

APPEAL AGAINST TRAFFORD PCT DECISION TO REFUSE AN APPLICATION BY MR DAVID ROSS ON BEHALF OF PHARMACY DIRECT FOR INCLUSION IN THE PHARMACEUTICAL LIST AT 135 FLIXTON ROAD, URMSTON, MANCHESTER, M41 5ZZ

1 The Application

By application dated 24 March 2009, Mr David Ross on behalf of Pharmacy Direct ("the Applicant") applied to Trafford Primary Care Trust ("the PCT") for inclusion in the pharmaceutical list at 135 Flixton Road, Urmston, Manchester, M41 5ZZ. In support of the application it was stated:

- 1.1 The locality of the proposed pharmacy at 135 Flixton Road, has been lacking a pharmacy since the previous pharmacy, located at 138 Flixton Road, closed down. This was a pharmacy and opticians run by a Mr R Sandler.
- 1.2 Mr Sandler decided to relinquish his pharmacy contract due to his wish to concentrate on the optical practice, which continues in the same premises, now under new ownership.
- 1.3 I have consulted local opinion and every person I have spoken to welcomed the prospect of a pharmacy service returning to the area.
- 1.4 This locality is a separate and distinct area from the centre of Urmston and has a Community life of its own, with the local shops one expects – except a pharmacy. There are 3 pharmacies in the centre of Urmston and 1 pharmacy on Church Road. All these pharmacies are close to busy surgeries.
- 1.5 All these pharmacies and 138 Flixton Road co-existed for many years without any problems. Because of this fact then clearly the return of a pharmacy to the locality would not affect the viability of any other pharmacy.
- 1.6 The return of a pharmacy to this locality would serve to enhance the provision of health services in an area with a clear need for dispensing and the services of the new pharmacy contract.
- 1.7 I also enclose a letter from Dr Gill's (appendix C) surgery indicating their thoughts on the proposal. In view of the above and the comments from Dr Gill I ask the committee to approve the application.

2 The PCT Decision

The PCT considered and decided to refuse the application. The decision letter dated 28 July 2009 states:

- 2.1 A meeting of the Trafford PCTs Pharmacy Panel was held recently to consider the above application.
- 2.2 The Primary Care Trust (PCT) resolved to reject the application and I include a report containing information that the panel considered before coming to the decision.

Extract from Notes of the meeting held on 16 July 2009

The application

- 2.3 The applicant stated in the application:
- 2.3.1 There had been a pharmacy previously in the locality — a pharmacy/optician located at 138 Flixton Road. The owner relinquished the pharmacy contract to concentrate on the optical practice;
- 2.3.2 The applicant stated he had consulted local opinion and there had been a unanimous response welcoming the prospect of a pharmacy returning to the area;
- 2.3.3 The locality is a separate and distinct area from the centre of Urmston and has a community life of its own, local shops, but no pharmacy;
- 2.3.4 There are four pharmacies in the centre of Urmston and one based on Church Road, each one close to a G.P. surgery;
- 2.3.5 All these pharmacies and the pharmacy originally based at 138 Flixton Road co-existed for many years 'without any problems'. The return of a pharmacy would not then affect the viability of the existing pharmacies;
- 2.3.6 The return of a pharmacy would enhance the provision of health care services in an area with a clear need for dispensing and the services of a new pharmacy contract
- 2.3.7 The applicant proposed the following core and actual opening hours:
- Core:
- Monday to Friday - 09.00 — 18.00 (closed 13.00 to 14.00)
- Actual opening hours:
- Monday to Friday - 09.00 — 18.00 (closed 13.00 to 13.30)
- 2.3.8 The applicant included a letter from the G.P. practice based at 131-133 Flixton Road, Urmston (Dr. Gill and Partner). This letter stated:
- 2.3.8.1 The doctors support for the application;
- 2.3.8.2 That patient ask why there is not a chemist within easy reach of the surgery - this is most troubling for a G.P. when asked by elderly patients who have difficulty reaching the centre of Urmston
- 2.3.8.3 That it is a 'thriving community and growing locality' that would appreciate the inclusion of a local pharmacy
- 2.3.8.4 It offers the chance to reverse the process of what is an increasing isolated society
- 2.3.8.5 It would add a pharmacy to the existing dental and optometric practices and the local shops
- 2.3.8.6 It would allow the elderly to access more points of social interaction and community
- 2.3.8.7 3And urged the panel to support the application not only from a medical point of view, but also as a member of the community that has grown up there.

- 2.4 The applicant did not propose a definition of the area the pharmacy would serve.
- 2.5 The PCT Panel considered the proposed neighbourhoods put forward by the interested parties. These included:
- 2.5.1 Reeds Chemist trading as D.C. and M.D. Vallabh in its representations defined the neighbourhood as follows:
- 2.5.1.1 Northern Boundary: Bowfell Road (B5158) travelling eastwards on to Moorside Road to its junction with Croftsbank Road
 - 2.5.1.2 Eastern Boundary: Station Road from its junction with Moorside Road to its junction with Church Road (B5213)
 - 2.5.1.3 Southern Boundary: Church Road (B5213) from its junction with Station Road to its junction with Flixton Road (B5158)
 - 2.5.1.4 Western Boundary: Flixton Road from its junction with Church Road (B5158) and Carrington Road to where it becomes Bowfell Road (B5158)
- 2.5.2 Lostock Pharmacy in its response to the application defined the neighbourhood as follows:
- 2.5.2.1 Northern Boundary: From the junction of Sandown Gardens with Flixton Road/Bowfell Road, continuing eastwards along Bowfell Road and then Moorside Road to its junction with Crofts Bank Road
 - 2.5.2.2 Eastern Boundary: From the junction of Moorside Road/Crofts Bank Road travelling southwards along Crofts Bank Road to its junction with the Railway line
 - 2.5.2.3 Southern Boundary: The railway line; travelling westwards to its junction with Penny Bridge Lane and eastwards to its junction with Croft Banks Road
 - 2.5.2.4 Western Boundary: Penny Bridge Lane, travelling northwards onto Sandown Gardens to its junction with Flixton Road/Bowfell Road.
- 2.5.3 Boots the Chemist defined the neighbourhood as the areas as:
- 2.5.3.1 Northern Boundary: Moorside Road and Winchester Road
 - 2.5.3.2 Eastern Boundary: M60
 - 2.5.3.3 Southern Boundary: Open land and River Mersey
 - 2.5.3.4 Western Boundary: Manchester Ship Canal
- 2.5.4 The Co-Operative Pharmacy defined the neighbourhood as:
- 2.5.4.1 Northern Boundary: B5158 Bowfell Road and Hayeswater Road
 - 2.5.4.2 Eastern Boundary: B5214
 - 2.5.4.3 Southern Boundary: the railway line

