

REPORT FROM AN ORAL HEARING HELD ON 11 NOVEMBER 2009 AT ELMWOOD COMMUNITY CENTRE, HARTBURN, STOCKTON ON TEES IN CONNECTION WITH APPEALS AGAINST STOCKTON ON TEES PCT'S DECISION TO GRANT AN APPLICATION BY ASSURA PHARMACY LTD FOR PRELIMINARY CONSENT PRIOR TO INCLUSION IN THE PHARMACEUTICAL LIST AT HANOVER PARADE, GLEBE CENTRE, STOCKTON ON TEES, TS20 1RF
REF: SHA/15285

1 Background

- 1.1 By application dated 7 January 2009, Assura Pharmacy Ltd ("the Applicant") applied to Stockton on Tees Primary Care Trust ("the PCT") for preliminary consent prior to inclusion in the pharmaceutical list at Hanover Parade, Glebe Centre, Stockton on Tees, TS20 1RF. The application and associated documentation is in the paginated bundle (Appendix 1) between pages 1 and 17.
- 1.2 Following circulation of the application and receipt of representations, the PCT considered and decided to grant the application. The decision letter dated 30 June 2009 is at pages 47 to 50 of the bundle and the background reports considered are at pages 35 to 66.
- 1.3 In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority ("the Appeal Unit"), dated 21 July 2009, Boots UK Ltd appealed against the PCT's decision. It is at pages 51 and 52 of the bundle.
- 1.4 In a letter to the Appeal Unit which was undated but received on 30 July 2009, Newham Pharmacy appealed against the PCT's decision. The letter is at page 54 of the bundle.
- 1.5 In a letter to the Appeal Unit dated 27 July 2009, Sainsbury's Supermarkets Ltd appealed against the PCT's decision. The letter is in the bundle at page 53.

2 Preliminary Consideration

- 2.1 The Pharmacy Appeals Committee appointed by the Family Health Services Appeal Unit of the NHS Litigation Authority, ("the Committee") had before it the papers considered by the PCT, together with a plan of the area showing existing pharmacies and doctors' surgeries and the site of the proposed pharmacy. It also had before it the responses to the Authority's own statutory consultations.
- 2.2 On the basis of this information, the Committee considered it was necessary to hold an Oral Hearing, before determining the appeal. The Committee requested the Panel to recommend with reasons, the most appropriate neighbourhood for the proposed pharmacy and whether the application should be granted in order to satisfy the test in Regulation 12(1).
- 2.3 The Panel was appointed and sat at Elmwood Community Centre the on 11 November 2009. A list of those present is attached at Appendix 2. On the morning of the hearing, it conducted a site visit. Its findings are set out below. It collected number of leaflets which are at Appendix 3.

3 Site Visit

- 3.1 The Panel noted the lettering/numbers on the plan at page 72 of the bundle are different from those on the plan attached to the Oral Hearing Minute. It should be noted the Panel have adopted the numbering on the plan on the Oral Hearing Minute. The proposed pharmacy is to be at Hanover Parade which is located on the main A1027 which forms the ring road running round the west of Stockton-on-Tees town. The Glebe Centre comprises a Community Centre, the Centenary Public House, a

Sainsbury's Local supermarket which is open 7am to 10pm Monday to Saturday and 10am to 4pm on Sunday, a number of fast food outlets and a barbers shop. The newsagent appears to have closed and there is a vacant unit next to the public house. The parade has a car park as does the public house and there is access from there onto The Glebe a major spine road running through the estate. It meets the A1027 at a traffic light controlled junction.

