The availability of a pharmacist in a neighbourhood will allow for minor ailment, quit smoking, medicine use, emergency hormonal contraception, public health and many other services which are all in line with the Department of Health paper "Choosing Health Through Pharmacy"
- 1.10 Our pharmacy will provide the full range of essential and advanced services and will have a consultation area. As specified in the regulations. In addition we propose to provide the following enhanced services (refer to section 7 of application for detail).
- 1.11 There is a mix of population within the neighbourhood, with a variety of health needs, which would benefit tremendously from the introduction of a pharmacy. The neighbourhood has within it the Star Mews Nursing Home on Star Road and also a new sheltered housing unit at the End of Burton Street. There is also a nursery and community facilities within the neighbourhood.
- 1.12 The development of the North Bank and the Embankment has been recently released, which will significantly increase the number of visiting the neighbourhood, again with their own health needs. Peterborough is changing and the work to underpin the change has been going on for many years, the next few years will see a radical change to the layout of Peterborough and hopefully with the University will allow the City to flourish, where in the past it has been restricted.
- 1.13 The distance to the nearest pharmacy is near on impossible for many of the elderly residents of Eastgate, therefore a NHS facility in their neighbourhood, would help to reduce some of the health inequalities currently exhibited. The proposed location is also on the doorstep to the Fengate area, which has seen an increase in the working population year in year out for the last 10 years it is a significant employment area, this combined with the new housing that is being built on the other side of the Frank Perkins Parkway, increases the need for a pharmacy.

2 The PCT Decision

The PCT considered and decided to refuse the application. The decision letter dated 26 June 2009 states:

- 2.1 I am writing to you in order to advise you of the outcome of the Peterborough Primary Care Trust's consideration of the above application.
- 2.2 The Pharmacy Committee looked at the application and comments from the consultees and concluded that the granting of this application was neither necessary nor desirable in order to secure the adequate provision of pharmaceutical services to the neighbourhood.

NECESSARY OR DESIRABLE

Neighbourhood

- 2.3 Firstly the Pharmacy Committee (PC) considered the neighbourhood and noted that the applicant had proposed a new neighbourhood, which was small and didn't incorporate any of the existing pharmaceutical contractors. The neighbourhood boundaries in Peterborough were redefined by the Trust in 2005, and the Committee agreed that there had not been any significant changes in the area in question since the previous definition, and therefore agreed that the submission of a new application did not warrant a redefinition of the neighbourhood.

Necessary or Desirable

- 2.4 The application does not explicitly identify any service inadequacies, and nor is there evidence of this either from representations received.

- 2.5 The Committee noted there are were already in excess of 20 pharmacies located within a mile radius of the proposed site, three of which are located just outside the applicant's defined neighbourhood and are 100hr pharmacies.
- 2.6 The applicant's intention is to open from 5:30am – 6.30pm Mon-Fri (closed between 1:00pm & 2.00pm) and 9.00am – 12:00 on Saturdays. The Committee questioned how a pharmacy closing at lunchtime is of benefit to the working/visiting population that the applicant repeatedly refers which is when, during their lunch break that people may wish to access services.
- 2.7 The applicant indicates that the granting of the application would promote more competition and improve the choice of where patients can access pharmaceutical services. The population of Peterborough already have a significant choice of different providers, which is more than adequate for the current population.
- 2.8 The Trust considered that the existing providers are adequately meeting the needs of the population and should be noted that it was agreed that contractors would be approached to increase their hours/provide additional services should the need arise.
- 2.9 The applicant makes particular reference to the elderly and deprived population in the area health care needs not being met due to not having access to pharmaceutical services within the applicants 'defined neighbourhood', yet they have failed to provide any statistical evidence to indicate any difficulties currently encountered by these particular groups or the general public (resident or visiting/working population) to substantiate this claim.
- 2.10 Neither Peterborough Primary Care Trust nor Anglia Support Partnership has received any complaints regarding the current level of service within that area being inadequate.
- 2.11 The applicant's intention is to provide the full range of essential and advanced services. However they have not identified any specific needs, which are not currently provided by the existing providers and therefore cannot be considered to be a serious attempt to help deliver the PCT's health priorities. It was also noted that the applicant proposed to provide a significant number of 'enhanced services'. The Trust at present does not have any plans to commission any additional enhanced services in the area.
- 2.12 Significant reference has been made to pending developments in the area. The proposed development of the North Bank and the Embankment has been delayed due to the current building economic climate. The City Council and Opportunity Peterborough are currently engaged on a range of public consultations on the redevelopment of the city centre including the Embankment. The plan is for a final round of consultations to take place in the Autumn of 09 when a formal submission will be made to Government. The very earliest that any plans for implementation could be taken forward is the winter of 2010/11. The Committee therefore considered to any reference to proposed developments at this stage should be disregarded.