2.5.4.4 Western Boundary: the golf course

- 2.5.5 Lostock Pharmacy highlighted the following area for the neighbourhood:
- 2.5.5.1 Northern Boundary: From the junction of Sandown Gardens with Flixton Road/Bowfell Road. Continuing eastwards along Bowfell Road and then Moorside Road to its junction with Crofts Bank Road
 - 2.5.5.2 Eastern Boundary: From the junction of Moorside Road/Crofts Bank Road travelling southwards along Crofts Bank Road its junction with the railway line
 - 2.5.5.3 Southern Boundary: The railway line; travelling westwards to its junction with Penny Bridge Lane and eastwards to its junction with Crofts Bank Road
 - 2.5.5.4 Western Boundary: Penny Bridge Lane, travelling northwards onto Sandown Gardens to its junction with Flixton Road/Bowfell Road
- 2.5.6 Lloyds pharmacy did not propose a definition of a neighbourhood.
- 2.5.7 The Salford and Trafford Local Pharmaceutical Committee did respond to the application defining a neighbourhood, but this was received into the PCT after the 45 day period allowed for responses. The Panel agreed that this additional information was out of time and therefore could not be considered.
- 2.6 The Panel members had visited the site individually and agreed the neighbourhood as:
- 2.6.1 Northern Boundary: From the junction of Flixton Road and Bowfell Road (B5158) along Bowfell Road, until the roundabout and then along Moorside Road until Crofts Bank Road
 - 2.6.2 Eastern Boundary: Crofts Bank Road (B5214) to the railway line
 - 2.6.3 Southern Boundary: From Crofts Bank Road along the railway line to the end of Stamford Road, leading down the pathway to Church Road (B5213). Continue along Church Road to Chassen Road.
 - 2.6.4 Western Boundary: Northwards along Chassen Road to the railway line, then west along the railway line to include the golf course. Continue north along Penny Bridge Lane to the junction of Flixton Road and Bowfell Road
- 2.7 The proposed pharmacy is said to be located on the corner of Flixton Road and Stamford Road (135 Flixton Road), next door to the Fairview Medical Practice (Dr. Gill and Partners). This is a busy road linking the centre of Urmston in the west to its joining with Bowfell Road (B5158) in the east. The B5158 then continues as the Flixton Road into the centre of Flixton. There is a pedestrian crossing approximately 200 metres from the proposed pharmacy. However, 100 metres towards Flixton from the location the road bends sharply which may on occasions be a blind spot for pedestrians crossing.
- 2.8 The site is approximately 0.5 miles from Urmston Centre in a predominantly residential pleasant location containing a mixture of older terraced houses on Flixton Road, but older and more modern semi-detached housing in the surrounding roads and avenues. Virtually opposite the proposed site is a block of shops including a

private dentist, a grocers providing sandwiches, teas and coffees, a fish and chip shop, DIY, a closed shop and Rabins opticians.

- 2.9 This opticians is open for General Ophthalmic services (sight tests) at:
- 2.9.1 09.30 — 13.00 and 13.30 — 17.00 Tuesday and Thursday and
- 2.9.2 09.30 — 13.00 on Saturdays. In addition, a dispensing service is provided between 09.30 and 13.30 on Mondays.
- 2.10 The town was established with the coming of the Manchester to Liverpool railway in 1870 which passed through both Urmston and Flixton and gave rise to a large increase in population. The population grew further when businessmen based in Manchester then found it easier to live in the suburbs and use the train into the city. Further increases in the population took place as a result of the building of the Manchester Ship Canal in 1897 and the Trafford Park development in the early 20th century.
- 2.11 Although the Trafford Centre is close by (approximately two miles to the north), this does not appear to have had a substantial negative effect on the town over the last decade. In fact, Urmston has been experiencing some significant development in the last two years with the restructuring of the town centre. This has included the addition of a Sainsbury's supermarket that includes a 100 hour pharmacy opened in June this year, 14 new shops, three restaurants, a new library and car park. This development includes the building of new apartments. Phase one with 64 homes is nearly completed, with phase two (77 homes) expected to be completed at the end of 2010. The town is also well known for its traditional market which runs on Tuesday and Fridays.
- 2.12 Geographically, the town and the surrounding area have excellent transport links. There are railway stations both in the centre of Urmston and Chassen Road with half hourly trains running between Manchester and Liverpool. The proposed pharmacy would be located equidistant between the stations. The motorway network can easily be reached by joining the M60 at Junction 8 south of Stretford or Junction 9 just north of the town centre. Both the town centre and the surrounding area are well served by buses.
- 2.13 Buses serving Flixton Road and stopping at the southern of Princess Road (within 250 metres of the proposed location) are:
- 2.13.1 15: Manchester to Flixton with a 15 minute frequency
- 2.13.2 243: Partington to Trafford Park one early morning to the Park and one evening journey to Partington (worker service)
- 2.13.3 255: Manchester to Partington — half hour frequency
- 2.13.4 268: Trafford General Hospital — Wythenshawe – hourly
- 2.13.5 276: Trafford General Hospital — West Didsbury — hourly
- 2.13.6 278: Trafford General Hospital — Stretford – hourly
- 2.14 The location is close to both Flixton High School for Girls and Urmston Grammar and many of the pupils can be seen using the shops opposite the site when school finishes.

G.P. provision in Urmston

- 2.15 GP Hours of availability
- 2.16 Opening Hours
- 2.17 G.P. practices must provide essential services at such times within core times as are appropriate to meet the reasonable needs of its patients and to have in place arrangements for its patients to access such services throughout the core hours in case of emergency. The "core hours" means the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays.

Extended hours

- 2.18 However, a number of G.P practices now provide 'extended hours' in order to increase patient access outside the current contract hours, but maintaining the standards of access and availability during core hours.

GP practices

- 2.19 Fairview Medical Centre (Dr Gill and Gill), Flixton Road — this practice is based next door to the proposed pharmacy. It is a 1.75 WTE doctor practice. However, Mrs. Gill has just retired, so the patient population is currently being looked after by one WTE G.P. and sessional G.P.s.

Extended hours

- 2.20 This practice provides extended hours between 18.30 and 20.00 on Wednesday evenings.
- 2.21 Enhanced service provided by this G.P. practice
- 2.22 National Enhanced Services
 - 2.22.1 Intra-Uterine Devices
- 2.23 Directed Enhanced Services
 - 2.23.1 GP Extended Hours
 - 2.23.2 Alcohol
 - 2.23.3 Osteoporosis
- 2.24 Locally Enhanced Services
 - 2.24.1 Chlamydia & Gonorrhoea
 - 2.24.2 Anti-Coag
 - 2.24.3 Choose and Book
 - 2.24.4 HPV
- 2.25 Alliston Medical Practice, Crofts Bank Road

Extended hours

- 2.26 This practice provides extended hours between 06.15 and 08.00 on Friday mornings.

2.27 Enhanced service provided by this G.P. practice

Directed Enhanced Services

2.27.1 GP Extended Hours

Locally Enhanced Services

2.27.2 Choose and Book

2.27.3 HPV

2.28 Gloucester House Medical Centre, Station Road

Extended hours

2.29 This practice provides extended hours between 18.30 and 20.00 on Monday evening and between 07.00 and 08.00 on Wednesday mornings.

Enhanced service provided by this G.P. practice

National Enhanced Services

2.29.1 Intra-Uterine Devices

2.29.2 Near-Patient Testing

Directed Enhanced Services

2.29.3 GP Extended Hours

2.29.4 Heart Failure

2.29.5 Alcohol

2.29.6 Osteoporosis

Locally Enhanced Services

2.29.7 Chlamydia & Gonorrhoea

2.29.8 Anti-coag

2.29.9 Choose and Book

2.29.10 HPV

2.30 Primrose Avenue Surgery, Primrose Avenue

Extended hours

2.31 This practice provides extended hours between 18.30 and 21.30 on Monday evenings.

2.32 Enhanced service provided by this G.P. practice

National Enhanced Services

2.32.1 Intra-Uterine Devices

Directed Enhanced Services

2.32.2 GP Extended Hours

2.32.3 Heart Failure

2.32.4 Osteoporosis

Locally Enhanced Services

2.32.5 Chlamydia & Gonorrhoea

2.32.6 Choose and Book

2.32.7 HPV

2.33 The Urmston Group Practice, Church Road

Extended hours

2.34 This practice provides extended hours between 18.30 and 21.30 on Monday evenings.

2.35 Enhanced service provided by this G.P. practice

National Enhanced Services

2.35.1 Intra-Uterine Devices

Directed Enhanced Services

2.35.2 GP Extended Hours

2.35.3 Heart Failure

2.35.4 Alcohol

Local Enhanced Services

2.35.5 HPV

2.36 Patient profile for Fairview Medical Practice

2.37 The age/sex profile of this practice tends to match that of the Practice Based Commissioning GPs in the north of the borough in general. However, there are some differences and these are highlighted by the fact that there appears to be a greater percentage of females and males in the category 60 to 64 years of age and a slightly higher percentage for females and males between 70 and 74 years.