- 3.2 The Glebe Centre serves a large area of housing built probably in the 1960s and 1970s which is in the main private although there is some public housing. Across the road from the centre, a hoarding on Hanover House advertises "Retirement Housing to Let". The Glebe is the route for the number 35 bus.
- 3.3 The Panel members thought the nearest pharmacies to the proposed site are in the centre of Norton. Norton was obviously once a village of some antiquity with the High Street being lined by cottages, substantial Regency dwellings and later infill. Despite having been swallowed up by wider Stockton, it retains its village charm with a wide tree lined High Street, duck pond, village green and a number of independent shops. It is served by a Somerfield Supermarket and a Tesco Express. One Boots Pharmacy (number 2 on the map) is in the centre of the village and the other is within the Medical Centre complex (number 14 on the map) a short walk down Billingham Road. The distance as measured by the taxi's odometer was 1 mile to the centre of Norton from The Glebe Centre.
- 3.4 The next nearest pharmacy appeared to be that of Pharmacy World at Redhill Road (number 7 on the map). It lies in the centre of a long parade of shops which included a Co-Op convenience shop, DIY shop, post office and a range of other retail outlets. In addition there was a Children's Sure Start Centre, a church, the Roseworth Library and Roseworth Lodge Care Home nearby. The parade generally seemed busy and the car park outside the shops was over half full. The shops appear to serve a large area of post war public or former public housing lying to the south west of the railway line and within the extended neighbourhood as defined by the PCT. The distance between Pharmacy World and the proposed pharmacy was measured by the taxi's odometer as 1.5 miles.
- 3.5 There is also a 100 hour pharmacy situated on the rear wall of the Tesco Extra Store in Durham Road (number 13 on the map). The store was 1.6 miles from the proposed pharmacy. The store itself sells a wide range of goods and occupies a large site. It has an associated filling station. The route taken was via The Glebe and Junction Road, the B1274.
- 3.6 The pharmacy located in the Sainsbury's supermarket on Bishopton Road West (number 12 on the map) is at the far end of the checkouts from the entrance and is not immediately visible from it. It is a medium sized supermarket. It fronts on the A1027 ring road. The distance to the proposed pharmacy site as measured by the taxi's odometer was 1.8 miles.
- 3.7 The Panel also noted the two Rowlands Pharmacies on the edge of Stockton town centre (numbers 8 and 9) and also the two 365 Pharmacies (5 and 6). Stockton town centre is an attractive shopping centre with a twice weekly market.
- 3.8 The type of housing within the neighbourhood as defined by the Applicant is very mixed and of varying ages. Station Road which runs roughly north from the extension to The Green and High Street in Norton gives access to the Norton Tavern and the signal box where it was thought there was probably the Norton Station. On one side it is lined by mid 19th century terraces. On the other side are thirties bungalows and semi detached properties. To the east of the Applicant's neighbourhood the housing is mainly private semi detached and detached dating from the 1920s and 30s.

4.1 ASSURA LTD

- 4.1.1 In addition to the matters raised in the application, the letter dated 22 April 2009 at page 34, the comments on appeal at pages 59 to 63, Mr. Devlin made the following additional points in oral evidence as set out in the presentation which is aside at Appendix 3. In answer to questions he added that it is thought that residents in the proposed neighbourhood would attend the Norton surgery.
- 4.1.2 The proposed neighbourhood corresponds exactly with the ward boundary. There is a separate ward for Roseworth.
- 4.1.3 The premises which the Applicant has in mind are either the former newsagent's unit or the barber's shop.
- 4.1.4 The population for The Glebe was given to Assura by the Council about 4 or 5 weeks ago. The average age of the neighbourhood is 44 and there are therefore a significantly higher proportion of those who are over 60.
- 4.1.5 The doctors at the surgery in Norton write prescriptions which average out at 20 items per person per annum.
- 4.1.6 Assura will provide any service as commissioned by the PCT and in addition will provide free blood pressure, delivery and diabetes screening. The others will be provided privately.
- 4.1.7 The Norton neighbourhood should be viewed as the area bounded by the A19, the A1072 and Church Road in the south. That would mirror the ward of Norton North.
- 4.1.8 The proposed closing time of 7pm is to cater for those returning from work.