3 The Appeal

In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority ("the Appeal Unit"), dated 24 July 2009, Charles Russell on behalf of Repeat Prescription Order Line Ltd appealed against the PCT's decision. The grounds of appeal are:

- 3.1 We act for Repeat Prescription Orderline Limited. On behalf of our client we write to appeal a decision of Peterborough Primary Care Trust to refuse our client's application for preliminary consent prior to inclusion in the PCT's pharmaceutical list for premises in the vicinity of North Bank/Eastgate, Peterborough. The decision was notified to our client by letter of 26 June 2009.

- 3.2 Our client's grounds of appeal are that the PCT failed to have proper regard to the population resident in the neighbourhood, their pharmaceutical needs and the difficulties accessing existing pharmacies.

NEIGHBOURHOOD

- 3.3 The neighbourhood of our client's proposed pharmacy is the area bordered by the River Nene to the south, the A1139 (Frank Perkins Parkway) to the east, Dickens Street/Boongate to the north and St John's Street to the west.
- 3.4 The neighbourhood as defined is bordered by significant geographical features, including the river to the south and main roads to the east, north and west.
- 3.5 The PCT state that the neighbourhood as defined is "too small". In that regard, the PCT made an error of law. There is no minimum or maximum size for a neighbourhood and, as Lord Justice Carswell noted in the Bangor case, a neighbourhood could comprise of a single square.
- 3.6 The neighbourhood as defined is a discrete residential area to the east of the town centre.

POPULATION

- 3.7 The neighbourhood contains a population with significant levels of deprivation and ill health. For example, a third of houses in the neighbourhood are owned by the local authority or a housing association. This is significantly higher than the national average of 19%.
- 3.8 The resident population has significantly poorer health than an average population. For example, according to the 2001 Census, 12% of those living in the neighbourhood rate their health as not good compared to a national average of 9% and 23% suffer from a limiting long term illness compared to a national average of 18%.
- 3.9 Car ownership in the neighbourhood is very low, with 45% of residents not owning a car or van in 2001 compared to a national average of 27%.
- 3.10 From these figures, it can be seen that those in the neighbourhood suffer poorer health than average, have lower incomes than the average population (evidenced by the high rates of local authority and housing association homes) and have lower mobility than the average population (evidenced by low car ownership and high numbers of people suffering from limiting long term illnesses). The provision of pharmaceutical services to the neighbourhood should be considered having regard to these factors.

ADEQUACY

- 3.11 On behalf of our client we submit that the provision of pharmaceutical services in the neighbourhood is not wholly adequate so that it is at least desirable to grant this application for the following reasons:
- 3.11.1 There are no pharmacies in the neighbourhood. In order to access pharmaceutical services, those in the neighbourhood must travel to adjacent neighbourhoods. The nearest pharmacies are located at least 1.1km from the proposed site. This is a significant distance, particularly having regard to the health and mobility of the population in the neighbourhood and busy roads that must be crossed to access those pharmacies.

