

2 February 2010

REF: SHA/15356

APPEAL AGAINST NORTHUMBERLAND PCT DECISION TO GRANT AN APPLICATION BY MR A KABIR FOR PRELIMINARY CONSENT PRIOR TO INCLUSION IN THE PHARMACEUTICAL LIST AT THE SHOPPING AREA, ABBEY MEADOWS, MORPETH

REF: SHA/15357

APPEAL AGAINST PCT DECISION TO GRANT AN APPLICATION BY LHG MEDICAL SERVICES LTD FOR PRELIMINARY CONSENT PRIOR TO INCLUSION IN THE PHARMACEUTICAL LIST AT MORPETH COTTAGE HOSPITAL, SOUTH ROAD, MORPETH NE61 2BT

1 Preliminary Consideration

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

2 Oral Hearing

- 2.1 An Oral Hearing was therefore held 11 January 2010 at Bevan House, Great Park, Newcastle.
- 2.2 A copy of the Oral Hearing report is attached.

3 Further Consideration by the Committee

- 3.1 Each member of the Committee had read the Oral Hearing report in full which was considered together with all the other documents previously referred to.
- 3.2 The Committee had regard to Regulation 12(1), the necessary or desirable test, and in considering that test, had regard in particular to 12(2) of the National Health Service (Pharmaceutical Services) Regulations 2005 (as amended) ("the Regulations").
- 3.3 The Committee dealt with the applications by way of reconsideration of all the issues.
- 3.4 The Committee noted the various appendices referred to in the Oral Hearing Report. As these had either previously been seen by the parties, or were not necessary to convey the decision in addition to the report, these are not included as part of this decision letter.

3.5 The Committee noted the Oral Hearing recommendation for the definition of the neighbourhood, made after a site visit. The Committee adopted this definition for the purpose of these applications.

3.6 The Committee decided to accept the recommendation from the Oral Hearing for the reasons given in the oral hearing report.

4 **Decision**

The Committee was of the view that it was desirable to grant Mr Kabir's application to secure the adequate provision of services in the neighbourhood. Accordingly, the Committee dismisses the appeal against Mr Kabir's application, and allows the appeal in respect of LHG Medical Services Ltd application.

Ray Bushell Appeal Officer

A copy of this decision is being sent to:

Mr A Kabir – Applicant
Mr N V Morley, LHG Medical Services Ltd – Applicant
Mrs J Watson, Boots UK Ltd – Appellant
Mr A Booth – Northumberland LPC
Mrs L Durrant – North East FHSA (on behalf of the PCT)
Oral Hearing Panel Members