

8 December 2009

**REF: SHA/15382**

**APPEAL AGAINST BRADFORD AND AIREDALE PCT  
DECISION TO REFUSE AN APPLICATION BY MEDUK  
(LEEDS) LTD FOR PRELIMINARY CONSENT PRIOR TO  
INCLUSION IN THE PHARMACEUTICAL LIST AT  
BOLTON LANE, BRADFORD**

**1 The Application**

By application dated 14 April 2009, Meduk (Leeds) Ltd ("the Applicant") applied to Bradford and Airedale Primary Care Trust ("the PCT") for preliminary consent prior to inclusion in the pharmaceutical list at Bolton Lane, Bradford. In support of the application it was stated:

- 1.1 A pharmacy in this area is both necessary and desirable. The area of this neighbourhood is marked on the map. It falls within Kings Road and Swain House Road on one side, with Idle Road on the other side and Bolton Road and Queens Road on the other end. This is a densely populated area with a vast amount of residential dwellings. We could call this neighbourhood Ashbourne as majority of the road names start with Ashbourne.
- 1.2 This area is distinct because the busy main roads on all three sides cut this area off from surrounding neighbourhoods. This area is completely devoid of all healthcare services. It does not have a doctors surgery or a pharmacy in this neighbourhood.
- 1.3 Residents in this area have to travel to access a doctors surgery or a pharmacy. Kings Road, Bolton Road, Idle Road and Queens Road are busy roads making it very difficult to cross for patients who are elderly or have a disability. The closest pharmacy to this neighbourhood is at Robertsons on Otley road which is 1.3km away. To walk to this closest pharmacy the patient has to navigate their way through a very busy main which is all uphill. To walk a round trip of 2.6km for a fit and healthy person let alone the elderly, disabled, mothers pushing buggies is very difficult.
- 1.4 To walk to any other pharmacy in surrounding neighbourhood is very difficult. This is because of two reasons, one is distance and the other reason is that these roads are busy which pose a huge physical barrier.
- 1.5 The only other option for patients would be to drive. This is very well if you drive. But if you do not have a car then the patients are having to use taxis. For patients who are on limited money, the elderly and single mothers this can be a huge burden on their very limited disposable income.
- 1.6 Patients in this neighbourhood are unable to walk to their local pharmacy for advice, buy over the counter remedies and just sometimes be reassured on health related matters.
- 1.7 Lack of access to the nearest pharmacy is the main reason for this application. The proposed new pharmacy would offer a good range of healthcare products but would also be a preventative service rather than attending the doctor for minor complaints, it would also provide a consultation room free of charge for visiting midwife, chiropodist, family planning and doctor if one can be found willing to do an outreach service.

- 1.8 The proposed new pharmacy would enable local residents to access a range of counter products such as nappies, baby milk, cold relief, everyday ailment products without the added cost incurred of going to the city centre or having to travel to a pharmacy outside their neighbourhood.
- 1.9 The proposed new pharmacy would engage with Bradford PCT to meet their pharmaceutical needs assessment.
- 1.10 The proposed new pharmacy would have a consultation room, would be able to do MUR's from the outset, have a supplementary prescriber, offer repeat dispensing and also able to offer Emergency hormonal contraception.
- 1.11 To conclude this pharmacy is both necessary and expedient for this neighbourhood (Ashbourne).

## 2 The PCT Decision

The PCT considered and decided to refuse the application. The decision letter dated 25 August 2009 states:

- 2.1 I write to inform you that at a recent meeting NHS Bradford & Airedale rejected the above application. I have enclosed a copy of the full decision as issued by NHS Bradford & Airedale for your records.

The full decision stated:

- 2.2 A meeting of the Bradford and Airedale PCT's District Pharmacy Applications Panel was held on Thursday 13 August 2009

- 2.3 I write to inform you of the decision recorded in respect of the following application:

Application by MEDUK (Leeds) Ltd for preliminary consent for inclusion in the Pharmaceutical List for new premises on Bolton Lane, Bradford 2.