- 3.11.2 By reason of their location, existing pharmacies are not conveniently located for those in the neighbourhood to access as part of their day to day lives. There are a range of services in the neighbourhood which meet the demands of the resident population. A pharmacy located in the neighbourhood would allow residents in the neighbourhood to access a range of pharmaceutical services as part of their daily lives, including support for self-care, healthy lifestyle advice, minor ailments, smoking cessation services, Medicine Use Reviews and emergency hormonal contraception.
- 3.11.3 There are plans for significant developments in the neighbourhood which will include housing, business and leisure facilities. Whilst the PCT may be correct that the earliest that the plans for implementation of the developments could be taken forward is late 2010/early 2011, this will be only one year after our client's appeal is determined. These plans are not so far in the future that the Authority should disregard them when determining this application and considering whether it is necessary or desirable in order to secure (which suggests some futurity to the Authority's consideration) the adequate provision of pharmaceutical services in the neighbourhood.
- 3.11.4 With no pharmacies in the neighbourhood, those in the neighbourhood do not have a reasonable choice of either pharmaceutical services or service providers.
- 3.12 Having regard to the factors above and the information given by our client in support of its application, we invite the Authority to uphold our client's appeal and grant this application.

4 **Summary of Representations**

This is a summary of representations received on the appeal. A summary of those representations made to the PCT are only included in so far as they are relevant and add to those received on the appeal.

4.1 PCT

- 4.1.1 Further to the appeal being made and the letter from Charles Russell dated 24 July. I would like to respond to the specific comment raised in support of this appeal relating to the neighbourhood.
- 4.1.2 The Pharmacy Committee noted that the applicant had defined a small area, as his preferred neighbourhood. At no stage did the Committee consider that the area defined was "too small" Rather the Committee's view was that the applicant had defined this area not on the basis of physical, geographical or social factors, or adequacy of pharmacy services, but in order to create a defined area without existing pharmacy contractors.
- 4.1.3 As such an error in law was not made and redefinition of the neighbourhood is not warranted.

4.2 BOOTS UK LTD

- 4.2.1 Thank you for your letter dated 31 July 2009 informing us of the above appeal. Boots agrees with the PCT decision to reject the application and their reasoning.
- 4.2.2 There are two pharmacies in the PCT's defined neighbourhood, Eastchem Pharmacy on Eastfield Road, and Sainsburys 100-hour pharmacy Oxney Road. There are also a further eight pharmacies within a one-kilometre radius of the proposed site, two of which are 100 hour pharmacies; one at

Queensgate in the town centre and the other at West Rivergate shopping centre in the southwest.

- 4.2.3 The applicant has failed to provide any evidence to suggest that the existing pharmacies in the area are unable to meet the present demand for pharmaceutical services, nor that they will be unable to meet any future increase in demand for such services.
- 4.2.4 Furthermore, the applicant has failed to provide any indication of significant difficulties encountered whilst wishing to access pharmaceutical services in the area. For those without a car there are frequent bus services from the area of the applicant's proposed site to Queensgate bus station in the city centre (timetables and maps enclosed – Appendix B).
- 4.2.5 Also, the applicant is not proposing to offer hours or services that are not already available from the existing pharmacies in the area.
- 4.2.6 Boots pharmacy in the Queensgate Centre has two PCT accredited Consultation Rooms and is open 08:30 to 17:30 Monday to Wednesday, 08:00 to 20:00 on Thursday, 08:00 to 18:00 on Friday and Saturday, and 08:30 to 18:00 on Sunday. The following services are offered to patients: MUR's, EHC, Minor Ailments, Smoking Cessation, Needle Exchange, Supervised Administration of Methadone, Collection and Delivery Service, Domiciliary compliance aids, Hair Retention and Weight Loss programmes.
- 4.2.7 In conclusion, we submit that the above application does not meet the required criteria of regulation 12(1), and respectfully urge the Appeal Authority to dismiss this appeal accordingly

