

PHARMACY PRACTICES COMMITTEE

Note of a Meeting held on

Thursday 12th July 2012

Wallace Suite, The Park Hotel, Kilmarnock

Present

Dr Martin Cheyne	Acting Chair
Mr William McConnell	Lay Member
Canon Matt McManus	Lay Member
Ms Diane Lamprell	Pharmacist Member
Mr Wallace Stevenson	Pharmacist Member

In Attendance

Mr David Rowland	Head of Primary Care Development
Mrs Anne Shaw	Primary Care Manager - Pharmacy
Mrs Margaret Scott	Primary Care Administrator - Pharmacy
Mr Allan Thomas	Lead Pharmacist – Public Health and Community

1. Apologies

No apologies were received.

2. Application For Inclusion in the Pharmaceutical List

Case No: PPC 117

Stewart Pharmacy (Scotland) Ltd

The Committee was asked to consider an application submitted by Stewart Pharmacy (Scotland) Ltd to provide general pharmaceutical services from premises situated at 50 Main Street, Dunlop under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee was required to determine whether the granting of the application was necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant's proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Stewart Pharmacy (Scotland) Ltd, agreed that the application should be considered by oral hearing.

The hearing was convened under paragraph 3(2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended ("the Regulations"). In terms of this paragraph, the PPC "shall determine an application in such a manner as it thinks fit". In terms of Regulation 5(10) of the Regulations, the question for the PPC is whether "the provision of pharmaceutical services at the premises named in the application is necessary or desirable to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List".

The Chair asked if any member of the Committee had an interest to declare. No interests were declared.

The Applicant and interested party joined the meeting.

The Chair invited the Committee and Board Officers to introduce themselves.

The Applicant was represented in person by Mrs Christine Daly ("the Applicant"). The Interested Parties who had submitted written representations during the consultation period were Boots UK Ltd and the Area Pharmaceutical Professional Committee. The Area Pharmaceutical Professional Committee chose not to attend the hearing. Boots UK Ltd was represented by Mr Charles Tait ("the interested party").

The Chair asked the Applicant and the Interested Party to confirm that they were not attending the Committee in the capacity of solicitor, counsel or paid advocate. They confirmed that they were not.

The Chair informed the Applicant and the Interested Party that prior to the hearing, the Committee had as a group, visited the local area, in which the Applicant's proposed premises are sited, including the existing pharmacies, GP surgery and facilities in the immediate area and surrounding areas of Dunlop as detailed in appendix (a) which gives details of the route taken and places visited by the Committee during the site visit. The Committee noted that the premises were constructed and were subject to conditional contract and modification, dependant on the Committee's decision on the application.

The Chair confirmed to the Applicant and Interested Party the procedure that would be adopted by the Committee at the hearing. It was confirmed

that the Chair ask the Applicant to make her submission. There would follow the opportunity for the Interested Parties and the Committee to ask questions. The Interested Party would then make his submission. There would follow the opportunity for the Applicant and the Committee to ask questions of the Interested Party in turn. The Interested Party and the Applicant would then be given the opportunity to sum up.

3. The Applicant's Case

Mrs C Daly, the Applicant, was invited to present her case.

3.1 The Applicants Presentation:-

I trust that everyone has read the pack so I'm not going to go into increases in housing in Dunlop. It comes down to what constitutes a full pharmaceutical service and easy access.

Dunlop has an official full prescription delivery service at the moment and if this service were to cease, the local pharmacies would provide a collection and delivery service to the village. However Dunlop does not have access to full pharmaceutical service provision which relies on face to face consultation. Community Pharmacists are often a patient's first and possibly only point of contact to healthcare services and provide a valuable link between the NHS and the public in an unthreatening environment. The recent Scottish Government publication "The Right Medicine" talked about providing better access to pharmacy and mentioned rural areas specifically as having difficulty in accessing pharmaceutical services and even went so far as to suggest exploring the possibility of moving existing contracts to areas of need. It also stated that the Essential Small Pharmacy Scheme (ESP) exists to ensure that small, particularly rural communities receive pharmaceutical services (ESP does not exist any more). The Scottish Government defines a rural area as a settlement with less than 3000 people.

Access to a pharmacy is the most important element of the new pharmacy contract. All the new services – the Minor Ailment Service, the Chronic Medication Service and the Public Health Service rely on people being able to have a face to face consultation with the pharmacist.

