

11<sup>th</sup> February 2010

REF: SHA/15538

**APPEAL AGAINST HALTON & ST HELENS PCT DECISION TO GRANT AN APPLICATION BY THE CO-OPERATIVE PHARMACY FOR MINOR RELOCATION OVER 500 METRES FROM 51 ORMSKIRK STREET, ST HELENS TO THE VICINITY OF THE NEW PRIMARY CARE CENTRE, CRAB STREET, ST HELENS**

**1 The Application**

By application dated 25<sup>th</sup> June 2009, The Co-operative Pharmacy ("the Applicant") applied to Halton and St Helens Primary Care Trust ("the PCT") for minor relocation from 51 Ormskirk Street, St Helens to the vicinity of the new Primary Care Centre, Crab Street, St Helens. In support of the application it was stated:

- 1.1 The Co-operative Pharmacy would define the neighbourhood as the railway line to the East, the A570 to the South, Bishop Road to the West, and across the park and industrial areas to rejoin the railway line by Ewart Road.
- 1.2 The reason for relocation is that the GP practice, currently located next door, will be relocating to new premises early next year. The Applicant wishes to relocate closer to the new premises in order to continue to provide pharmaceutical services to the same population. There are a number of pharmacies located close to the Applicant's current position, and their relocation is minor so will not disadvantage anyone.
- 1.3 The nearest practicable route is along Ormskirk St, crossing King Street at the pedestrian crossing at the end of the road, and then along Duke Street towards Crab Street. There are no gradients, no major roads to cross, and even pavements throughout. The Co-operative Pharmacy will provide a continuous, uninterrupted service throughout.

**2 The PCT Decision**

The PCT considered and decided to grant the application. The decision letter dated 12<sup>th</sup> November 2009 states:

- 2.1 At the recent Halton and St Helens Pharmaceutical Operational meeting, the PCT approved this application for the reasons noted below:-
  - 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 Appeal**

In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority, dated 1<sup>st</sup> December 2009, Lloyds Pharmacy Ltd appealed against the PCT's decision. The grounds of appeal are:

- 3.1 The PCT, do not confirm what they have measured the distance to be. Lloyds submit that the distance between the two sites is in excess of 800 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 Crab Street.

- 3.2 Given the distance of the relocation and the journey along the A570, 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.

#### 4 Summary of Representations

This is a summary of representations received on the appeal.

##### 4.1 NORTH CHESHIRE, ST HELENS & KNOWSLEY LPC

4.1.1 The LPC does not wish to make any additional comments at this point in time.

Letter to PCT dated 30<sup>th</sup> September 2009

4.1.2 The LPC supports this application on the basis that:

4.1.2.1 The services to be provided by the new premises are the same as those provided at the existing premises and there will be no disruption to services.

4.1.2.2 The LPC considered the proposed move to be within the same neighbourhood as their current pharmacy.

4.1.2.3 There are no apparent barriers which would change the accessibility of the new premises to patients. The LPC is aware there is a main road between the 2 locations, however, there are well designed and accessible pedestrian crossings enabling patients to safely cross the road.

##### 4.2 CHESHIRE HEALTH AGENCY

4.2.1 Please note that an application for Minor Relocation under 500 metres from Co-op Pharmacy to move from Cowley Hill Lane to Primary Care Centre, Crab Street, St Helens was approved at the same time with no appeals. This pharmacy will relocate and trade at the new address from 15 February 2010.

4.2.2 In regards to representations in relation to the above appeal, the PCT would like to submit a revised copy of the minutes from the meeting held in November, when their decision on the application was made. The amendment has been highlighted.