- 2.4 Having reviewed the application and comments submitted by interested parties the panel considered that the neighbourhood as defined by MEDUK (Leeds) Ltd should be extended to encompass the housing included in the Swain House Estate and along the edge of Bolton Woods. The panel noted that the applicants own neighbourhood did not include the whole area for which preliminary consent was requested. The neighbourhood as defined by the panel contains a pharmacy at Wrose Health Centre (and also encompasses the whole area defined for preliminary consent by the applicant) and the panel noted that within approximately 1 mile of MEDUK (Leeds) Ltd intended site there were 19 other pharmacies, offering a choice of services and providers.
- 2.5 *Therefore it was **RESOLVED** to refuse the application by Application by MEDUK (Leeds) Ltd for preliminary consent for inclusion in the Pharmaceutical List for new premises on Bolton Lane, Bradford 2, as it was not felt to be either necessary or desirable to meet the pharmaceutical needs of the population.*

## 3 The Appeal

In a letter to the Family Health Services Appeal Unit of the NHS Litigation Authority ("the Appeal Unit"), dated 20 September 2009, Meduk (Leeds) Ltd appealed against the PCT's decision. The grounds of appeal are:

- 3.1 In our view the application by Meduk (Leeds) Ltd is both **NECESSARY** and **EXPEDIENT** to secure adequate pharmaceutical services in this neighbourhood.

- 3.2 I would wish to outline the main points why we feel that this proposed pharmacy is necessary for this neighbourhood.
- 3.3 The contractors have mentioned in their comments that there are many pharmacies in the neighbourhood but failing to mention exactly which pharmacy lies within the neighbourhood. The closest pharmacy to this neighbourhood is Robertson chemist which is 1.3km away. To access a pharmacy which is 2.6km round trip would be very difficult for patients on foot, mothers with kids, the elderly and disabled patients.
- 3.4 The proposed new pharmacy will be open from Monday to Friday 8.30 a.m. to 6.30 p.m.
- 3.5 On Saturday the pharmacy will be open from 9.00 am to 5.00 p.m.
- 3.6 Which pharmacy in the neighbourhood is open till 5.00 clock on a Saturday?
- 3.7 The services the new pharmacy will provide are:
- 3.7.1 Minor Ailments Scheme (if commissioned by the PCT)
  - 3.7.2 Cardiovascular Risk Assessment
  - 3.7.3 Sexual Health Services
  - 3.7.4 Weight Management services
  - 3.7.5 Monitoring services (Blood pressure, cholesterol and diabetes)
  - 3.7.6 Anticoagulation Services (if commissioned by the PCT)
  - 3.7.7 Care Home Visits
  - 3.7.8 Clinical Medication Review Service
  - 3.7.9 Supervision of Methadone and Subutex
  - 3.7.10 Diabetic sharps disposal
  - 3.7.11 Supplementary Prescribing with special interest in Cardiovascular disease management.(Pharmacist, Mr Rajan Gupta, Supplementary Prescriber)
- 3.8 There is a large number of families living in the area whose first language is not English.
- 3.9 We will have staff in the pharmacy who would be fluent in Urdu, Hindi, Gujarati and Punjabi.
- 3.10 Another contractor has mentioned that there have been no complaints about the service of the existing contractors that are currently serving this neighbourhood. The reason that there have been no complaints because existing contractor practice leaflets do not mention the PCT address where the complaints should be directed to.
- 3.11 Enclosed in this file are over 200 responses from local residents mentioning their views why there is a desperate need for a pharmacy in this area.
- 3.12 Also enclosed is a copy of the Email from councillor David Gray showing his support for the proposed new pharmacy. Councillor Margaret Chadwick and Councillor Middleton are also in full support of this application.
- 3.13 I would be submitting further comments before the litigation deadline is made known to me.

#### 4 **Summary of Representations**

This is a summary of representations received on the appeal. A summary of those representations made to the PCT are only included in so far as they are relevant and add to those received on the appeal.