2.38 Dental practices

2.39 There are three dental practices within the Urmston area.

2.39.1 Mr. Glass on Flixton Road

2.39.2 Mr. Longworth on Stretford Road

2.39.3 KS Dental (PCT commissioned service) on Flixton Road

- 2.40 Access to Pharmacies
- 2.41 The Pharmacy Needs Assessment classifies the site proposed by the applicant to provide pharmaceutical services as Urmston. The pharmacies located in this locality are:
- 2.42 Boots the Chemist, 54 Moorfield Walk, Urmston
- 2.42.1 Opening times: Monday — Saturday: 08.30 — 17.30
- Enhanced services provided
- 2.42.2 Observed consumption
- 2.43 Lloyd Pharmacy, 3 Crofts Bank Road, Urmston
- 2.43.1 Opening times: Monday — Friday: 09.00 — 18.30
Saturday: 09.00 — 17.30
- Enhanced services provided
- 2.43.2 Smoking cessation, Blood pressure testing and Diabetes testing
- 2.44 Co-op, 2 Station Bridge, Station Road, Urmston
- 2.44.1 Opening times: Monday — Friday: 09.00 — 18:00
Saturday: 09.00 — 16.30
- Enhanced services provided
- 2.44.2 EHC, Smoking cessation, Head lice, Ch, screening/treatment and postal kit, Needle exchange and Supervised consumption
- 2.45 Sainsbury's Pharmacy, Eden Square
- 2.45.1 Opening times: Monday — Friday: 07.00 — 23.00
Saturday: 07.00 — 22.00
Sunday: 11.00 — 17.00
- Enhanced services provided
- 2.45.2 EHC, Smoking cessation, Head lice, Ch, screening/treatment and postal kit, Needle exchange and Supervised consumption
- 2.46 There is a pharmacy based on Church Road and located within the Flixton area of the Pharmacy Needs Assessment. It is accessible from Fairview Medical Practice via Stamford Road, across the railway bridge down to Church Road The distance is approximately 300 metres and would take 10-12 minutes to walk for an average person. There is no direct access for vehicles.
- 2.47 Clearcourt, 182 Church Road
- 2.47.1 Opening times: Monday to Friday: 09.00 — 13.00 and 14.00 — 18.30
Saturday: 09.00 — 13.00
- Enhanced services provided

2.47.2 Smoking cessation, Head lice and EHC

- 2.48 Comments made by the Interested parties
- 2.49 Reeds Pharmacy stated that the applicant has failed to provide any evidence to suggest that the existing pharmacies in the area are unable to meet current or future demand
- 2.50 Lostock Pharmacy indicated that the neighbourhood is more than adequately served for pharmaceutical services by the current contractors, Co-op Pharmacy, Boots the Chemist, Lloyds Pharmacy and Sainsbury's 100 hour pharmacy. They added that the applicant had made no reference to the PCT's Pharmaceutical Needs Assessment or any other information to demonstrate any gaps in the provision of pharmaceutical services, either on the grounds of necessary or desirability or competition or choice. The Sainsbury's 100 hour pharmacy will meet any out of hours unmet need.
- 2.51 Boots the Chemist indicated that there are four existing pharmacies within half a mile of the proposed site and a further two within one mile. The applicant has failed to provide any evidence to suggest that the existing pharmacies are not meeting present demand or that these pharmacies will not be able to meet the future pharmaceutical service demand. Sainsbury's 100 pharmacy will enhance the already adequate provision of pharmaceutical services in the area. The applicant has failed to provide any indication of significant difficulties encountered whilst wishing to access pharmaceutical services. Boots added that the area is well served by public transport to travel the short distances to the pharmacies if there was no access to private transport. The desire for convenience of a pharmacy adjacent to a surgery should not be confused with the strict interpretation of desirability of the regulations. Finally, it is no way conclusive that an inadequacy in services exists solely on the basis that a pharmacy was once at a given location.
- 2.52 The Co-operative pharmacy contends that an adequate standard of service provision already exists in the area. The number of contracts granted are already greater than the national average. The nearest pharmacy to the applicant's address is approximately 500 metres. There are numerous other pharmacies in adjacent neighbourhoods in all directions which provide pharmaceutical services to the residents of the area. There are good links to town centres further away which also provide pharmaceutical services and there is a comprehensive collection and delivery service throughout the neighbourhood. The Co-op is unaware of any complaints from the public and neither is it aware of any requests for additional provision. Finally, the pharmaceutical needs assessment has not identified an inadequacy of service provision in the area.
- 2.53 Lloyds pharmacy noted that there are already pharmacies within the vicinity, that the applicant does not provide any evidence of inadequacy of existing pharmacy services that the applicant does not propose any difference services to those that are already being provided and does not propose to offer any additional opening hours. The applicant would be closed at lunchtimes and on Saturdays. Finally, Lloyds pharmacy are unaware of patients experiencing difficulty in accessing pharmaceutical services and that there are free delivery services provided for patients with difficulties getting to the pharmacy.

The applicants response to the interested parties comments

- 2.54 The applicant described the neighbourhood stating:
- 2.55 The defining pharmacies are clustered around Urmston town centre and their definitions are based on what suits their contention. The map clearly shows that the real neighbourhood of Urmston town centre follows the line of Crofts Bank Road and Station Road. The boundary of this road should then be Lostock Road, the M60 boundary and leading back along the Stretford Road to the junction of Station Road

with Church Road. On this basis the proposed pharmacy is in a different neighbourhood to those in Urmston town centre. As regards the pharmacy on Church Road, there is no direct route for cars or buses between Flixton Road and Church Road. The next pharmacy westwards from the proposed pharmacy is at Woodsend Circle two kilometres away.

- 2.56 The applicant then considered the interested parties' objections. The response to Boots the Chemist states that the effect that anyone who has not got private transport can always get a bus dismisses the health needs of the elderly, disabled and incapacitated. In regards to Lloyds, a pharmacy next to the surgery would provide a much faster access to medicines than having to travel for prescriptions. As regards the free delivery service available, this is no comparison to having a pharmacy service with pharmacist advice available and the fact that the objecting pharmacies have no evidence of an inadequacy in the service provision assumes that if people are dissatisfied they will complain. It is often the disadvantaged who suffer in silence.
- 2.57 Finally the applicant commented on the provision of services in the neighbourhood. The locality of the proposed pharmacy is served by an optician, a dentist, a doctor's surgery and a chiroprapist. The only absent health service is a pharmacy.
- 2.58 The benefits of a pharmacy and surgery being in close proximity are well recognised; patients benefit from having prompt medication and problems are solved much faster. There is a greater benefit for the patients than if there is no connection. These benefits are clearly agreed to by the objecting pharmacies as they are all clustered around large surgeries in Urmston centre. The applicant concluded by saying:
- 2.58.1 The proposed pharmacy is in a different neighbourhood to the objecting pharmacies;
- 2.58.2 Patients in the area of the proposed pharmacy would gain substantial health benefits from having a service next to their doctor's surgery
- 2.58.3 The deficiency in lack of a pharmacy service in this area would be rectified by granting this contract and patients who are disabled, elderly or incapacitated for whatever reason would benefit from an easily obtained service

Panel consideration

- 2.59 The Panel considered the following criteria

Necessary or desirable

- 2.60 Regulation 12(2) states that the Pharmacy Panel on behalf of the PCT sets out how a Primary Care will have regard in particular to

“(a) whether or not the following services are already provided by persons in the neighbourhood in which the premises named in the application are located. i. any pharmaceutical services specified in the application provided by persons included in a pharmaceutical list, or any directed services the applicant agrees to provide if his name is included in a pharmaceutical list, or ii. any local pharmaceutical services provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application.”