We want patients to talk to us so we are able to ensure that a patients' treatment is as effective and safe as possible. We want to help identify, prevent or resolve any medicine related problem and help the patient understand and get the desired therapeutic goal for each medical condition being treated. These kind of things can't be done over the telephone.

I noticed in my pack that the Area Pharmaceutical Professional Committee disputed that Lugton should be considered in the neighbourhood. If Dunlop has a pharmacy it will then become the nearest place to access pharmaceutical services. The most recent population estimate for Lugton is 89 as per the 2001 census. I believe that people from Lugton would use the Dunlop pharmacy if the application were granted.

The Area Pharmaceutical Professional Committee (APPC) did not include Lugton in the neighbourhood, but Dunlop and Lugton have the same Community Council. There is scope for development in Lugton but most Lugton residents use the existing pharmacy services in Stewarton. A Pharmacy service is not just prescription collection and delivery.

The Chair thanked the Applicant for her presentation in support of her application and invited the Interested Party and then members of the Committee to ask questions of her.

3.2 **Questions from the Mr C Tait to the Applicant**

Mr Tait asked the Applicant to define the neighbourhood in which the proposed pharmacy would be located. The Applicant stated that in the application there was a map of the neighbourhood which showed the village of Dunlop, Lugton and surrounding farms and homesteads in the area. The Applicant agreed that it was a large area but it covered farms in the area.

Mr Tait queried the level of difficulty in accessing pharmaceutical services in Stewarton by bus from Dunlop. The Applicant confirmed that there is a 2 hourly bus service to Stewarton and believed that residents of Dunlop would use a community pharmacy in Dunlop if one was available.

Mr Tait asked if the people of Lugton would access other services in Dunlop. The Chair disallowed this question as it could be perceived that the query was about other commercial service provision etc.

Mr Tait queried why this application was submitted after another application had been made for Dunlop village hall which was subsequently withdrawn. The Applicant responded by saying that she had been seeking suitable premises for 2 years and that at the time when the public meeting was held in Dunlop she was not in a position to answer any questions or to submit an application.

Mr Tait asked if the premises Mrs Daly was referring to were the same premises concerned in the application.

Mrs Daly confirmed that it was the same premises.

Mr Tait asked the Applicant to describe the population of Dunlop. The Applicant stated that the population of Dunlop was a very mixed population. New housing had been built and therefore people were moving into the area. This was bringing in more families and affluent people and it was noted that the Primary School had been extended as a result of this. Mrs Daly estimated the population of the village as approximately 915 but clarified that this figure was prior to new census results being released and did not take into account any new houses built and occupied, so the population figure was not accurate. Mrs Daly confirmed that the Lugton population was recorded as 89 but this also was not included in the figures.

3.3 **Questions from the Committee to the Applicant**

Canon McManus questioned the Applicant on the lease of the proposed premises as it had previously been a shop but was currently residential. The Applicant confirmed that the lease had been secured dependent on the outcome of today's hearing. Mrs Daly went on to confirm that there was a tenant in residence at the moment but the tenant is aware that if the contract were to be granted then they would be required to vacate the premises. Canon McManus stated that the letter from the owner of the premises was impressive and the Applicant confirmed that this was the level of confirmation needed for the application to proceed.

Canon McManus asked if the Applicant had explored the planning permission process with the local council with regard to the change of use from residential to commercial premises. The Applicant stated that she had been in contact with East Ayrshire Council planning department and they had advised that as the premises had previously been used on a commercial basis then the application would be treated sympathetically but they could not be more definite until the change of use application was received and deliberated. The Applicant was confident that the proposed opening date of 1st November was possible provided planning permission was granted quickly.

Mr McConnell questioned the Applicant on the fact that Dunlop was a conservation area and asked if there would be any problems with planning. The Applicant stated that there could possibly be some conditions imposed as part of the planning consent if it is granted which will need to be addressed e.g. sympathetic signage.

Mr McConnell queried the definition of the neighbourhood which included Uplawmoor as the boundary indicated shows that the applicants definition

of the neighbourhood goes up to Uplawmoor but does not actually include it. The Applicant said she did not specify Uplawmoor but that her pharmacy in Stewarton does attract some patients from there as the nearest pharmacy to Uplawmoor is Neilston. Mrs Daly confirmed that Uplawmoor was not considered in her definition of the neighbourhood. However Mrs Daly did feel that if Dunlop was to have a pharmacy it may attract patients from Uplawmoor as Dunlop is only a little further away from Uplawmoor than Neilston.