4.3 CAMBRIDGESHIRE AND PETERBOROUGH LPC

- 4.3.1 Thank you for the information on the appeal of the above application.
- 4.3.2 The Cambridgeshire & Peterborough Local Pharmaceutical Committee (LPC) members further discussed the application and interested parties declared their interest.
- 4.3.3 The LPC re-iterates its comments of 11 March 2009:
- 4.3.4 The LPC considered the application to be not necessary or desirable at the present time as there is adequate provision of pharmaceutical services in the area (12 community pharmacies within 1 mile of the proposed location).
- 4.3.5 The plans for the North Embankment area of Peterborough for residential, retail and leisure could make the granting of an application necessary and/or expedient in the future.
- 4.3.6 The LPC does, however, wish to be kept informed in regard to the processing of the application.

5 Preliminary Consideration

- 5.1 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.
- 5.2 It also had before it the responses to the Authority's own statutory consultations.

- 5.3 On the basis of this information, the Committee considered that it was necessary to hold an Oral Hearing, before determining the appeal.
- 5.4 The Committee does not wish to inhibit the Oral Hearing Panel's consideration of this case, but requests the Panel particularly to look at the following:
- 5.4.1 The Panel are requested to recommend with reasons, the most appropriate neighbourhood for the proposed pharmacy.
- 5.4.2 The Committee asks the Oral Hearing Panel to recommend whether the application should be granted in order to satisfy the test in Regulation 12(1).
- 5.5 The Panel was appointed and sat at NHS Peterborough, 2nd Floor, Town Hall, Peterborough, PE1 1FA on Monday 9 November 2009 to hear the appeal. This is the report of that Oral Hearing.
- 5.6 A list of those present is annexed hereto at Appendix 1.

6 Site Inspection

- 6.1 The Panel walked from the City Centre Boots Pharmacy at Westgate east along City Road past the covered market and various office buildings to arrive at the western boundary of the Applicant's neighbourhood, St John's Street where it crossed by a pedestrian crossing to enter Wellington Street. There was a large car park north of Wellington Street which appeared to serve the City Centre. The terrain was flat with street lighting and adequately wide pavements with dropped kerbs.
- 6.2 The Panel observed that the housing on the south side appeared to be low-rise social (or ex-social) housing probably built in the 1960s with a number of 3-storey flats. There were older houses on the north side dating back as far as 1805. There was a YMCA and a Kingdom Hall on the north side of the street.
- 6.3 There was also in Wellington Street the City Centre Clinic that provided a number of community medical services including podiatry, family planning, young peoples and sexual health services.
- 6.4 The walk from Boots to the junction of Wellington Street and Star Road was measured at 970 metres. There was a food shop at this junction and an off-licence and stores about 30 metres south of it. Star Road had a public house and appeared to be a north-south artery through the area. There was an empty shop on the east side which we were subsequently informed was the Applicant's intended premises. The total distance from there to the Boots pharmacy in Westgate is approximately 1020 metres measured by surveyor's wheel.
- 6.5 There were many parked and moving cars in this area and the number 4 bus was regularly observed going north and south on Star Road.
- 6.6 The Panel then travelled in a taxi from the Mosque in Burton Street (which has a pre-school facility attached) north along Star Road under the elevated Boongate (the Applicant's northern boundary) past a school and a community college to Eastfield Road through the Eastfield area of Peterborough. It appeared to the Panel that the Eastgate and Eastfield areas were broadly similar in housing and amenities, although the Eastfield area was somewhat more spaciouly laid out.
- 6.7 The Panel then crossed over Frank Perkins Way and visited the pharmacy at the Sainsburys superstore which is open from 8 to 8 on weekdays, 8 to 7 on Saturdays and 10 to 4 on Sundays and is 1.5 miles from the Mosque.

