

23rd February 2010

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 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 were determined.

2 Oral Hearing

- 2.1 An Oral Hearing was therefore held on 5th February 2010 at Mansion House, Victoria Park, City Road, St Helens WA11 0NA.
- 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 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).'
- 3.3 The Committee also had regard to the Department of Health Information for PCT's.
- 3.4 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.
- 3.5 The Committee considered paragraph 8.1.3 of the Oral Hearing report. It may be that the site of the new location would be such that those who would not normally access the pharmacy at the present location would choose to do so at the new location, but this would not be a reason to conclude the instant application was not a minor relocation. The Committee were of the view that this was a marginal decision, however given the findings at 8.1.4 and those from the site visit at 7.1.9 and 7.1.10,

the Committee concluded that access for the reliant population at the current location would not be convenient at the proposed location.

3.6 On balance, 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 not a minor relocation. Accordingly the Committee allows the appeals.

Abby Richards
Appeal Officer

A copy of this decision is being sent to:

Oral Hearing Panel Members
Fairbreak Ltd
The Co-operative Pharmacy
Lloyds Pharmacy Ltd
Cheshire Health Agency, on behalf of the PCT
North Cheshire, St Helens & Knowsley LPC