Mr McConnell asked if the population figures given included the rural population which could easily increase the population of Dunlop from approximately 915 to around 1100 if the whole council ward area was looked at. Mrs Daly responded that that all figures were for Dunlop and did not include the surrounding areas as this information was not available from East Ayrshire Council.

Ms Lamprell asked the Applicant if it was possible to breakdown what types of customers come into her Stewarton pharmacy from Dunlop. The Applicant replied that it was probably those who have a car rather than those who do not or have to use public transport, they may be picking up children from the secondary school, but it was difficult to define as it was generally a cross section of patients. This did not include patients who do not walk very well or have access to cars.

The Applicant stated that she had been repeatedly asked to open a Community Pharmacy in Dunlop and that she would like to do this as people should have contact and access to a pharmacist.

Mr Stevenson questioned the Applicant on why she mentioned the Essential Small Pharmacy (ESP) scheme in her presentation. The Applicant confirmed that she had been quoting from the Regulations and that she understood that this scheme no longer existed.

4. The Interested Party's Case - Mr Charles Tait of Boots UK Ltd

Mr Tait began by saying that he was glad that the Essential Small Pharmacy Scheme had been clarified as it had ceased to exist.

Mr Tait stated that his definition of the neighbourhood was indeed the village of Dunlop which was a small very rural village which is defined as being in the top 40% of the least deprived areas of Scotland. The mid-year population for Dunlop in 2010 was 1032 which was an increase from 850 (approx) in 2001. This was not a large increase but it was noted that this is an affluent area with high car ownership. The population breakdown was 32 people at school over the age of 16, 143 children

under age 16, 258 people of pensionable age or over and the remainder were working adults, demonstrating that the population of Dunlop does not include a large amount of elderly people or children. Mr Tait confirmed his belief that these figures are likely to remain static as there are no immediate plans for further development. The area lacks amenities other than the basics e.g. buying a pint of milk and a newspaper and for that reason the Committee must consider how the people of Dunlop access services as part of their daily lives.

Mr Tait stated that the people of Dunlop access all services by leaving the village. Mr Tait contested that the neighbourhood defined by the Applicant spreads to Uplawmoor and nearly to Burnhouse and Kilwinning which is in a different data zone with a small population and those residents are unlikely to access pharmaceutical services in Dunlop.

Mr Tait referred to the fact that there is a 2 hourly bus service but also highlighted that there is a half hourly train service between Dunlop and Stewarton which admittedly costs £1.70 but Mr Tait also pointed out that Dunlop is considered to be an affluent area. Mr Tait said that this application is not about provision of an ethereal service; this is about securing services in an area and whether this is necessary or desirable? Not all neighbourhoods can have a pharmacy, there are numerous examples where defined neighbourhoods do not have a community pharmacy but access them from outwith the area. Mr Tait stated that he believes that this is one of those instances as there are pharmacy services provided to the neighbourhood. People travel freely to access all other services. Mr Tait confirmed his belief that if the Committee grant this application it will not sustain itself in the current financial climate. Mr Tait concluded that the neighbourhood is the one given and implored the Committee to accept the neighbourhood as being the village of Dunlop.

The Acting Chair informed Mr Tait that the panel were not taking into account viability. Mr Tait replied that it was about whether or not provision is secured. Mr Tait was further informed that the committee cannot take countenance of any commercial aspect of the application. Mr Tait accepted the point on condition that it was clarified in deliberations and was minuted.

Questions from The Applicant to The Interested Party

The Applicant stated that she and Mr Tait view Community Pharmacy from 2 different directions and that she had no questions.

Questions from the Committee to the Interested Party

Canon McManus asked Mr Tait if the advent of a Community Pharmacy

in Dunlop would affect Boots business in Stewarton. Mr Tait stated that it would but that Boots would not close but that it would bring into question the official collection and delivery service currently provided by Boots to the area which would cease as arguably there would be no need for this service. Canon McManus asked if the official collection/delivery service would then be unnecessary, Mr Tait agreed that it would be unnecessary. Canon McManus queried if this would not then give the people of Dunlop a better service, Mr Tait agreed that it would but only on the condition that the pharmacy remained open. Mr Tait added that there was not a high volume of people in Dunlop of high age or low income who generate higher need for services. Mr Tait concluded that Prescription collection/delivery was not absolutely necessary for some people but was needed for others who can't get out of the house.