- 6.8 The Panel were then driven south down the eastern boundary of the PCT's neighbourhood to reach Fengate through an industrial and commercial area a distance of 2.7 miles to the roundabout connecting Hops Road and Vineyard Road.
- 6.9 The Panel then travelled 0.7 miles north up Eastfield Road and visited Eastchem Pharmacy which is temporarily open from 9 to 5 on weekdays only.
- 6.10 The Panel then drove to Burghley Road Surgery and the Park Road Centre which lie to the north-west of both suggested neighbourhoods, the latter having a 100-hour pharmacy.
- 6.11 The Panel then visited the Thomas Walker Medical Centre which is open from 0830 to 1830 on weekdays only.
- 6.12 The Panel finally visited the pharmacy at the Asda supermarket just outside the neighbourhoods' south-west corner. This is open from 7am to 11pm on weekdays, 7am to 10pm on Saturdays and 10am to 4pm on Sundays and is exactly 1 mile from the junction of Eastfield Road and Boongate, ie the northern boundary of the Applicant's neighbourhood.
- 6.13 That concluded the site inspection. The Panel took practice leaflets from the Boots Westgate, Eastchem and Asda pharmacies and they form part of Appendix 3.

7 Oral hearing

- 7.1 The Chair introduced members of the Panel.
- 7.2 The Chair introduced those present at the Oral Hearing as set out at Appendix 1.
- 7.3 Appendix 2 is a map showing the boundaries of the neighbourhood suggested by the various parties.
- 7.4 The Chair explained the procedure to those present. He confirmed that the Panel had undertaken a site inspection that morning
- 7.5 Repeat Prescription Orderline Ltd
- 7.5.1 The following further points were made at the Oral Hearing on behalf of the Applicant.
- 7.5.2 The proposed premises were an empty shop opposite 78 Star Road.
- 7.5.3 Although the Appeal Unit had identified the neighbourhood edged pink in a previous application relating to the Fengate area, it had expressed reservations and thus this was not its final view.
- 7.5.4 The Applicant submits that Frank Perkins Way is the appropriate eastern boundary as it separates Eastgate from Fengate. There is a new housing development in Potter's Way, Fengate which is a separate neighbourhood.
- 7.5.5 Boongate provides a natural demarcation of the northern boundary but, accepting that the housing to the north and south of Boongate are similar, the boundary could be Padholme Road and it would make little difference, if Eastfield were included as well.
- 7.5.6 It was at least expedient or desirable (there being little practical difference between the two criteria) to grant the application: the existing services were not at either end of the spectrum of adequacy but at a point in between.

- 7.5.7 Taking the criteria described by the Court of Appeal in the *Assura* case in order, on the Applicant's case there was no other pharmacy in the neighbourhood. If the PCT's neighbourhood were adopted there would be two but in a large geographical area with difficulties of access and, if the neighbourhood was defined as Eastgate and Eastfield, there would be one pharmacy serving a large area with a corresponding population.
- 7.5.8 Although it was said in representations that the other pharmacies were accessible and served by frequent buses the distances to those other pharmacies were significant and there were a lot of elderly people and a significant level of deprivation with a high proportion of small housing and social housing. Since there was no GP surgery in the neighbourhood a pharmacy would add a great deal.
- 7.5.9 If the Applicant's neighbourhood were to be adopted, there would be no choice; if Eastfield were added to it, there would be one pharmacy and no choice; if the PCT neighbourhood were adopted, there would be two pharmacies not providing a reasonable choice in such a large area.
- 7.5.10 The criteria suggested at page 26 of the Department's Guidance were largely met taking into account the demographics of the area, the supporting views expressed, social factors and the plans of the local Authority to develop the North Bank.
- 7.5.11 The Wellington Street Clinic was due to move to the City Centre in December leaving the area short of resources. There was a 20-bed YMCA on Wellington Street and a 54-resident almshouses in Granby Street both of which would benefit from the proposed pharmacy that could provide smoking cessation, needle exchange, supervised methadone use, MURs and a minor ailments scheme.
- 7.5.12 In reply to questions from the Panel Mr Shabbir Damani on behalf of the Applicant accepted that Eastgate and Eastfield have both experienced social problems in the past but had both received heavy investment and improved.
- 7.5.13 Mr Damani did not know whether the proposed North Bank development would go ahead but an Energy Park in Fengate had been approved last week. The market on City Road was open Tuesday to Saturday.
- 7.5.14 The green space at the south of the Applicant's neighbourhood might be the new site for the football stadium. He thought the population of Eastgate was about 3000 with a primary school in the south west corner of Eastgate and a secondary school just east of the Eastchem Pharmacy.
- 7.5.15 If the application were approved, he would provide emergency hormonal contraception, blood pressure tests, chlamydia screening and supply condoms under the C card scheme. He had had discussions with stakeholders in the area and would offer to provide services to visitors, such as football fans, if the stadium were moved to North Bank.
- 7.5.16 In reply to Mr Green Mr Damani said that he would offer deliveries but far preferred face-to-face consultations, that the YMCA had supported his application and his proposed premises would be more convenient to the neighbourhood than the City Centre pharmacies.
- 7.5.17 By way of closing submissions Mr Reissner asked the Panel to treat Boongate as a boundary, even if it was not a barrier.
- 7.5.18 The area was deprived as witnessed by the quality and age of the housing and the number of deliveries to it. There was very little new housing.

