

REF: SHA/15352

**APPEALS AGAINST HALTON AND ST HELENS PCT
DECISION TO GRANT AN APPLICATION BY
FAIRBREAK LTD FOR MINOR RELOCATION OVER
500M FROM 155 STATION ROAD, HAYDOCK, ST
HELENS WA11 0JN TO WOODSIDE ROAD, HAYDOCK,
ST HELENS WA11 0NA**

1 The Application

By application dated 25th March 2009, Fairbreak Ltd ("the Applicant") applied to Halton and St Helens Primary Care Trust ("the PCT") for minor relocation from 155 Station Road, Haydock, St Helens WA11 0JN to Woodside Road, Haydock, St Helens WA11 0NA. In support of the application it was stated:

Describe the nearest practicable route from the existing to the proposed premises:

- 1.1 The proposed relocation of the surgery in Station Road will result in a shift in the point of delivery of medical and pharmaceutical services to the proposed new site in Woodside Road. The co-relocation of the pharmacy from its current site to the new development will ensure the service users receive a continual, seamless and uninterrupted pharmaceutical service. The nearest route is to turn right out of Station Road travel along Clipsley Lane leading into Church Road then turn right into Woodside Road, a distance of approximately 1.2km.

Reasons for minor relocation:

- 1.2 The movement of the surgery to new premises and to provide continued pharmaceutical services, which have been provided for many years, to the population of Haydock.

Why applicant believes it is a minor relocation:

- 1.3 The proposed move is within the neighbourhood as defined by the PCT in 2008. There will be no change in the population served.

2 The PCT Decision

The PCT considered and decided to grant the application. The decision letter dated 14th August 2009 states:

- 2.1 Halton & St Helens PCT Pharmaceutical Operational Group have approved the above application in accordance with Regulation 6(1)(a):-
- 2.1.1 The Committee accepted that the services from the new premises will be the same as those provided at the existing premises;
 - 2.1.2 The proposed move is within the same neighbourhood;
 - 2.1.3 The change of premises is a minor relocation;
 - 2.1.4 There are no barriers which would change accessibility;
 - 2.1.5 The provision of pharmaceutical services will not be interrupted.

3 The Appeals

In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority, dated 7th September 2009, Lloyds Pharmacy Ltd appealed against the PCT's decision. The grounds of appeal are:

- 3.1 The PCT states that the distance between the two sites is short. The PCT however, do not confirm what they have measured the distance to be. Lloyds submit that the distance between the two sites is in excess of 1,000 metres and that this is too great to be considered minor. It is also unclear as to where the applicant has proposed to relocate to along the length of Woodside Road.
- 3.2 Given the distance of the relocation and the journey along the A599, Lloyds do not believe that the proposed site will be as conveniently accessible for patients or residents.
- 3.3 Therefore, for the above reasons Lloyds would kindly ask the FHS Appeal Unit to reconsider the application and uphold this appeal as the criteria for a minor relocation have not been satisfied.

In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority, dated 11th September 2009, The Co-operative Pharmacy appealed against the PCT's decision. The grounds of appeal are:

- 3.4 The Co-operative Pharmacy would contend that the applicant is applying to transfer from one neighbourhood to another and therefore this application is not minor in nature. The Co-operative Pharmacy would define the neighbourhood the applicant wishes to move to as the A580 as far as the M6 to the North, across open land to the East and South crossing Vista Road and then through open land and playing fields by Tesco, to return to the A580. The neighbourhood of New Boston has a population of approximately 5,000.
- 3.5 The Co-operative Pharmacy would also suggest that a relocation of 1.2 km is too far to be classed as minor and would certainly affect the accessibility of services to residents living in the area around Station Road and Haydock Lane, especially the elderly or young mothers. General health is worse than the St. Helens average, which is itself worse than the U.K. average, so a pharmacy in its current location is important, especially when the GPs relocate to new premises in New Boston.
- 3.6 The Co-operative Pharmacy believe a proper site visit by the Appeal Panel would be beneficial.
- 3.7 The appeal authority will also be aware that in the vicinity of Woodside Road, New Boston, permission has already been granted for two new pharmacies open for 100 hours a week. This will secure access to pharmaceutical services for local residents in this neighbourhood.
- 3.8 Given the above, The Co-operative Pharmacy request the Appeals Authority overturn the decision of Halton and St. Helens PCT and determines that the application should not be approved.

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 appeals.

- 4.4 On 12th January 2010 Mr A Tomlinson was appointed to hear the appeal which took place on 5th February 2010 at Mansion House City Road St Helens and 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 appeals.