- 2.61 This means that Primary Care Trusts will take into account and in particular will consider the extent to which services (whether essential, or directed (advanced or enhanced)) are already available in the neighbourhood. This includes services provided under a local pharmaceutical service scheme. It can, following the Holme on Spalding Moor appeal case, include services which are provided to the neighbourhood from contractors outside it.

- 2.62 The Panel therefore considered the following factors for the proposed site and surrounding area in determining the necessary or desirable factor.

Demographic data (age, gender, ethnicity) and projections

- 2.63 The age/sex profile of those people residing in this area appears to match that of the Practices in the north of the borough in general. However, there are a greater percentage of females and males between 60 and 64 years and slightly higher percentage of females and males between 70 and 74 years.

Known health problems and any particular local needs

- 2.64 There are no particular health issues that stand out in the locality or any specific needs that are not being met by those providing F.H.S, services at this current time.

The views of local patient and consumer groups, residents' or tenants'

- 2.65 The PCT did not give this weight because there was no response from the patient body contacted. The applicant states that he had 'consulted local opinion and there had been a unanimous response welcoming the prospect of a pharmacy returning to the area'. However, no evidence was provided with his application to the PCT. The applicant did include a letter from the local G.P. The Local Medical Committee is an interested party for the views of local G.P.s and G.P. responses are expected to be received from this source. No such representations were made. The Panel did however consider the point made by the doctor regarding the query raised by patients on why there is not a chemist within easy reach of the surgery and that the elderly patients have difficulty reaching the centre of Urmston. However, no evidence was included to support this concern.

Environment

- 2.66 This is a pleasant residential area with no large industrial units disrupting the locality in terms of image or problems in terms of noise or disruption through the presence of heavy lorries or industrial by-products. Urmston and its immediate surroundings are well served by public transport, both trains and buses (described earlier). The town is close to the M60 motorway (the motorway that is in effect a ring road to around the city of Manchester and connects with the M61, M62 and M6).

Regeneration and new housing developments

- 2.67 The council and private enterprise have invested in Urmston recently in order to improve the shopping centre. This has seen Sainsbury's move into the centre within the last month with long opening hours and including 100 hour pharmacy. In addition, apartments are being built in the town centre in a two stage process.

Local business profile

- 2.68 The area includes mainly a few local shops and those based in the town centre. The larger enterprises are based either in the Trafford Centre (retail) or Trafford Park (industrial), both at least two miles distance.

Movement within the locality

- 2.69 The majority of those in work will commute out of the locality in the morning and return in the evening. However, the proximity of two secondary schools in the area results in a significant number of 11 — 17 year olds entering the area in the morning and leaving from 3.30 p.m. in the afternoon on weekdays.

- 2.70 The existing availability of pharmaceutical services

- 2.71 The Panel members considered the provision of pharmaceutical services based on discussions with the PCT's Medicine Management Team, their local knowledge, site visits and comments made by both the applicant and interested parties.

Complaints

- 2.72 No complaints have been received in the PCT as regards the provision of pharmaceutical services in the locality, nor the locations of current pharmacies or the opening times. The patient body did not respond to the application therefore no evidence of complaints were received from this source.

The Primary Care Trust's plans for development of primary care services

- 2.73 There are no plans for further developments within the locality of Urmston at this time.

Choice in the Neighbourhood

- 2.74 Under the NHS (Pharmaceutical Services) Regulations 2005, reasonable choice of both contractor and services has been included as a matter which the PCT is obliged to have 'particular regard' to.
- 2.75 In the last review of the Control of Entry Regulations, the government specifically set out the reasons for the explicit inclusion of choice in the 2005 Regulations. The reasons included:
- 2.76 Promote consumer choice and harness the benefits of increased competition;
- 2.77 Improve further the accessibility and convenience of pharmaceutical services
- 2.78 Choice is part of the overall test of adequacy, but is nevertheless of particular importance and must be considered in each application for inclusion in the Pharmaceutical List.
- 2.79 Clearly the introduction of choice as a criterion does not mean that every neighbourhood must have two or more pharmacies. The important factor to consider is whether or not the level of choice is 'reasonable' in the context of the defined neighbourhood.
- 2.80 In a developed town such as Urmston with a population of several thousand people and five G.P. practices, there is a significant demand for pharmaceutical services. Hence, the higher demand for services means that the Panel must give significant consideration to the issue of choice and in particular whether reasonable choice exists as there is presumed patient right to be able to exercise choice within the modern N.H.S.

Panel considerations

- 2.81 The Panel considered demographic information for the practice located at the side of the proposed location of the pharmacy. Members noted that there was a higher percentage of those aged 60 to 64 years and a slight increase for those aged 70 to 74 years. However, the other age ranges were similar to those for the other localities within north Trafford.
- 2.82 There is no evidence to suggest that there are any specific health needs that are not being met by the current providers of pharmaceutical services within the Urmston locality.

- 2.83 No representations were provided by the local patient bodies and although the applicant and the local G.P indicate that local opinion and patients would welcome a new pharmacy no evidence was provided to support these claims. The PCT has not received any representations supporting additional pharmaceutical service provision in this locality.
- 2.84 The PCT has not received complaints from patients nor the public regarding the provision of pharmaceutical services in the locality. In addition, the L.M.C. did not make any representations indicating that the existing pharmaceutical services were inadequate to support G.P. services were within this locality.
- 2.85 The Panel were not convinced that the proposed location of the pharmacy is situated within a separate neighbourhood to Urmston. Urmston town centre is 0.5 miles distance on a straight road with regular bus services from a nearby bus stop. The elderly can also receive their medications through the free delivery service undertaken by Lloyds, Boots the Chemist and the Co-op Pharmacy in the town the existing availability of pharmaceutical services was considered and discussions took place with the Medicine Management Team. The Panel visited the proposed site and noted its position in relation to the locations of current pharmaceutical providers.
- 2.86 Whilst members acknowledged that on first siting it might initially appear that this locality is separate from the town centre due to a row of shops opposite the G.P. surgery and the proposed pharmacy.
- 2.87 However, on further inspection and consideration of the evidence, members were convinced that the proposed location sits within Urmston including the town centre and therefore not separate from it.
- 2.88 The proposed site sits within the Urmston locality as defined within the PCT's Pharmacy Needs Assessment (P.N.A.), these localities defined to ensure there is a reasonable provision of primary care services. In addition, the locality now has a 100 hour pharmacy (Sainsbury's) which has meant easier access for patients and the public from early morning until late evening.
- 2.89 Members therefore rejected the criterion that a new pharmacy contract was necessary and was unconvinced that it was desirable.
- 2.90 The Panel then considered choice. Is there reasonable choice for the public? There are four pharmacies in the locality including a 100 hour pharmacy and all four provide various advanced and enhanced services in addition to the essential services. Members felt there was reasonable choice. It was also noted that there is another pharmacy located in the Flixton locality which although only accessible by foot over the railway bridge is approximately 300 metres away on Church Road.
- 2.91 Members then considered two further factors. The applicant mentioned that originally a joint pharmacy and optometrist had operated close to the G.P. surgery and this had operated effectively until the owner decided to concentrate on optometry only. Discussions with the pharmacy consultant highlighted that this type of practice had existed in the past, but there was a move to segregate community pharmacy and optometry in the 1980s. The enterprise mentioned by the applicant ceased operation over 20 years ago.
- 2.92 Finally the Panel considered whether the applicant had provided any evidence of innovation that would have added benefit for the public for instance pilot schemes of services not currently offered in the locality or, additional hours for easier access. The applicant proposed services that are already offered by other contractors.