Deliveries would not meet all needs but were an indicator of need and access problems.

- 7.5.19 A round trip to the City Centre would be 1920 metres and to Eastchem 2240 metres.
- 7.5.20 The Panel should discount average populations per pharmacy in the light of paragraph 13 of the Department's Guidance and look at the evidence of need. The absence of pressure on the PCT might be explained by the limited consultation on the PNA and it would be unreasonable to expect a clamour from an elderly and deprived population.
- 7.5.21 Even if Eastchem Pharmacy could service the northern half of Eastgate and Eastfield, it could not provide satisfactory access to services for those living in the southern half. The number of existing deliveries was evidence of inadequate access to services.

7.6 Alfa Chemist Ltd and Eastchem Pharmacy

- 7.6.1 Mr Green explained that the opening hours of the Eastchem pharmacy were currently 9 to 5 on weekdays on a locum basis but that he hoped that the operation could be restored to the full original hours when a pharmacy manager could be appointed.
- 7.6.2 He submitted that the northern boundary should be either Norman Road (approximately halfway up Eastfield) or Oxney Road and accepted that the land east of Frank Perkins Way could be excluded from the neighbourhood, giving a population of about 4000 based on data relating to supra-output areas 014D, 013B and 013F each of which had a population of about 1500 in the 2001 Census. Area 013F includes a large area to the east of Frank Perkins Way and part of 013B is industrial in its nature.
- 7.6.3 The average population per pharmacy nationally was 5000 and in Peterborough 4800.
- 7.6.4 Eastchem Pharmacy has two vans delivering almost full time to the north of the neighbourhood and beyond. Boongate was no barrier as an elevated road.
- 7.6.5 The YMCA population was young and mobile. It used the Eastchem Pharmacy and City Centre pharmacies were no less expedient than the Applicant's site.
- 7.6.6 Younger families were moving into the area as older people moved out and primary school roll numbers were increasing.
- 7.6.7 The existing pharmacies provide all necessary, including enhanced services. The survey in the Pharmaceutical Needs Assessment ("PNA") for 2008-2010 showed that the numbers who (a) provided and (b) were prepared to provide services were as follows: needle exchange (a) 15, (b) 6; smoking cessation (a) 19, (b) 14, cholesterol testing (a) 31, (b) 5, weight management (a) 4, (b) 31, blood pressure monitoring (a) 9, (b) 20, emergency hormonal contraception (a) 18, (b) 14 and Chlamydia screening (a) 1, (b) 28. These numbers are for the whole of the Peterborough area. The PNA is attached in Appendix 3.
- 7.6.8 There was no evidence of an unfulfilled need for services and even the letters of support did not suggest the contrary. Those letters came from a group of Muslims living around the Mosque and were not representative of

the population of the neighbourhood as a whole. The PNA was being revised for Spring 2011.