5.1 ASSURA PHARMACY LTD

Neighbourhood

- 5.1.1 It is submitted that the move is not within the same neighbourhood. The PCT have adopted the neighbourhood defined in a recent appeal (Ref: SHA/14544) however this appeal did not consider the neighbourhood definition in detail.
- 5.1.2 The PCT's western boundary follows Liverpool Road, Vicarage Road, Clipsley Lane and into Cooper Lane. The PCT provide no information as to why Clipsley Lane is considered a boundary to the west of Cooper Lane, but not to the east. Or why a small side street like Cooper Lane is a suitable neighbourhood boundary. It is submitted that residents on either side of Cooper Lane would consider themselves neighbours. With no supporting information the PCT's western boundary appears arbitrary.
- 5.1.3 It is submitted that a more suitable western boundary would be the large area of open land and clear gap in housing running to the west of Piele Road. A detailed map is included, which not only clearly shows the open land, but also indicates that the neighbourhood to the east of the open land is New Boston.
- 5.1.4 The different levels of deprivation found on either side of the open land are clearly shown by the enclosed National Statistics printouts (with St Helens 006C located to the west of the open land and St Helens 005D to the east). Due to the open land separating the two areas and differing demographics, it is submitted that residents either side of the open land would not consider themselves neighbours.

Distance

- 5.1.5 The distance between the two locations has been stated by the applicant as 1.2km. It is submitted that this distance is too great to be considered minor.
- 5.1.6 In addition to the considerable distance numerous side roads and a busy roundabout (to enter the Tesco store) must be crossed to access the new location. This is not a journey that the typical pharmacy user would find convenient.
- 5.1.7 It is submitted that for the reasons given above the proposed relocation is not within the same neighbourhood and the considerable distance involved ensures that the proposed location will not be substantially as convenient to access as the current location and so this application should be refused.

5.2 FAIRBREAK LTD

- 5.2.1 The Applicant wishes to make the following points in support of the above listed application.
- 5.2.2 The Applicant considers that Haydock itself is the neighbourhood in question and that the boundaries of that neighbourhood are very well defined. These being the A580 to the north, to the west the new A58 link road from its

northern junction with the A580 to its southern point where it crosses Sankey Valley, the southern boundary is the open fields which taper in a north easterly direction until they reach the junction of the A580 and M6. The neighbourhood within this defined area is Haydock.

- 5.2.3 Haydock has developed as an area by clinging to the main road that runs like an artery through the area starting at the southern most point of West End Road, continuing in a northerly direction until it meets Clipsley Lane then turning in an easterly direction and meandering along, changing seamlessly into Church Road and then Penny Lane as it makes its way to the bridge under the A580 at its eastern most point. The types and styles of housing are consistent as you travel along the main road being a mix of terraced, interspersed with small developments of newer terraced or semi-detached properties, there is no definitive change in style or type that would indicate the movement from one distinct neighbourhood to another. The vast majority of housing is only a short distance from the main road and hence residents only have a short distance to travel to access the public transport system that utilises the main road.
- 5.2.4 Should the appeal be granted patients residing adjacent to the existing pharmacy will still be able to access pharmaceutical services from the new site. If patients do not have access to personal transport there are regular bus services that run the length of Clipsley Lane and Church Road with a daily service running every 5 minutes. The pharmacy also provides a comprehensive delivery services that is not limited just to prescriptions but extends to all items retailed from the pharmacy.
- 5.2.5 Donlons Pharmacy has provided a personal service to the residents of Haydock for over 40 years and during that time has forged strong working relationship with other healthcare providers in the area. The relocation of the pharmacy to the new premises as proposed by the local GP's will allow the continuation of the services provided by Donlons Pharmacy.
- 5.2.6 For the above listed reasons the Applicant believes that the appeal panel should agree with the decision made by Halton and St Helens PCT and approve the minor relocation.

6 Evidence at the Appeal

6.1 Mr C Williams (For the Applicant)

- 6.1.1 He confirmed that the applicant was Fairbreak Limited. The company traded as Donlon Pharmacy.
- 6.1.2 With regards to the neighbourhood he had adopted the definition of neighbourhood used by the PCT in a 2008 application which had been supported following an appeal although no site visit had taken place. There had been no changes in the neighbourhood since then.
- 6.1.3 The Tesco store in Haydock had opened 3 years ago. It formed a central point to Haydock pulling together the population. There were no divisions within the neighbourhood as defined by the PCT.
- 6.1.4 Haydock hugged the main road from Sankey Valley in the west to Penny Lane in the east. All along the road there was a recurring style of housing. The housing was situated close to the road being limited by the A580 in the north and by the old colliery site now a landfill site to the south. Haydock was squeezed between these features.