##### 4.1 PCT

## Neighbourhood

- 4.1.1 The tPCT, in reaching its definition of the neighbourhood, was mindful of the applicant's own definition, and for the most part agreed that this comprised the main body of the area. However, the pharmacy panel was also mindful of two points which it considered pertinent: firstly that the neighbourhood defined by the applicant did not include the full area for which preliminary consent had been requested (which quite patently could not be appropriate within the meaning of the current regulations) and that the applicant's border at Swain House actually cut in half a housing estate, which the panel felt was inappropriate and highly unlikely to reflect the community make up. Bearing these points in mind the panel decided to extend the neighbourhood from that declared by the applicant to the one indicated on the map enclosed with the decision letter (distributed to all parties notified of the decision, and forming part of the pack that the Litigation Authority already has in its possession). The neighbourhood defined by the pharmacy panel does include a pharmacy and GP practices to the northern end of the neighbourhood.

## Services

- 4.1.2 Although the applicant has stated that no pharmacy within the neighbourhood is open until 5pm on Saturday (which is true regardless of whether the applicant's or the PCT's neighbourhood is accepted) the PCT felt it was prudent to take in to account the services and hours provided within adjacent neighbourhoods. Of the pharmacies listed on the map (provided by WYCSA on the PCT's behalf) 14 of those pharmacies open at some point on Saturday and of those 3 open until late afternoon, and another 3 open until late at night. As the applicant has only declared Saturday opening hours as supplementary hours it was not felt to be appropriate to place undue weight on this opening hours declaration, as other pharmacies who had the same or longer hours on a Saturday already existed within a relatively short distance.
- 4.1.3 The PCT in responding to this appeal by MedUk (Leeds) Ltd would also like to point out that the opening hours stated as part of the appeal are not those that were stated on the original application considered by the panel — the hours on the appeal letter have been extended by 30 minutes at either end of the day from Monday to Friday.
- 4.1.4 In terms of the services that the applicant was intending to offer, the panel also felt it was pertinent to review the services provided in adjacent neighbourhoods, as a very broad range of services is already provided by the pharmacies that are indicated on the map (and are therefore within 1 mile of at least one point in the area indicated for preliminary consent). Full details of these have already been provided to the Litigation Authority as requested.
- 4.1.5 The public transport links throughout the defined neighbourhood are good, with buses running along Kings Road, Bolton Road, and through the middle of the neighbourhood on Ashbourne Way throughout the day, and the panel considered that if any patient wished to access services outside the PCT's defined neighbourhood they could easily do so within a matter of only a few minutes.

## Other factors

- 4.1.6 Pharmacy leaflets - Mr Gupta suggests in his letter that no complaints about pharmaceutical services have been received in the area as pharmacy leaflets do not hold the details of the primary care trust. This is not the case, as the Regulations require that a pharmacy leaflet should include information as to the Primary Care Trust commissioning services from the pharmacy

concerned. All pharmacies within the NHS Bradford & Airedale district have been asked to provide a copy of their current leaflet earlier in 2009, and any errors/omissions have been notified to the pharmacist with a request to amend and re-print.

- 4.1.7 Choice - The PCT panel considered that, having regard to the opening hours, services and Providers within the area that the public had choice available to them as a wide range of services and opening hours was available within a mile radius of the MedUK preliminary consent request, and the Providers covered a broad range of both independents and multiples.
- 4.1.8 Patient survey and supporting email from the local councillor — the information regarding a patient survey (and supporting email from the local Liberal Democrat Councillor once he had reviewed these replies) was not presented at the time of the application, and therefore the panel was not able to consider this data when reaching its decision, and without seeing the replies submitted is unable to comment at this stage on the feedback received from patients. However, in terms of the survey questions asked, the PCT would dispute the validity of two of the questions (questions 6 & 9), as question 6 directs the answer received rather than asking where the respondent feels a new pharmacy would be best sited to meet their needs, and question 9 is already a given negative reply as the map demonstrates that there is no pharmacy already in the directed area. This doesn't necessarily mean that there is a need for a pharmacy on that particular road, as there are any number of thoroughfares in any city that do not have a dedicated pharmacy, but which receive more than adequate pharmaceutical services within the neighbourhood itself. We would therefore be unwilling to put unnecessary weighting on any survey results based around these questions, as they are, in our opinion, leading questions.
- 4.1.9 In conclusion, the application was not considered necessary within the neighbourhood as there was already one pharmaceutical services provider inside the PCTs defined neighbourhood and having regard to services in the immediate vicinity in adjacent neighbourhoods it was considered to be neither necessary nor desirable (at the time the decision was reached) to approve a further pharmacy application. Accordingly the decision was made to refuse this application.
- 4.1.10 Having taken all of the factors into account, the tPCT still feels that, on balance, the correct decision was made in relation to this application, and would respectfully ask that the panel uphold the decision made by the tPCT