- 7.6.9 There was no evidence of acute deprivation and the Applicant himself had described the area as improved, services for the neighbourhood were well towards the adequate end of the spectrum.
- 7.6.10 In answer to questions from the Panel Mr Green said that about 100 deliveries were made in the area per day since elderly patients often found it convenient to allow the pharmacy to organise delivery.
- 7.6.11 The Eastchem Pharmacy provided a minor ailments service, a needle exchange, smoking cessation level 2, supervised methadone consumption, Chlamydia screening and emergency hormonal contraception.
- 7.6.12 In answer to Mr Reissner Mr Green said that the Eastchem Pharmacy had two regular locums accredited for all services who also performed MURs with 2-3 domiciliary visits per week.
- 7.6.13 By way of closing submission Mr Green said that it was unreasonable in the light of limited population growth and the small area to add another pharmacy: any changes to the neighbourhood were insufficient to warrant a new pharmacy.

7.7 Cambridge and Peterborough LPC

- 7.7.1 Mr Richards confirmed that the Applicant was a member of the LPC (but had taken no part in the decision-making process) and that the LPC had assessed the application according to its usual template and opposed it.

7.8 Peterborough PCT

- 7.8.1 Mr Smith confirmed there was likely to be further delay on consultation on the proposed development of the North Bank. This would be followed by a submission to Central Government so any development would not start until after the winter of 2011/12.
- 7.8.2 The PCT had not decided whether to have a health facility in the new North Bank although it was hoping to relocate three GP practices that were short of space but it was uncertain where they would eventually be located.
- 7.8.3 There were already two 100-hour pharmacies and several pharmacies provide some advanced services. There were no additional needs for sexual health services and there had been no prior requests for extra provision of services in Eastgate.
- 7.8.4 There had been limited consultation over the 2008 PNA and a broader consultation was planned for the new PNA.
- 7.8.5 In answer to Mr Green Mr Smith confirmed that the City Centre Clinic in Wellington Street would be moving but there was no clarity when or where those services would be reopened. It was possible that it would join the Walk-In Centre that had been moved from next to ASDA to near the Hospital at Thorpe Road.

8 CONSIDERATION BY THE PANEL

- 8.1 The Panel considered the appeal under the provisions of Regulation 12(1) noting the matters to which it must have particular regard as set out in Regulation 12 (2). It also

had in mind the September 2009 Department of Health Guidance. The Panel also had regard to all the written documentation contained in the bundle, its observations on the site visit and the oral evidence given.

8.2 Neighbourhood

- 8.2.1 The Applicant candidly accepted that the localities of Eastgate and Eastfield had both experienced social problems that had been ameliorated by investment. In addition it was said on behalf of the Applicant that "it would make little difference, if Eastfield were included as well".
- 8.2.2 On balance we conclude that Eastgate and Eastfield are both largely areas of social or former social housing of generally similar character.
- 8.2.3 The land to the east of Frank Perkins Way is quite different in kind, being overwhelmingly industrial or commercial in character. It may be that this will change with time but there was before the Panel no sufficient evidence of the likely nature of or timetable for future development of the North Bank or Fengate. At present only a very small part of the area is devoted to new housing in the south west corner of this segment. Our view is that Frank Perkins Way should form the eastern boundary of the neighbourhood.
- 8.2.4 Our view is that the northern boundary of the neighbourhood should be along Eastfield Road to the point where the road crosses over Frank Perkins Way. This produces a neighbourhood with a population of about 4000 with pockets of deprivation not confined to the Eastgate area.
- 8.2.5 The southern and western boundaries are agreed by the Applicant and the PCT and we accept them.