Conclusion

- 2.93 The Panel rejected the application. The application was:

2.93.1 not necessary

2.93.2 not desirable

2.93.3 there is already reasonable choice within the locality

2.93.4 the application offered no services or better access than is already being provided in the locality and offered no innovation in the provision of pharmacy services.

2.94 Application: Rejected

3 The Appeal

In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority ("the Appeal Unit"), dated 24 August 2009, Mr David Ross appealed against the PCT's decision. The grounds of appeal are:

3.1 I am writing to appeal against the decision made by the Pharmacy Panel on 27.7 at the above address. I decided to apply for the above standard 40 hour contract after researching the area and consulting local businesses and local residents. The local doctor, Dr.Gill and the optician and dentist are also fully supportive of the application. The comments I received led me to believe that local people were unhappy and quite resentful that there was a concentration of pharmacies in the centre of Urmston but no pharmacy to serve their community.

3.2 The panel lays great emphasis on there being no complaints about the lack of pharmaceutical services in the area and repeatedly asserts that because there are no complaints, there is no need.

3.3 Many people do not know who to complain to, or indeed, whether there was any point complaining, as nobody had offered to provide a pharmacy service to their knowledge. In addition to the concentration of pharmacies in the centre of Urmston there is a pharmacy on Church Road, some 300metres away. Using the pharmacy on Church Road was dismissed by most people as being not only difficult to reach via a narrow, unlit path over the railway, but also because they were worried about returning the same way as it was usually deserted. Bringing medicines home this way along a dark narrow pathway is fraught with danger in this day and age and most people would not consider it.

3.4 In paragraph 6 there are two considerations to be taken into account.

6.1 Promote consumer choice and harness the benefits of increased competition;

6.2 Improve further the accessibility and convenience of pharmaceutical services.

3.5 The report then goes on to dismiss the importance of choice, saying that choice does not mean the neighbourhood has to have more than one pharmacy. The dictionary definition of choice is 'variety to choose from', i.e. the consumer can only decide where to go if they have a choice of pharmacies.

3.6 There are now four pharmacies owned by multiple pharmacy groups within 100 yards of each other in the centre of Urmston; that seems to be acceptable to the Panel whereas a single pharmacy half a mile away in an area not served by one pharmacy is deemed to be unnecessary. The views of other pharmacies have been taken as being more important than this consideration and their views are clearly anti-competitive as they wish to preserve the status quo and prevent any new service in the applied for location.

- 3.7 In order to implement 6.2 then it should be obvious that having four pharmacies half a mile away is no substitute for one present locally in terms of accessibility and convenience. On page 24 the Panel even admits that on first sight the area is a separate locality but then goes on to say it is not convinced that it is a separate area. In paragraph 4 the report mentions the opening of a 100 hour Sainsbury's pharmacy and claims that this means easier access for patients! The Panel has missed the whole point of the application, which is to provide a service close to the residents of the area, it is irrelevant how many more pharmacies open half a mile away.
- 3.8 The Panel again considers Choice. Again they are unable to accept that this area has no pharmacy and the centre of Urmston has four pharmacies. It appears that the needs of local people are to be at the behest of the large multiple pharmacies who own virtually all the pharmacies in Urmston. Reasonable choice should mean that a pharmaceutical service is provided within a locality and especially since there is a thriving doctor's surgery, then patients should be able to access their medicines promptly close to that surgery. There is no other area I can think of in Trafford where a doctor's surgery does not have a pharmacy closely located to supply medicines promptly.
- 3.9 I have enclosed Petitions signed by patients of Dr.Gill —these were gathered in just 2 weeks and demonstrate the strength of feeling on this matter. I also enclose letters from patients and the local Councillor for the area supporting the application.
- 3.10 The MP, in whose constituency this area falls is Bev Hughes and she has also expressed concern that existing pharmacies are apparently able to veto an application by another pharmacist. She will be writing to the Chairman of Trafford PCT.
- 3.11 I can only hope that the evidence I have presented will overturn this unjust decision so that a pharmaceutical service can be allowed in this locality.

4 **Preliminary Consideration**

- 4.1 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.
- 4.2 It also had before it the responses to the Authority's own statutory consultations.
- 4.3 On the basis of this information, the Committee considered that it was necessary to hold an Oral Hearing, before determining the appeal.
- 4.4 On 23rd November 2009 a panel was appointed to hear the appeal which took place on 17th December 2009 at the offices of the PCT. A list of those who attended is annexed at Appendix A.

5 **Summary of Written 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.

5.1 PHARMACY DIRECT

5.1.1 Further to your letter of 9.9.2009, I enclose the following;

5.1.1.1 Further petitions in favour of a pharmacy at the above address which were inadvertently omitted from the original appeal.

5.1.1.2 Letter from Beverley Hughes MP

5.1.1.3 Letter from a local businessman

5.1.1.4 Map of the area with the suggested neighbourhood delineated in red.

5.1.2 The railway line has been taken as a boundary as the roads leading off Church Road are cul-de-sacs until Chassen Road.

5.1.3 I have noted Newton Road as a boundary as this is the last road off Flixton Road which is not a cul-de-sac.

5.1.4 I then consider Moorside Road leading to Flixton Road via Marlborough Road and then to the railway line near the junction of Ambleside Road to be the boundary of the neighbourhood.

5.1.5 Dr.Gill has also informed me that many patients have written to the PCT expressing their support for the application.

5.1.6 I believe that the evidence presented has shown substantial need for a pharmaceutical service in this locality and that the objections raised have been fully answered.

5.2 BOOTS UK LTD

5.2.1 We agree with the PCT decision to reject the application and their reasoning.

5.2.2 There are now five pharmacies within half a mile of the proposed location, including the Sainsbury's 100-hour pharmacy that has opened recently.

5.2.3 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 or that these pharmacies will be unable to meet any future increase in demand for such services.

5.2.4 Our pharmacy, which has recently relocated within the centre, provides a range of pharmaceutical services including, Head Lice Treatment Service, Supervised Administration, supply of domiciliary compliance aids (Boots Medisure) and free prescription collection and delivery services. The pharmacy will also be offering Smoking cessation services in the very near future.

5.2.5 Had the PCT identified a gap in the provision of a particular service in Urmston, they could have requested that Sainsbury's Pharmacy provide this service as a condition of granting their '100-hour' contract.

5.2.6 The applicant has also failed to provide any indication of significant difficulties encountered whilst wishing to access pharmaceutical services in the area.

5.2.7 Patients currently have access to a choice of pharmaceutical services and providers, including an extended hours pharmacy, within less than 10 minutes journey time on foot.

5.2.8 Levels of car ownership in the area are approximately equivalent to national ranges (Urmston Ward 2001 census data). For those who wish to access services by car, good parking facilities exist within the centre of Urmston in close proximity to the existing pharmacies.

- 5.2.9 For those who do not have access to private transport or who cannot walk the short distance to the nearest pharmacies, public transport is available. The area is well served by public transport with a number of services running throughout the area. In the Pharmacy Panel minutes the PCT note six bus services serving the area of Flixton Road including the Number 15 Manchester to Flixton service (15 minute frequency).
- 5.2.10 The desire for convenience of a pharmacy adjacent to a surgery should not be confused with the strict interpretation of desirability within the Regulations.
- 5.2.11 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.