#### 4.2 MEDUK (LEEDS) LTD

- 4.2.1 A list of additional points why the pharmacy on Bolton Lane is both necessary and expedient.
- 4.2.2 Looking at the PCT's Pharmaceutical Needs Assessment (PNA) there are many services which are not being provided in this neighbourhood:
- 4.2.3 There is not a pharmacy in the neighbourhood so no services are being delivered locally for this community.
- 4.2.4 The PNA document (for Bradford and Airedale PCT) clearly shows that there are still many gaps in the pharmacy services being provided across the PCT.
- 4.2.5 The Older People's Focus Group shows that residents want most improvement in the following pharmacy services:

- 4.2.5.1 Availability of pharmacy on evenings and weekends. The proposed new pharmacy will be open till 6.30 p.m. on weekdays which is half an hour extra opening than most of the existing pharmacies around this neighbourhood. The proposed new pharmacy will be open till 5.00 p.m. on a Saturday but the existing pharmacies close at 12.00 p.m. on a Saturday.
- 4.2.5.2 Seats for waiting customers: We will have a minimum of four designated chairs in our waiting area.
- 4.2.5.3 Lunch time cover for prescriptions: Our proposed pharmacy would provide an uninterrupted pharmacy service throughout the day.
- 4.2.5.4 Shorter waiting time for medication: Because we are not a health centre linked pharmacy so the volume of prescriptions would be a lot less and this would ensure a shorter waiting time.
- 4.2.6 The same focus group mentioned that the following services needed to be commissioned across Bradford PCT.
  - 4.2.6.1 MURs: The proposed pharmacy would have a dedicated consultation room to carry out MUR's and both the pharmacists running the pharmacy are already accredited to carry out MUR's. The MUR accreditation certificates have already been sent to the PCT in the original application.
  - 4.2.6.2 Blood pressure Tests: Free blood pressure tests would be provided to the patients requiring this service.
  - 4.2.6.3 Point of care testing - e.g. cholesterol, diabetes. A small charge of £2.99 would be payable by the patients requiring this service. But if it is commissioned by the PCT as an enhanced service than possibly for the patients fitting the PCT's criteria no charge would be applicable.
  - 4.2.6.4 Collection/Delivery service - The pharmacy would provide a comprehensive collection and delivery service 6 days a week.
  - 4.2.6.5 Minor Ailments service: The pharmacy would engage with the PCT to provide this as an enhanced service. Currently this service is only being provided by a very few pharmacies across the PCT. (This information obtained from March 2009 PNA)
- 4.2.7 At present a community pharmacy Anticoagulant Monitoring Service is only provided in a limited number of pharmacies in the South & West Bradford locality. The proposed pharmacy would actively engage and be able to provide this service from the outset if the PCT commissioned this as an enhanced service.
- 4.2.8 The proposed pharmacy would like to provide the following services if commissioned by the PCT as an enhanced service:
  - 4.2.8.1 Smoking Cessation Service
  - 4.2.8.2 EHC Service
  - 4.2.8.3 Palliative Care Service
  - 4.2.8.4 Diabetic Sharps Disposal