- 6.1.5 Public transport was good. Buses ran every five minutes. There were three separate services. The travel time by bus from Vista Road to Sankey Valley was nine minutes. It would take 3 or 4 minutes to travel by bus to the pharmacy at its present location to its proposed location.
- 6.1.6 He offered an extensive collection and delivery service throughout Haydock. He presently served residents living throughout Haydock. The population to be served at the new location would be the same.
- 6.1.7 There had been a Donlon pharmacy in Haydock for 40 years. The local residents relied on the pharmacy for every day needs not just prescribed drugs. It had always been a family run pharmacy.
- 6.1.8 Both New Boston and Old Boston were industrial estates and were not relevant when considering the residential neighbourhood.
- 6.1.9 The doctors based near the present pharmacy were certainly moving to the old Kwik Save store in Woodside Road but no date had yet been set.
- 6.1.10 He received 90% of his prescriptions from the doctors practice adjacent to the pharmacy.
- 6.1.11 Before the Tesco store opened the site was previously a Conservative club and a second hand car sales site.
- 6.1.12** Haydock was an insular community. Many of the residents had lived there for very many years. There were road signs saying "Welcome to Haydock" on all the approaches. The distance between the two sites was not an obstacle as residents used the road on a daily basis.

6.2 Mr S Griffiths (Halton and St Helens PCT)

- 6.2.1 He confirmed that there had been a full application from a different pharmacy for the same site which had been refused. There had also been two 100 hour applications for the same site which the PCT were currently considering.

6.3 Mr S Morgan (Co-Operative Pharmacy)

- 6.3.1 He did not relish objecting to the application as a refusal could have a big impact on the applicant's pharmacy.
- 6.3.2 His company owned the freehold to the former supermarket where the doctors were intending to open. It would be a condition of granting the doctors permission to open there that the Co-Operative would be able to run the pharmacy. The Co-Operative was intending to lodge an application for a 100 hour pharmacy. There was neither of the two current applications before the PCT.
- 6.3.3 The neighbourhood of Haydock was divided in two with a north south division running adjacent to the Tesco store. Reference was made to a historical map illustrating the position clearly. There was a different feel to the two areas to the west and east. Near the applicants present pharmacy the housing was denser whereas the housing around the proposed pharmacy was more widely spaced and included a number of bungalows.
- 6.3.4 Further, the two neighbourhoods that he was proposing were different super output areas namely 005B and 006B. These two areas scored differently for deprivation and other features.

- 6.3.5 The distance between the two sites was in excess of 1 kilometre and was at the far limit of what might be acceptable for a minor relocation.
- 6.3.6 There were few other services near the pharmacy near its current location subjecting that the population did not regularly go there.
- 6.3.7 There will be pharmacy provision on site at the new location. If the applicant also opened there, there would be an over provision.
- 6.3.8 The application should be rejected as the move was between two different neighbourhoods and the distance was too great.

6.4 Mrs C Green (Lloyds Pharmacy)

- 6.4.1 She also submitted that the move would cross the boundary between two different neighbourhoods. The westerly boundary of the neighbourhood in which the proposed pharmacy was located ran through the open space to the east of the Tesco store.
- 6.4.2 The latest appeal referred to by the applicant had not considered the question of neighbourhood in detail.
- 6.4.3 The two neighbourhoods had different levels of deprivation.
- 6.4.4 It was estimated using 2001 census figures that there were 5,376 residents in the neighbourhood to the east of Tesco and 4,893 residents in the neighbourhood to the west of Tesco. Accordingly there would be 10,269 residents in the applicants proposed neighbourhood.
- 6.4.5 34% of the residents of the neighbourhood in the east did not have access to a car and 21% of the residents in the west had no access to a car compared with 27% nationally.
- 6.4.6 The distance between the sites of 1.2 kilometres was too great to be considered minor. Further the walk between the sites was not easy with numerous side roads and a busy roundabout to negotiate. The walk took 15 minutes. Further, the same population would not be served at the new location.
- 6.4.7 Lloyds had submitted an application for a pharmacy at the proposed location but this had been refused because of the two 100 hour applications. Lloyds had also submitted one of the two applications for a 100 hour pharmacy.