5.3 LLOYDS PHARMACY

- 5.3.1 Thank you for your letter 25th September 2009 informing us of the appeal against the decision of the Trafford PCT who refused the above application. Further to the appeal, on behalf of Lloyds Pharmacy Limited I would wish to make the following comments.
- 5.3.2 Trafford PCT has provided a detailed decision regarding its consideration of the application and we submit they have arrived at the correct decision
- 5.3.3 None of the evidence in the appeal suggests that there is currently any inadequacy in the current provision of pharmaceutical services. The only comment is regarding a "concentration of pharmacies". The regulations were not designed to place a pharmacy on every street corner or in every location. The existing pharmacies are within half a mile and situated as part of the fabric of everyday life.
- 5.3.4 The appeal does not provide details of any complaints. The letter of support refers to the convenience of being able to "pop next door to obtain their medicines". This would be true of every situation but we submit is not indicative of inadequacy of service provision.
- 5.3.5 The Appeal Unit will be aware that there are already pharmacies that are within the vicinity of the proposed site a short distance east along Flixton Road and also Clearcourt Limited just to the south of the proposed site. The PCT also confirm the new Sainsbury's 100 hour pharmacy in Urmston is open. This will provide the locality with an extended hours pharmaceutical service.
- 5.3.6 We note that the applicant does not propose to provide any different services to those that are already provided and does not propose to offer any additional opening hours. Indeed we note that the pharmacy would be closed at lunchtime and on Saturdays.
- 5.3.7 For the above reasons we respectfully ask the FHS Appeal Unit to refuse the application as wholly adequate pharmaceutical services are already provided to patients, residents and visitors.

5.4 THE CO-OPERATIVE PHARMACY

- 5.4.1 The Co-operative Pharmacy wishes to write and support the decision of Trafford PCT to reject the above application.
- 5.4.2 The Co-operative Pharmacy would agree with the PCT's decision of neighbourhood and that there is no inadequacy in the provision of pharmaceutical services in the neighbourhood.

- 5.4.3 One of the applicant's key objections in their appeal is choice. Irrespective of the ownership of each existing pharmacy, the fact remains that there are now four pharmacies located within the neighbourhood, providing reasonable choice pharmaceutical services to all residents of the neighbourhood. As already stated, the recently opened Sainsbury's pharmacy is open for 100 hours, giving even more access to pharmaceutical services.
- 5.4.4 The area where these pharmacies are located has always been an area where it would be reasonable to assume people would visit as part of their normal daily lives. With the extensive work recently carried out on the shopping centre, this centre will now be visited by even more people.
- 5.4.5 Access to the existing pharmacies from the applicant's proposed site is along level pavements, with good public transport for those who wish.
- 5.4.6 Finally, The Co-operative Pharmacy would draw the appeal panel's attention to the PCT's decision that, 'There is no evidence to suggest that there are any specific health needs that are not being met by the current providers of pharmaceutical services within the Urmston locality.'
- 5.4.7 Given the above, The Co-operative Pharmacy requests the appeals authority uphold the decision of Trafford PCT and determines that the application is neither necessary nor desirable.

5.5 LOSTOCK PHARMACY

- 5.5.1 I draw the Appeal Authority's attention to my original submission to Trafford Primary Care Trust within which I have defined the neighbourhood for this application and the reasons behind the application being neither necessary nor desirable.
- 5.5.2 In response to Mr Ross's appeal:
- 5.5.3 He states in his letter "...local people were unhappy & quite resentful that there was a concentration of Pharmacies in Urmston but no Pharmacy to serve their community." Mr Ross has failed to prove this and has still not even attempted to define the neighbourhood for this community.
- 5.5.4 His contention that people do not know how to complain is also invalidated because if there was really a need for Pharmaceutical Services which were lacking, poor or inadequate, then the PCT would have been aware from other sources, such as, GP services and Social Services.
- 5.5.5 Similarly, although one of the Local Councillors has kindly written a letter in support of this application, surely he and his colleagues would have been made aware from their local contacts on any deficiencies in Pharmaceutical Services before Mr Ross approached them with his plans!
- 5.5.6 Mr Ross contends that 4 multiples in the centre of Urmston do not provide competition and choice being multiples! The 4 Pharmacies are owned by 4 different multiples who all have their own ethos of Pharmacy Services and in fact are extremely competitive with each other and provide more than adequate choice and variety of services.
- 5.5.7 The petition presented should be put aside as it has not been conducted by an independent third party using correct research methodology, with the appropriate patient groups and with adequate safeguards against bias.
- 5.5.8 Mr Ross's main contention is that the application is in a different area that is not adequately served by the centre of Urmston and a different community

resides in this area which is unhappy and dissatisfied by the Pharmacy Services available in the centre of Urmston.

- 5.5.9 He has failed to define the neighbourhood that this community resides in and has not presented any evidence for the lack of adequate Pharmaceutical Services in this neighbourhood. He has also made no reference to Trafford PCT's Pharmaceutical Needs Assessment and any issues arising from within that to prove his application either on the grounds of necessity & desirability or competition & choice.
- 5.5.10 The appeal must be dismissed as the application is neither necessary nor desirable to secure adequate Pharmaceutical services in the neighbourhood, nor is it necessary to satisfy the need for competition & choice.

5.6 BMB ASSOCIATES LTD ON BEHALF OF PHARMACY CARE PLUS

- 5.6.1 Acting for Pharmacy Care Plus, the proprietors of the pharmacy located in Church Road, Urmston, I am instructed to respond to your letter dated the 9 September 2009 in respect of an appeal by the applicant to the PCT's rejection decision dated the 3rd August 2009. [stet]
- 5.6.2 Agreeing with the investigations and conclusions by PCT Pharmacy Panel and the comments of other interested contractors in the locality it is apparent that there already exists an adequate and full range of pharmaceutical services in the area. I also note that Sainsbury's provide a 100 hrs service from premises in Eden Square, complementing the services historically provided by other local contractors.
- 5.6.3 Concurring with the decision of the PCT I conclude in relation to the application that:
- 5.6.3.1 Is not necessary in light of the adequate services already provided in the near locality.
 - 5.6.3.2 It is not expedient, desirable or necessary to increase the number of local contractors.
 - 5.6.3.3 There is already choice and availability of services in the near locality complemented by the Sainsbury 100 hrs facility in Eden Square.
 - 5.6.3.4 The applicant does not offer better services or access to those already provided by other contractors in the area.
- 5.6.4 We respectfully request that the PCT decision is upheld and that this application is rejected.

6 Evidence at the Appeal

6.1 Mr David Ross (Applicant)

- 6.1.1 He confirmed that the application was proceeding in his own personal name and not in any Company name.
- 6.1.2 He had decided to apply for a contract after consulting with Dr Gill and local residents, the vast majority of whom were in favour of having a pharmacy .