- 4.2.9 The PNA also tells us that Bradford North Locality would benefit from the following services:
- 4.2.9.1 Improve sexual health and teenage pregnancy rates. The proposed pharmacy would offer the sex health service if commissioned by the PCT.
  - 4.2.9.2 Proactive management of LTCs - increased uptake of Medicines Use Reviews (MURs) could would help with this. The proposed pharmacy would be able to offer this service from the outset.
  - 4.2.9.3 The PNA document under the heading: Looking to the future talks about developing Pharmacists with Special Interests (PhwSIs) and Pharmacist prescribing. The two pharmacists managing the proposed pharmacy have just completed (Mr Rajan Gupta) Supplementary Prescribing in Cardiovascular Health and (Mrs Angeli Gupta) Post Graduate Certificate in Psychiatric Therapeutics.
  - 4.2.9.4 Below are mentioned a few comments from the many residents who expressed there need to have a pharmacy on Bolton Lane:
  - 4.2.9.5 A pharmacy would be very convenient and would save me time.  
SAFFIA CHOUDRY
  - 4.2.9.6 I do not drive and have to phone my husband at work to collect prescriptions. I cannot drag my children out in the horrible weather.  
Mrs Shanaz Rana
  - 4.2.9.7 I would like to have a pharmacy within walking distance. Jayne Farrar
  - 4.2.9.8 Comments From Mrs Flaherty enclosed
  - 4.2.9.9 I have difficulty accessing the pharmacy due to distance and opening hours. I use Robertsons in Undercliffe. Gian Gregorio
  - 4.2.9.10I have no car and have to wait for buses or wait till my husband comes home to get to a pharmacy. Mrs M Priestley
  - 4.2.9.11To have a pharmacy closer to home would make it more convenient. I have two young children so a pharmacy closer to home would be a massive incentive. S khan
  - 4.2.9.12My husband has had a brain haemorrhage and a stroke and cannot drive. Buses are difficult. Mrs Jacqueline Pickering
  - 4.2.9.13Comments from Helen Ellershaw enclosed
- 4.2.10 Enclosures included are (Appendix A)
- 4.2.10.1Bradford and Airedale PCT's Pharmaceutical Needs Assessment (PNA) March 2009
  - 4.2.10.2Mrs Angeli Gupta (Letter from University to confirm that she has completed the Post Graduate Certificate)
  - 4.2.10.3Mr Rajan Gupta( Supplementary Prescribing Certificate)

#### 4.3 LLOYDS PHARMACY

- 4.3.1 As stated by the PCT in their decision letter there are 19 other pharmacies within approximately 1 mile of MedUK (Leeds) Ltd proposed site. It is therefore difficult to see what geographical advantage would be gained by this application
- 4.3.2 The PCT will have had access to the range and level of service provision by the existing pharmacy providers and has determined those to be adequate.
- 4.3.3 We submit that the PCT made the correct decision to refuse the application and therefore respectfully ask that the appeal and the application be refused accordingly as adequate and accessible pharmaceutical services are already provided in the neighbourhood.

#### 4.4 BOOTS UK LTD

- 4.4.1 We agree with the PCT decision to reject the application and their reasoning.
- 4.4.2 Pharmaceutical services are currently being provided in the neighbourhood defined by the PCT with additional pharmaceutical services available in the adjacent neighbourhoods.
- 4.4.3 Pharmacies are spread evenly around the surrounding neighbourhoods and are within reasonable travelling time and distance for people wishing to use them.
- 4.4.4 Services are available six days a week and until 7pm from these pharmacies. Patients wishing to access services later in the evening or on Sundays can do so from pharmacies located just over a mile away in the City Centre (e.g. Boots Forster Square).
- 4.4.5 Should the PCT identify a need for additional hours service in the neighbourhood or Language Access or Patient Advocacy Services then they may choose to direct one of the existing pharmacies to provide such services.
- 4.4.6 In conclusion, we submit that the above application does not meet the required criteria of regulation 12(1), and respectfully urge the Appeal Authority to dismiss this appeal accordingly

#### 4.5 GORGEMEAD LTD

- 4.5.1 There have been no complaints to our knowledge, regarding current pharmaceutical services in the area.
- 4.5.2 We agree with the PCT defined neighbourhood, which contains a pharmacy at Wrose Health Centre.
- 4.5.3 There is no evidence given by Meduk (Leeds) Ltd that there are any gaps in the pharmaceutical services offered by the local pharmacies.
- 4.5.4 With regard to opening hours the applicant states 'Which pharmacy in the neighbourhood is open till 5.00 o'clock on a Saturday. Although Wrose Health Centre Pharmacy is not open there are two 100 hour pharmacies within the town centre, and Morrisons at Five Lanes end is open Saturday and Sunday
- 4.5.5 We request that the application be rejected on the grounds that it is neither necessary nor desirable to secure the adequate pharmaceutical services for this area.