Minutes for Pharmaceutical Operational Group, Monday 9<sup>th</sup> November

4.2.3 The site and current pharmacies in the area were considered by the group. It was decided that the current services would not be interrupted, the same hours of services would be provided, the same neighbourhood will be served and the application meets the regulatory criteria. **The population of the neighbourhood served by the pharmacy is anticipated to be the same as the surgery next to the existing location, is relocating to the new location.** Therefore the application was approved. (*Highlighted entry in bold.*)

##### 4.3 THE CO-OPERATIVE PHARMACY

- 4.3.1 The objection submitted by the appellant has no merit whatsoever. It provides no evidence that the application has failed to satisfy Regulation 6 of the NHS (Pharmaceutical Services) Regulations 2005.
- 4.3.2 Indeed, the brevity of the appeal letter suggests that this appeal is purely vexatious. The above application was submitted in response to the imminent relocation of the Ormskirk Street Surgery to which the The Co-operative Pharmacy is currently adjacent.
- 4.3.3 Accordingly, the relocation of The Co-operative Pharmacy would be in concert with the surgery move and, rather than having a detrimental impact on existing users of The Co-operative Pharmacy services, it will allow them a similar level of access to that which they currently enjoy.
- 4.3.4 The consequence of the change of premises will be minor.
- 4.3.5 The attached map illustrates the area in which the proposed change of premises is intended to take place.
- 4.3.6 The distance from 51 Ormskirk Street to the vicinity identified for the relocation is in the order of 450 metres.
- 4.3.7 There are no barriers to access. The A570 can be negotiated easily, using the staggered light-controlled crossing immediately at the end of Ormskirk Street and the road cannot be considered to be an obstruction.
- 4.3.8 The route along Duke Street from the crossing to the designated area is along a pedestrian footpath over level terrain and does not present any difficulties.
- 4.3.9 The same services will be provided at the new location as at the present location - without interruption.
- 4.3.10 This change of premises takes place within St. Helens town centre which the local population are accustomed to traversing in order to access various services. The change of location of The Co-operative Pharmacy within this neighbourhood will not disadvantage patients and is inconsequential.
- 4.3.11 Co-operative Group Healthcare Limited contends that the above application fully satisfies Regulation 6 and urges the Authority to dismiss the appeal and allow its inclusion in Halton & St. Helens PCT's pharmaceutical list in the vicinity of the New Primary Care Centre, Crabb Street.

## **5 Consideration**

- 5.1 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.
- 5.2 It also had before it the responses to the Authority's own statutory consultations.
- 5.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 5.4 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).'

- 5.5 The Committee dealt with the application by way of reconsideration of all the issues.
- 5.6 The Committee noted that the PCT had not defined a specific neighbourhood, however it had stated that the proposed move is within the same neighbourhood. The Committee further noted that the applicant had proposed boundaries essentially comprising St Helens town centre. Having regard to the appeal, the Committee noted that the appellant had not sought to argue that the existing and proposed sites were not within the same neighbourhood. The Committee therefore took the view that the move was within the same neighbourhood.
- 5.7 The Committee noted that the appellant considers the distance between the two sites to be in excess of 800 metres which it is argued is too great to be considered minor. The Committee noted that whilst the PCT do not state what they consider the distance to be, the applicant comments that it is in the order of 450 metres. The Committee accepted that as the applicant has specified a vicinity rather than actual premises it is not possible to accurately determine the distance involved. The Committee was of the view that whilst 800 metres was at the upper end of what may be considered acceptable, other factors would need to be taken into account.
- 5.8 The Committee noted that the appellant states that the journey along the A570 would make the proposed site less conveniently accessible, however does not provide any reasoning in this respect. The Committee had regard to comments from the applicant and the LPC that there are light controlled pedestrian crossings. The applicant further comments that the terrain is level, which has not been disputed. The Committee was of the view that there was no information to suggest the existence of any barriers to access between the two locations such that the population in respect of the current site could not reasonably access the proposed site.
- 5.9 Given the matters examined at 5.8, the Committee was of the view that the greater distance of 800 metres could not be considered prohibitive in the area concerned.
- 5.10 The Committee noted the applicant's confirmation that the same services would be provided with no interruption.

## **6 Decision**

The Committee was of the view that the proposed change of premises was a minor relocation. Accordingly the Committee dismisses the appeal.

**Abby Richards**  
**Appeal Officer**

A copy of this decision is being sent to:

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