- 6.1.3 The immediate area already had a dentist, an optician, a doctor and a chiropodist. There was a gap in the provision of pharmacy services. No pharmacy had been at the location for over 20 years.
- 6.1.4 The pharmacy would not just provide dispensing services but would also provide much needed advice.
- 6.1.5 The nearest pharmacy, Reeds Chemist was over the railway line along a dark narrow path and there had been reports of characters lurking in the area. There was no direct road to Reeds Chemist. The only practical access was on foot.
- 6.1.6 The pharmacies in the centre of Urmston were all owned by multiples and were all near large surgeries.
- 6.1.7 Dr Gill's surgery was the only surgery that did not have a nearby pharmacy.
- 6.1.8 A petition had been undertaken in the surgery. It had been there for two and a half weeks and had attracted 537 signatures. The idea of a pharmacy had been favourably received.
- 6.1.9 The PCT in their decision had stated that there was no evidence of need but they had not tried to canvass the population.
- 6.1.10 Dr Gills' surgery had 1250 patients over the age of 65 who would benefit from an accessible pharmacy. It was not easy to access the centre of Urmston without a car.
- 6.1.11 It was acknowledged that other local pharmacies offered a collection and delivery service but it was not thought that their customers were satisfied with this. Further, services provided at other pharmacies were not complete. There were several services that were not provided such as palliative care.
- 6.1.12 The hours at the new pharmacy would meet the needs of the surgery. The pharmacy would be a new outlet for health and welfare and would not affect the commercial viability of other local pharmacies.
- 6.1.13 135 Flixton Road, the site of the application, was a separate unit from the next door surgery. There would be dedicated parking at the rear.
- 6.1.14 He had worked in the area for many years. The locals did not need to shop in the town centre as they managed to source most of their daily shopping at the local Cooperative.
- 6.1.15 He had not been able to open a pharmacy before as there were no premises available.
- 6.1.16 The doctors at the neighbouring surgery had no commercial interest in the application.
- 6.1.17 The petition that had been undertaken had not been professionally designed. He had undertaken the petition himself by standing outside the surgery and interviewing patients.
- 6.1.18 He was not aware that Dr Gill now opened from 6.30pm until 8.30pm one night a week but could open the pharmacy to cater for those patients.
- 6.1.19 He had accreditation for MUR's, minor ailments, needle exchange, supervised administration of Methadone and care homes. He would provide

other enhanced services that were not commissioned at a charge to the customers.

6.1.20 Dr Gills patients came from Flixton to the west and some came from south of the railway.

6.1.21 The surgery had been there for over 40 years. The patients at the surgery were getting older. They visited the surgery on foot, by bus, by car or sometimes a friend would bring them by car.

6.2 Dr Gill

6.2.1 She had now retired from working at the surgery next to the site of the application but still lived in the area and her son continued to be involved in the practice.

6.2.2 She asked what good was a doctors surgery without medicine. The surgery had been adapted to cater for wheelchairs but it was impossible to offer welfare to the patients if there was no pharmacy. Medical facilities came to an end as soon the patient left the surgery.

6.2.3 Car parking was difficult in the centre of Urmston. She herself preferred to go to the Trafford Centre.

6.2.4 Other health professionals such as opticians were in the immediate area of the surgery.

6.2.5 It was pointed out that several of the surgery's patients were in receipt of repeat prescriptions.

6.3 Councillor Kelson

6.3.1 It was difficult to visit the Reeds chemist if a patient was not fit and well.

6.3.2 The area around the site of the application was settled with a static and ageing population. There were a large number of older people who found access into the town centre difficult.

6.3.3 The walk to Reeds chemist was intimidating. The path was not well paved.

6.3.4 The bus service into the town centre was very poor, running only every half hour and this could involve a long wait.

6.3.5 A pharmacy at the proposed location was very desirable not just for patients of Dr Gills surgery but also local residents.

6.3.6 The pharmacy application was supported by the local Involvement Network. The proposed pharmacy would not affect the viability of the town centre pharmacies.

6.3.7 When asked he confirmed that he did not live in the area

6.4 Mr Wilkins (PCT)

6.4.1 The applicant had not shown any evidence of inadequacy. There was no support for the applicant from the LMC, patients groups or the local dentist.

- 6.4.2 An excellent and free collection and delivery service operated locally.
- 6.4.3 The PNA showed no inadequacy and this had been revised only a few months ago.
- 6.4.4 The area was well served by bus services in particular the numbers 268 and 255.
- 6.4.5 There was ample choice of both provider and services locally.
- 6.4.6 All the services referred to in the application were commissioned by the PCT but they were targeted and not all the services were provided in Urmston; for example the Urmston pharmacies did not offer a care homes service or a minor ailments service that was commissioned by the PCT.

6.5 Mr Andrew (Reeds Chemist)

- 6.5.1 The applicant's neighbourhood was artificial and included part of Flixton.
- 6.5.2 Regulation 12 did not require every surgery to have a pharmacy.
- 6.5.3 Newton Road was the applicants easterly boundary but there was no access from it to the north onto Moorside Road.
- 6.5.4 Flixton Road was the second shopping street in Urmston and the character changed to the west of the surgery.
- 6.5.5 His southerly neighbourhood boundary would be Church Road including the cul de sacs to the south of Church Road. The foot bridge over the railway was only a shallow slope and was well used. It was not risky in any way as Urmston was a leafy and safe suburb.

6.6 Dr Shah (Reeds Chemist)

- 6.6.1 He invited the panel to dismiss consideration of the petition. It had not been professionally produced and used poor methodology.
- 6.6.2 The application had received no support from the LMC or other groups. The letter received from the MP illustrated a misunderstanding of the regulations.
- 6.6.3 He had acquired Reeds Chemist in August 2009 and had undertaken a significant refit. The pharmacy was now able to provide all enhanced services. It also offered a collection and delivery service.
- 6.6.4 His pharmacy received many prescriptions from Dr Gills surgery.

6.7 Mr S Morgan (Cooperative Pharmacy)

- 6.7.1 His neighbourhood comprised a population of 5,000 to 6,000 based on super output areas.
- 6.7.2 The health of the neighbourhood was generally good and there were no unmet needs. 92% of the neighbourhood population were white.
- 6.7.3 The area was generally level with no inclines.
- 6.7.4 The services near to the site of the application were non core and were consistent with community life.

- 6.7.5 The shops to the east along Flixton Road were also non core.
- 6.7.6 The proposed pharmacy would be ancillary to the surgery and would not be readily available to the community.
- 6.7.7 The layout would also be deficient and would never be approved by the Co-op. In particular access would be off a corridor rather than directly from the front door.
- 6.7.8 The population of the area had adequate access to other pharmacies especially by car.
- 6.7.9 Paths leading to Urmston were wide and in good repair and there were no physical barriers.
- 6.7.10 The number 15 bus leading into the centre ran every 15 minutes.
- 6.7.11 The centre of Urmston was a destination shopping centre.
- 6.7.12 The applicant had shown no evidence of any assaults on the footpath.
- 6.7.13 The Cooperative pharmacy offered EHC, smoking cessation, head lice treatment, needle exchange, supervised consumption and ECG monitoring. Eight MUR's were conducted each week.
- 6.7.14 The applicant would not improve the choice of services locally.

6.8 Ms Green (Lloyds)

- 6.8.1 She accepted the PCT definition of neighbourhood but without the triangle south of the railway.
- 6.8.2 There were five pharmacies near to the site of the application and the Sainsburys 100 hour pharmacy provided an out of hours service.
- 6.8.3 The nearest pharmacy, Reeds Chemist was perfectly safe to access and the other four in the town centre were also convenient.
- 6.8.4 The Lloyds pharmacy in the centre of Urmston covered all local surgery opening hours. The pharmacy there offered EHC, smoking cessation and MUR's as well as a collection and delivery service. It also serviced three local care homes.
- 6.8.5 The locals from the area regularly went into the centre of Urmston for daily shopping and other services.
- 6.8.6 If the PCT had identified a gap in the provision of services they would have approached existing contractors.

6.9 Mrs J Watson (Boots)

- 6.9.1 She would like to revise the original definition of neighbourhood; she now supported the PCT definition having seen the area.
- 6.9.2 All five pharmacies served the neighbourhood. The applicant would not offer anything additional. The Boots pharmacy had relocated in September within the centre of Urmston.

- 6.9.3 The pharmacy offered MUR's and had fulfilled $\frac{3}{4}$ of its quota for the year, head lice treatment, smoking cessation, EHC, supervised administration, needle exchange, free collection and delivery and domiciliary appliance aids.
- 6.9.4 It had been noticed that the pharmacy business had been affected by the opening of the Sainsbury pharmacy.
- 6.9.5 No evidence of complaints had been received.
- 6.9.6 The walk into the centre from the site was direct and level and took only 10 minutes.
- 6.9.7 There were 486 car parking spaces on the Sainsburys car park and there was a good bus service running along Flixton Road into the town centre.

