12 January 2010

REF: SHA/15300

APPEALS AGAINST CENTRAL LANCASHIRE PCT DECISION TO GRANT MR P MIDDLETON'S APPLICATION FOR A CHANGE OF LOCATION OF PREMISES FROM THE PREVIOUSLY GRANTED PRELIMINARY CONSENT IN THE VICINITY OF 112 WIGAN ROAD, ORMSKIRK, L39 2BA TO 22 WIGAN ROAD, ORMSKIRK, L39 2AP

1 **Preliminary Consideration**

1.1 The Pharmacy Appeals Committee appointed by the Family Health Services Appeal Unit of the NHS Litigation Authority ("the Committee") had before it the papers considered by the PCT, together with a plan of the area showing existing pharmacies and doctors' surgeries and the site of the proposed pharmacy. It also had before it the responses to the Authority's own statutory consultation.

1.2 The Committee was of the view that an Oral Hearing should be held before the appeals are determined.

2 **Oral Hearing**

2.1 An Oral Hearing was therefore held on 16 December 2009 at West Lancashire Investment Centre, Maple View, White Moss Business Park, Skelmersdale, WN8 9TG.

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 noted that the oral hearing panel had considered if the current application was for premises within the vicinity of the previously granted preliminary consent or if it fell to be considered as a minor relocation. The Committee noted that the representative of the applicant had accepted the alternative approach and so the panel had dealt with the application as if it were for a minor relocation.

3.3 The Committee had regard to Regulation 6(1) of the National Health Service (Pharmaceutical Services) Regulations 2005 (as amended) ("the Regulations") which states:

'In the case of any application under regulation 5(1)(b), where the applicant intends to change within the neighbourhood the premises from which he provides pharmaceutical services, being the same services as he intends to provide from the new premises, and the Primary Care Trust is satisfied that the change is a minor relocation; and, the provision of pharmaceutical services will not be interrupted (except for such period as the Primary Care Trust may for good cause allow), the PCT shall grant the application, subject to regulations 9(2) and 21(10) (and accordingly regulations 11 to 20 shall not apply).'

3.4 The Committee also had regard to the Department of Health Information for PCT's.

3.5 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.

3.6 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 this application.

3.7 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 the proposed change of premises was a minor relocation. Accordingly the Committee dismisses the appeals.

Jill Jackson
Appeal Officer

A copy of this decision is being sent to:

Oral Hearing Panel Members
Charles Russell Solicitors on behalf of Mr P Middleton
L Rowland & Co (Retail) Ltd
Wm Morrison Supermarkets plc
Boots UK Ltd
Central Lancashire LPC
Central Lancashire PCT