#### 4.6 GIBSON PHARMACY

- 4.6.1 I would like to make several representations to the Appeal Unit:
- 4.6.2 We employ a full time delivery driver 5 days a week, working from 10am to 5:30pm, delivering to any area within a 2 to 3 mile radius of our pharmacy including the proposed site.
- 4.6.3 The neighbourhood already contains Wrose Health Centre, but more importantly it is surrounded by many existing pharmacies providing competition and choice for customers.
- 4.6.4 The applicants suggested opening times offer no additional cover to that of surrounding pharmacies, of which some are open 100 hours.
- 4.6.5 We employ pharmacists who are fluent in Urdu, Hindi, Gujarati and Punjabi, and also a supplementary prescribing pharmacist.
- 4.6.6 Our practice leaflet does contain where customers should complain, and was recently approved by PCT. I am not aware of any complaints about our service.
- 4.6.7 The suggested location at the lower end of Bolton is not highly populated, and has problems of access, due to the new one way system.
- 4.6.8 Attached is a copy of my original letter for your records.
- 4.6.9 I would be more than happy to attend an Oral Hearing, and can provide evidence if required.

In a letter to WYCSA dated 21 June, Gibson Pharmacy stated:

- 4.6.10 Thank you for your letter dated 15<sup>th</sup> May, in regard to the above application. We would like to make the following comments.
- 4.6.11 The current provision of pharmaceutical services in the area is more than adequate and accessible. We already offer a free daily prescription collection and delivery service in this area, and are unaware there has been any complaints to the PCT about any inadequacy in the current provision of pharmaceutical services.
- 4.6.12 The proposed neighbourhood is totally surrounded by existing Pharmacies.
- 4.6.13 Several of the existing Pharmacies are open for considerably longer hours, and all offer advanced services.
- 4.6.14 A previous application was made in this vicinity recently, and was rejected. This application does not differ significantly from this previous application.
- 4.6.15 In conclusion we believe this application to be neither necessary nor desirable, and therefore we respectfully request the PCT reject this application.

#### 4.7 PHARMACY CARE DIRECT

- 4.7.1 We would like to make these additional comments in addition to the previous comments made with regards to the above application.

- 4.7.2 There are 19 pharmacies within near to 1 mile of the proposed location. This is a waste of PCT resources.
- 4.7.3 The area already holds a pharmacy.
- 4.7.4 There are three 100 hour pharmacies within 1 mile of the proposed location, therefore providing extended opening hours.
- 4.7.5 There are no other services in the area therefore people travel out of the area.
- 4.7.6 All the services are based at the Enterprises 5 shopping complex which contains: Post Office, Optician, and Supermarket, Dry Cleaners, Bank and a Pharmacy.
- 4.7.7 There is at least one car parked n nearly 99% of the drives of the homes in the area. Some drives have more than one car, this shows everyone travels outside of the area to access services therefore making a pharmacy a waste in this area.
- 4.7.8 If you walk around the proposed locations of the pharmacy between working hours (9am-5pm between Monday Friday) it shows little people visible outside. This shows the pharmacy will not be used here. Everyone goes outside of the area to access services.
- 4.7.9 We believe a pharmacy in this location is a waste of PCT resources, therefore believe it is not necessary or expedient in this location.