4.2 BOOTS UK LTD

- 4.2.1 In addition to the matters raised in response to the application which is at pages 24 to 25, the letter of appeal, and further comments contained at pages 64 to 66, Mrs. Watson made the following additional points in oral evidence and in answer to questions.
- 4.2.2 The neighbourhood should be considered as the railway line to the west and north, the A19 to the east and the area of green space with its footpath through it running between Norton Grange and Albany to the south. Mount Pleasant is more akin to the town centre in that the housing is denser. This would give a population of about 13,000. Glebe Ward has now been renamed Norton West Ward although it covers the same area.
- 4.2.3 The staff who work in the Norton branches have always considered The Glebe and Crooksbarrow to be part of Norton. Roseworth is viewed as a separate neighbourhood. There are pedestrian crossing points and a footbridge across the A1072.
- 4.2.4 A more likely walking route between the Boots Pharmacy and the proposed site is along Leven Road and via the footpath at Scutt Drive. The distance was measured by surveyor's wheel as 1,100 metres. The incline is less than via the High Street. Leven Road is a wide road with amenities there. There is an alternative route via Darlington Lane which was 1,250 metres. Few people were seen walking about the area however.

- 4.2.5 Car ownership is high. 35% of households have multiple car ownership. One car ownership is 48.56% of households. Free car parking is available in Norton, Tesco and Pharmacy World.
- 4.2.6 Norton retains its village feel. Norton High Street is directed from the B1274. Patients live in the area are mostly registered with the Norton Medical Centre. For emergency treatment patients are likely to go to the Walk In Centre at the Hospital in Hardwick.
- 4.2.7 Boots provides all commissioned services save for Needle Exchange. Both Boots' pharmacies have recently been refitted, both have consultation rooms and both have permanent pharmacy managers. 200 MURs have been carried out to date. There is a free collection and delivery service with a dedicated driver who delivers as far as Billingham.
- 4.2.8 There have been no complaints which would suggest that existing patients have difficulty in accessing pharmacy services. There are a very large number of pharmacies in the town centre.
- 4.2.9 There are two main bus services running through the area with a 30 minute frequency.

4.3 ROWLANDS PHARMACY

- 4.3.1 In addition to the matters raised in its letters of 8 April 2009 and 26 April 2009 which are at pages 29 and 57 of the bundle, Mr. Thomas made the following additional points in oral evidence and in answer to questions.
- 4.3.2 They agreed with the definition of neighbourhood as suggested by Mrs Watson. The Parish follows the boundaries as suggested by the LPC. It is one of the more affluent neighbourhoods in the area. 83.6% of households have access to one or more cars and this borne out by the widened drives and cars seen outside homes. In any event the absence of a car does not necessarily mean that friends and relatives do not help them out.
- 4.3.3 The Glebe Centre would not provide all needs and these would be likely to be available in Stockton.
- 4.3.4 Even if the Assura Pharmacy neighbourhood is accepted, the Appeal Unit has previously decided that it does not automatically follow a pharmacy is needed.
- 4.3.5 There are 5 100 hour pharmacies within Stockton and another one waiting for determination outwith the area. The Rowlands' Pharmacies within Stockton offer free blood pressure testing. It has also recently introduced a weight management service round "Celebrity Slim".
- 4.3.6 There has been no expression of inadequacy. The Applicant has provided no quantifiable evidence to show the desirability of a pharmacy.

4.4 CLEVELAND LPC

- 4.4.1 In addition to the comments made in the letters of 10 April 2009 and 4 September 2009, Mr. Morgan made the following additional points in oral evidence and in answer to questions.
- 4.4.2 The local community refer to Norton as the railway line to the north and west, A19 to the east and then Norton Road to the east.

- 4.4.3 The shopping centre at The Glebe was built at the same time as the housing and the shop was originally a Bells convenience store. Sainsburys took the whole chain over in about the 1990s.
- 4.4.4 The PCT is in the process of commissioning a cardio vascular service plus a general assessment of risk. It is being rolled out in blocks of two pharmacies per PCT. The nearest pharmacy for this service is the one shown at number 4 on the map.
- 4.4.5 A 100 pharmacy has been granted at the new surgery at Clarence Street.