7 Site Visit

- 7.1.1 The panel started the site visit in the centre of Urmston. There is a large car park serving the centre shops in particular the Sainsbury store that had just opened. Parking is free for the first 3 hours and is on two levels. There were plenty of spaces available at the time of the panels visit. The Sainsbury store includes a pharmacy in the centre of the store which is open for 100 hours every week. The pharmacy has its own consultation room and a free collection service is available
- 7.1.2 The centre of Urmston is well established and includes a number of independent retailers as well as a number of national chains. The centre is based around the station which has frequent trains into Manchester and Liverpool and also the road junction of Crofts Bank Road and Flixton Road. This busy junction is controlled by traffic lights which also permit pedestrians to cross the roads at this point. Shops restaurants and other facilities radiate out from the junction and in particular continue along Flixton Road to the west. The panel also noted a market in an open area to the east of the crossroads. The outdoor market operates on two days every week. There are three other pharmacies in the centre of Urmston, all centrally located and all seemed busy and well appointed.
- 7.1.3 Street parking is also available and a number of buses were observed travelling into Urmston from all directions.
- 7.1.4 The panel walked from the centre of Urmston to the site of the application. This involved walking directly in a westerly direction along Flixton Road. It is a straight walk along well maintained, wide pavements and throughout the road was flanked by shops, restaurants and other facilities open to the public although they were more widely spaced as the site of the application was approached. The walk was measured to be 695 metres and took ten minutes. The panel noticed that from the site of the application the crossroads in the centre of Urmston were still visible.
- 7.1.5 The property 135 Flixton Road is an end terraced residential property next to a doctors surgery which also operates from a terraced property. There is a front garden area separating the property from the pavement. At present there is no shop window. There are parking facilities in a side street and at the rear but these are limited.
- 7.1.6 There are no other shops or facilities on the south side of this part of Flixton Road but there is a small parade on the other side of the road which includes an optician, a hardware shop, a Conservative party office, a fish and chip shop, a charity shop, a dentist and a fast food shop.

- 7.1.7 The panel then walked from the site of the application to Reeds Chemist. This involved walking down the street at the side of the proposed pharmacy, across a railway bridge that was open to pedestrians only then along a narrow footpath between the back gardens of adjacent properties. The footpath led out onto Church Road and then it is only a short distance in a westerly direction to Reeds Chemist. The footbridge over the railway only has a shallow incline as the railway is in a deep cutting at the point. Both the bridge and the footpath are poorly surfaced. There is street lighting throughout the walk but the lights are fairly widely spaced and the panel noticed that some lighting would be obscured by trees and other vegetation. The distance was measured at 413 metres.
- 7.1.8 The panel walked back to the site of the application from Reeds Chemist by walking through the adjoining housing estate in order to avoid using the narrow footpath. This still involved walking over the pedestrian railway bridge however. The distance was measured to be 516 metres.
- 7.1.9 The panel also visited the pharmacies at Woods End Circle to the west and noticed that there was a doctors surgery there that is not shown on the plan that accompanied the case papers.
- 7.1.10 The panel observed no industry throughout the area and no ongoing developments, the area already being extensively developed.
- 7.1.11 The panel noted Trafford General Hospital to the north of the area and two major secondary schools in the area namely Urmston Grammar School and Flixton Girls High School as well as a number of primary schools.
- 7.1.12 The panel also visited the area of Davyhulme to the north of Moorside Road.
- 7.1.13 The entire area is reasonably flat and all pavements are well maintained consistent with the dense urban nature of the area. The housing is of mixed quality with a few pockets of council owned property as well as a number of expensive detached properties.
- 7.1.14 The railway line running from east to west through the area and the M60 motorway running from north to south in the east of the area are both significant features although several crossing points of both the railway and the motorway are available.

8 Panel's Conclusions

- 8.1 The Panel defined a neighbourhood that was similar to but slightly larger than that defined by the PCT. The easterly edge of the golf course formed the western boundary and this extended all the way down to Church Road and slightly beyond. The Southerly boundary was considered to be to the south of the houses on the roads leading off Church Road such as Southgate and Grange Road. The panel considered that all the housing south of the railway line formed part of the central Urmston neighbourhood with sufficient crossings over the railway line available for it not to be considered a barrier.
- 8.2 The eastern boundary was considered to be Station Road and Crofts Bank Road including the shops and commercial properties such as the market on the easterly side of these roads. The northern boundary matched that defined by the PCT namely Moorside Road and Bowfell Road, the district of Davyhulme to the North being considered a distinct and different community.
- 8.3 Accordingly the neighbourhood comprised a densely populated urban community with excellent shopping facilities at the extreme easterly side, a number of schools that might attract regular visitors but no significant industry or commercial

undertakings. The population was considered to be fairly static and in reasonable health. The neighbourhood is served by five pharmacies one of which offers an out of hours service and an extensive collection and delivery service. The panel acknowledged the limitations of a collection and delivery service in that it did not allow the customer to obtain professional advice within the setting of a pharmacy.

- 8.4 The Panel considered that access throughout the neighbourhood was good whether travelling on foot or by private or public transport and good, free parking facilities are available at or near to all the pharmacies. The pavements were seen to be all well maintained and there were no significant barriers or obstacles to movement throughout the area. It was accepted that the footpath leading to the Reeds Chemist from the site of the application was not appealing but the Panel observed that several local people did use it and the roads through the nearby housing estate provided an alternative route to avoid the footpath between the back gardens leading out onto Church Road.
- 8.5 The panel identified no unmet health needs or gap in the provision of any essential or enhanced services. The Panel were also mindful of the decision of the PCT in the light of its thorough consideration of the application as set out in the case papers and the fact that its recently revised PNA had not identified any inadequacy of pharmaceutical provision in the area.
- 8.6 The Panel considered that the population of the neighbourhood had a good choice within the neighbourhood of both providers and services with four different "multiple" pharmacies and one independent. A new pharmacy would not make any significant improvement to the provision of pharmacy services within the neighbourhood.
- 8.7 The area around the site of the application did not offer any significant facilities or services that made it a destination in itself. Access from there into the centre of Urmston was easy, indeed it could be considered to be the edge of the centre. It was considered that most of the local population regularly travelled into the centre and for those that did not wish to do so, the Reeds Chemist to the south offered a good and accessible pharmacy service and many other pharmacies offered services close to the edges of the neighbourhood or further away such as those at the Trafford Centre where the local population were known to visit regularly.
- 8.8 The Panel considered that the neighbourhood already benefited from an adequate provision of pharmaceutical services and that it was neither necessary nor desirable to grant the application.

9 Recommendation

The Panel would accordingly recommend that the appeal be dismissed and the decision of the PCT supported.

Signed.....

A Tomlinson

A. Dobson

C Dorking

Dated this

day of December 2009

ORAL HEARING ATTENDANCE LIST**CHAIR**

Mr Alan Tomlinson

PANELMr A Dobson
Mrs C Dorking**APPELLANT**

Mr David Ross

Dr Gill

Mr E J Kelson JP

Councillor for Urmston ward

INTERESTED PARTIES

Mrs J Watson

Ms C Green

Mr S Morgan

Dr D Shah and Mr R Andrew

Boots UK Ltd

Lloyds Pharmacy

Cooperative Pharmacy

Clearcourt Ltd (Reeds Chemist)

TRAFFORD PCT

Mr B Wilkins

Mrs D Murphy

Mr Adrian Evans

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Primary Care Development Manager