7 Site Visit

- 7.1.1 Haydock is almost uniformly level with only slight inclines on some of the roads. All the pavements are well maintained with dropped kerbs at most junctions and the main roads together with most side roads are well illuminated.
- 7.1.2 Haydock has developed around both sides of the main road, the A599 which changes its name at least three times travelling from east to west. To the north however Haydock is bounded by the A580 East Lancashire Road and to the south by a disused mining tip.
- 7.1.3 To the east there are industrial estates referred to as New Boston and Old Boston. There are also extensive industrial buildings to the north of the A580 which are also referred to as being situated in Haydock. Access across the A580 is difficult especially for pedestrians.

- 7.1.4 Travelling along the main road through Haydock there are no obvious breaks in the developments on either side. Most of the properties fronting the road are houses but there are occasional shops and also public buildings such as the Haydock Library and churches.
- 7.1.5 A significant development fronting the main road is the Tesco store where the road bends slightly. A roundabout has been constructed at this point for an access road leading to the supermarket car park: This has the effect of slowing traffic down on the main road at this point. The store attracts pedestrians from both the east and west. The approach road into the store was busy at the time of the site visit. For pedestrians walking along the main road the store roundabout and the crossing of the link road to the store car park is a feature but is not a significant obstacle.
- 7.1.6 Approximately 100 metres to the west of the Tesco store along the main road there is a small retail park on the other side of the main road adding to the impression that this part of Haydock is the centre of the town.
- 7.1.7 The applicants present pharmacy is situated on a narrow and congested side road off the main road. The pharmacy is not visible from the main road and is accordingly unlikely to attract casual passing traffic. Parking near the pharmacy is difficult. There is a doctors surgery immediately opposite the pharmacy and a gym next to the pharmacy both of which attract visitors of their own although the gym is served by a reasonably sized car park.
- 7.1.8 Several buses were seen running along the main road in both directions and there are a number of bus stops with shelters and illuminated time tables.
- 7.1.9 The distance from the pharmacy at its present location to the junction of Church Road and Woodside Road was measured to be 1,123 metres. The walk took 15 minutes at a reasonable pace.
- 7.1.10 The walk involved crossing the opening to a number of side roads none of which were particularly busy as well as the Tesco entrance mentioned above.
- 7.1.11 On the corner of Church Road and Woodside Road the Haydock library is situated. Approximately 50 metres along Woodside Road there is a large vacant store with an adjacent large car park. This is currently advertised for sale.
- 7.1.12 There are no signs of any recent housebuilding in the area or any obvious sites of ongoing or future residential developments

8 Chairman's Conclusions

- 8.1.1 The definition of neighbourhood proposed by the PCT and the applicant was accepted. It was agreed that the community of Haydock is a single community. There were certain slight differences between the westerly and easterly parts of Haydock as highlighted by the appellants but these differences were not significant. There was no obstacle or other barrier that was apparent when travelling along the main road and residents from both the east and west gravitated towards the Tesco store in the centre of Haydock.
- 8.1.2 On account of its location the pharmacy at its present location served a limited population, mainly the patients of the adjacent doctors surgery and other local residents.
- 8.1.3 The applicant had not made it clear exactly where the new pharmacy would be based but at any location in Woodside Road it was quite likely that it

would be visited by a number of the residents from that area of Haydock who did not presently visit the pharmacy at its present location.

8.1.4 Within the urban and developed area of Haydock it was considered that the distance between the pharmacy at its current location and the proposed location was more than could reasonably be considered to be minor. The number of openings into side roads and in particular the entrance to the Tesco store made the journey even more difficult for pedestrians.

8.1.5 Accordingly, even though the proposed move would be within the same neighbourhood it was not considered that the move could be regarded as a minor relocation owing to the distance involved and to the fact that it was likely that a different population would be served at the new location.

9 **Recommendation**

9.1 Accordingly it is recommended that the appeals be allowed and the application rejected.

Signed

Alan Tomlinson

Dated

this day of

2010

APPENDIX A
ORAL HEARING ATTENDANCE LIST

CHAIR

Mr Alan Tomlinson

APPLICANT

Mr C Williams

Fairbreak Limited

APPELLANT

Mr S Morgan
Mrs C Green

The Co-Operative Pharmacy
Lloyds Pharmacy

INTERESTED PARTIES

Ms A Banks

LPC
North Cheshire, St Helens & Knowsley

HALTON & ST HELENS PCT

Ms M Geoghegan
Mr S Griffiths

Ms V Lowe

Observer for Cheshire Health Agency