5 Consideration

- 5.1 The Panel was mindful of the test to be applied under Regulation 12(1) of the Regulations and the factors to which it must have regard under Regulation 12(2). It also had to assist it the Department of Health Guidance which was revised in September 2009.
- 5.2 The Panel firstly considered the issue of neighbourhood.
- 5.3 Roseworth appears to have its own centre where the library and church are located. The public or former public housing all seems to date from the 1950s and is similar to the estate to the south west of Durham Avenue. Mr. Morgan, Mrs. Watson and Mr. Devlin were of the view that Roseworth is a separate neighbourhood.
- 5.4 Mrs. Watson and Mr. Morgan from the LPC were of the view that the Applicant's neighbourhood should be viewed as including Norton Village and extending down to Norton Grange. It was said staff in the Norton shops, who lived locally, held this view. The Panel did not have any direct first hand evidence and treated the view with caution.
- 5.5 The Panel considered that the railway lines form a significant barrier with vehicular crossing points in the north and south of the PCT/Applicant's neighbourhood. It went on to accept that Roseworth is a separate neighbourhood given it seems to have its own defined community.
- 5.6 The Panel members thought that given the way Station Road runs up to the Norton Tavern and Norton On Tees signal box (and former station) that this was probably once viewed as part of Norton village. Since then however, the A1072 has become the western ring road and forms a significant barrier as there are few vehicular traffic crossing points. The properties to the south east of the road have boundary fences facing the road in the vicinity of the application site and it feels as if the adjoining neighbourhood is separate. The Applicant's suggested neighbourhood also coincides with the ward boundary. The Panel concluded it would adopt the Applicant's suggested neighbourhood.
- 5.7 Within the neighbourhood as defined, there is no pharmacy and it follows therefore there is no choice of pharmacies. That however, is just one factor to which the Panel must have particular regard, and it is weighed in the balance with other factors.
- 5.8 The Panel is satisfied that for those who have attended a surgery and who wish the prescription to be filled at the same visit, pharmacies are either co-located or a very short distance away.
- 5.9 The Panel also notes there are in-house pharmacies in both Tesco Extra and Sainsburys on Bishopton Road West. The former is open long hours as it is a 100 hour pharmacy. Stockton town centre has a twice weekly market and a large range of shops. A number of pharmacies are located there. Repeat medication therefore could be collected at the same time as a main weekly shop. Furthermore Norton has

a very attractive shopping centre and it is likely that it will draw people in from the defined neighbourhood who do not necessarily want to travel to the town centre.

- 5.10 The Panel thought it unlikely that residents of the defined neighbourhood would walk into Norton routinely. The distance is in excess of a kilometre and for those living towards the western part of the neighbourhood, that distance would be considerably more.
- 5.11 The Panel members were struck by the significant number of bungalows towards the western half of the defined neighbourhood. The Sainsbury's Local shop is clearly well used and is in close proximity to the Glebe Community Centre which provides a focus in the community. The Panel thought it likely that residents of these bungalows could well be older, possibly less mobile and using services within walking distance.
- 5.12 Furthermore, the proposed site is on a major road and highly visible from that road. The pharmacy could therefore be convenient for commuters.
- 5.13 The Panel having considered all evidence, both written and oral and having undertaken a thorough site visit, determined that it could not be said that pharmaceutical services are adequate in or to the neighbourhood. It concluded that the proposed pharmacy would be able to provide opportunistic advice and a range of additional services which would facilitate self care as well as dispense scripts closer to home.

6 Recommendation

The Panel members unanimously recommend that it could not be said the pharmaceutical services are adequate in the neighbourhood as defined and it is desirable/expedient to grant the application. The appeals should therefore be dismissed.

J.E. Perrett (Chairman)

Appendix 2

ATTENDANCES

The Panel

Miss J.E. Perrett
C. Dorking
Dobson

Chairman

Mrs.
Mr. A.

The Applicant

Mr. J. Devlin

Assura Pharmacy Ltd

The Appellants

Mrs. J Watson

Boots PLC

Mr. S. Thomas
Young

Rowlands Pharmacy

Mr. D.

Interested Party

Mr. B. Morgan

Cleveland LPC

Ms. E. Parker provided support to the Panel but did not attend the oral hearing