## 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 (or location) 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 12(1), the necessary or desirable test, and, in considering that test, had regard in particular to Regulation 12(2), (3) and (4) of the National Health Service (Pharmaceutical Services) Regulations 2005 (as amended) ("the Regulations").
- 5.5 The Committee dealt with the application by way of reconsideration of all the issues.
- 5.6 The Committee noted that the neighbourhood defined by the PCT, which encompassed the neighbourhood defined by the applicant, had not been disputed on appeal. The Committee noted that the neighbourhood originally defined by the applicant had not included the whole of the area for which he had applied for preliminary consent for; this area was included in the neighbourhood defined by the PCT. The Committee accepted the neighbourhood as defined by the PCT without prejudice to any future applications.
- 5.7 The Committee noted that there was currently one pharmacy in the neighbourhood, located in the Wrose Health Centre in the far north of the neighbourhood, with others located in adjacent neighbourhoods. The Committee were of the view that it is not axiomatic that a contract is needed within a neighbourhood presently containing one

pharmacy, if that is the case here, in order to secure adequacy. While there is no choice within the neighbourhood the level of adequacy may be dependent on pharmaceutical services elsewhere. The Committee noted that there was one pharmacy on the periphery of the neighbourhood with a further 18 pharmacies within 1 mile of the proposed site in adjacent neighbourhoods, many of which are located in the vicinity of medical services.

- 5.8 Given the above, the Committee considered that the current provision of pharmaceutical services could not be said to be wholly inadequate and therefore the application was not necessary. The Committee went on to consider, on the spectrum of adequacy, whether the application was desirable.
- 5.9 While the Committee had regard to the services offered in the application, there is no suggestion that the existing pharmacies are not providing essential and directed services as commissioned by the PCT. The Committee noted the comments with regards to the PCT's PNA and the potential gaps in services, however the Committee noted that the existing providers had stated that they were willing to provide any additional services which the PCT wished to commission. The Committee noted that the applicant had not provided any information to show that the existing pharmacies were currently unable to cope with demand or any perceived future increase in demand, however this may arise.
- 5.10 The Committee noted the distances to the nearest pharmacies, which are not disputed by parties. The Committee is of the view that distance of itself does not result in an inadequacy of pharmaceutical services. The Committee noted the statements from the applicant with regard to the steep terrain within the neighbourhood. The Committee noted that no information had been provided to suggest that those on foot who were willing and able to do so could not access the existing pharmacies, or that those who had the use of a car would not be able to access existing pharmaceutical provision either within the neighbourhood or in adjacent neighbourhoods. The Committee also noted that the information provided by the PCT with regards to the regular bus services in the neighbourhood for those without a car and who are unable to access on foot had not been disputed.
- 5.11 The Committee noted the applicant's comments with regards to opening hours. The Committee was mindful that the PCT already has the power under the regulations to direct existing contractors to open for additional hours where it considers there is a need to do so in order to meet the pharmaceutical needs of the people in the neighbourhood.
- 5.12 The Committee noted the survey with regards to a pharmacy in the locality. The Committee noted that the answers in the survey mainly related to convenience. The Committee were of the view that while convenience is not an irrelevant factor it is not a factor to be considered alone in accordance with relevant test unless the degree is sufficiently high on the scale to suggest that it would contribute to a gap in provision.
- 5.13 The Committee accepts that regard must be had to the fact that any alternative providers, and thereby services, are outside of the neighbourhood. The Committee views this as a potential gap for the size and make up of the population however, on balance, the Committee determined that the applicant had not demonstrated, the onus being on the applicant, that there is a gap on the spectrum of adequacy sufficient to conclude that the provision of pharmaceutical services is not currently secured to the standard of adequacy.

## 6 Decision

The Committee was of the view that the proposed pharmacy was neither necessary nor desirable to secure the adequate provision of services in the neighbourhood. Accordingly the Committee dismisses the appeal.

**Jill Jackson**  
**Appeal Officer**

A copy of this decision is being sent to:

Meduk (Leeds) Ltd  
Boots UK Ltd  
Lloyds Pharmacy Ltd  
Pathvalley Ltd  
Gibson Pharmacy  
Pharmacy Care Direct  
Bradford LPC  
WYCSA on behalf of Bradford and Airedale PCT