8.3 Adequacy

- 8.3.1 The PNA for 2008-10 states that there are adequate services in the neighbourhood but the Panel accepts that it must look independently at all the facts of the particular case.
- 8.3.2 On the basis of the Panel's conclusions on the definition of the neighbourhood there is one pharmacy (Eastchem) in the neighbourhood so that there is no choice. This is one factor which we must take into account under Regulation 12 (2)(b).
- 8.3.3 The Panel noted that there were no GP services provided within the Neighbourhood
- 8.3.4 Eastchem Pharmacy is providing all commissioned services to the neighbourhood and a well-used delivery service. Additional services by different providers are provided by the pharmacies in the City Centre. The PCT also confirmed the provision of adequate commissioned services from the City Centre.
- 8.3.5 Eastchem Pharmacy is situated at the north of an established secondary shopping area. There is an easy and frequent bus journey available for travel from the neighbourhood to the City Centre. For others it is a flat and pleasant walk of modest length to the City past the market on City Road.
- 8.3.6 In addition Asda, Sainsburys and the City Centre are very popular shopping destinations at which the full range of pharmaceutical services are available and are those locations that would be visited by the population of the neighbourhood in the normal course of their daily lives.

- 8.3.7 Those who visit GPs and need to have prescriptions filled have co-located pharmacy services at Lincoln Road, Park Road, Thomas Walker Centre and the five City Centre pharmacies. A significant number of prescriptions in other cases will be repeat prescriptions that can be filled at the patients' convenience. when visiting one of the supermarkets or city centre
- 8.3.8 The Panel accepted that the population of the neighbourhood was around 4000 and considered deprivation was only evidenced by a few small pockets to both north and south of the area.
- 8.3.9 The developments planned for North Bank seemed likely to be delayed beyond 2011/12 and probably beyond that in the light of this, the Panel decided to put limited weight on them.
- 8.3.10 We heard no evidence that there had been any support for a pharmacy in Eastgate itself before this appeal. The authors of the letters of support contained in the bundle did not attend the hearing and we were unable to determine how the letters came to be written. No complaints had been received by the PCT regarding services to the area.
- 8.3.11 We noted that much of the elderly population lives in the south and south-west parts of the neighbourhood and considered that they would probably prefer to walk into the City Centre rather than towards the proposed pharmacy. Any persons who would have come into the neighbourhood to access the clinic in Wellington Street will stop so doing when that clinic is closed in the very near future.
- 8.3.12 The Panel took into account that there were no facilities that would draw people who would benefit from pharmaceutical services into the neighbourhood as the few local shops were convenience shops. For more general services people would be more likely to visit the City Centre or the secondary shopping area near the Eastchem pharmacy.
- 8.3.13 Having taken into account all the written and oral evidence and undertaken a thorough site visit the Panel considered that an adequate pharmaceutical service was being provided to the neighbourhood from both inside and outside the neighbourhood.

9 Recommendation

- 9.1 It is recommended that from the facts given and in all the circumstances the neighbourhood as defined in paragraphs 8.2.3 – 8.2.5 above and shown edged red on the map at Appendix 2 hereto be recognised as the appropriate neighbourhood for this application.
- 9.2 It is therefore the Panel's unanimous recommendation that the application of Repeat Prescription Orderline Ltd for preliminary consent for inclusion in the Pharmaceutical List for additional premises in the Eastgate area of Peterborough should be refused and its appeal against the PCT's decision to refuse its original application should be dismissed.

Dated this 17th day of November 2009

Signed

Chairman

**APPENDIX 1
LIST OF ATTENDANCE AT ORAL HEARING**

Monday 9 November 2009

CHAIR

Prof M Mildred

PANEL

Mr F J Hind
Miss J E Perrett

APPLICANT/APPELLANT

Charles Russell representing Repeat
Prescription Orderline

Mr D Reissner
Mr S Damani

INTERESTED PARTIES

Green Pharmacy Consultants
Representing Alfa Chemist Ltd owners
Of Park Medical Pharmacy and
Eastchem Pharmacy
Cambridgeshire & Peterborough LPC

Mr G Green and Ms N Newton
Mr T Richards and Miss N Bulsara

PCT

Peterborough PCT

Mr R Smith
Ms H Lucas

APPENDIX 2