Mr McConnell asked Mr Tait if all trains stop at Dunlop station. Mr Tait confirmed that the timetable states every 30 minutes. Mr McConnell suggested that the stats were suspicious; Mr Tait reiterated that the figures he had previously quoted added up. Mr McConnell asked Mr Tait if he would consider current services in Dunlop were adequate for older people who don't have a car. Mr Tait replied that that definition might be true of anyone who does not have a car in any area.

Ms Lamprell had no questions for Mr Tait.

Mr Stevenson had no questions for Mr Tait.

5. Summing Up

The Applicant and Interested Party were then given the opportunity to sum up.

The interested party summed up by saying that the neighbourhood is Dunlop and it does not have a community pharmacy similarly Lugton , Burnhouse and Barrmill do not have pharmacies as do thousands of neighbourhoods in Scotland and therefore that does not mean that Dunlop should have one. Mr Tait indicated his belief that this application is not only about whether or not it is necessary or desirable but is also about sustaining community pharmacy services in the neighbourhood and on that basis this application fails.

The Acting Chair clarified a point made earlier by Mr Tait by confirming that *"each decision must be firmly based on the facts of the local circumstances. A possible reduction in income by an existing community pharmacy caused by the opening of an additional pharmacy, is not itself a relevant consideration, unless it could affect the continued viability of the other pharmacies in the neighbourhood"*. Mr Tait added that the point he

was trying to make was about sustainability not viability and that the guidance for Committee's on this matter was contained in Court judgements and not Regulations.

The Applicant summed up by saying that much had been made about the population of Dunlop, the definition of the neighbourhood and whether a pharmacy would be viable. She added that she had previously opened a shop in Dalrymple which was similar in size to Dunlop and that it was sustainable and that figures were increasing. The Applicant further added that if she did not think that it was sustainable then she would not be making this application. She stated that it is a viable proposition and one that Dunlop needed.

The Acting Chair asked the Applicant and the interested party if they felt that they had had a fair hearing and both parties confirmed that they felt they had. Both the Applicant and interested party were thanked for their time and information.

At this point the Applicant, Interested Party and Mr Allan Thomas left the Hearing.

6. Decision

Having considered the evidence presented to it, and its observations from the site visit, the Committee had to decide firstly, the question of the neighbourhood in which the premises to which the application related, were located.

Neighbourhood

Taking account of all available evidence, the Committee determined that the neighbourhood should be defined as:

- North – A735 junction with the unclassified road;
- East – along the unclassified road to the junction at Muirsheil;
- South – down past Titwood to Clerkland to the railway line and north to the southern edge of Dunlop; and
- West – to Low Borland, Murray Farm and north following the unclassified road to join up with the Northern tip of the neighbourhood through East Langton

This is shown on the map attached as appendix b

Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability

Having reached their decision on the definition of the neighbourhood, the Committee then required to consider the adequacy of pharmaceutical

services within that neighbourhood, and whether the granting of the application was necessary or desirable to secure adequate provision of pharmaceutical services in that neighbourhood.

The Committee noted that within the neighbourhood as defined by the Committee there were no pharmacies.

Having regard to the following:-

- overall services provided by the existing contractors within the vicinity of the proposed pharmacy,
- the number of prescriptions dispensed by those contractors in the preceding six months and
- the level of service provided by those contractors to the neighbourhood

The Committee agreed that the neighbourhood was inadequately serviced in relation to pharmaceutical services provision. By deduction therefore the Committee determined that the provision of Pharmaceutical Services within and into the neighbourhood was inadequate.

As part of its decision making process the Committee considered the following factors:-

- The Official Prescription Collection and Delivery service currently in operation within the village, operating from the newsagents and the fact that the number of prescriptions being processed through this service has increased over the years from around 4 per day to 30 per day;
- Whether the provision of a collection and delivery service demonstrates adequate provision of pharmaceutical services in the neighbourhood;
- The fact that face to face service contact with a pharmacist allows for delivery of the full range of pharmacy services and was much better for the patient than the current delivery option;
- No current pharmacy provision in the village;
- The mobility of the population. Statistics showed that more than 70% of the population had access to cars;
- No safe walking route from Dunlop to Stewarton;
- 2 hourly bus service and half hourly train service;
- Increase in elderly population;
- Future development of the community, and
- The sustainability of the pharmacy within the village

In accordance with the statutory procedure the Pharmacist Contractor Members of the Committee, and Board Officers, were excluded from the decision process.

Decided

The PPC was satisfied that the provision of pharmaceutical services at the premises of the Applicant was desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List and in the circumstances, it was the unanimous decision of the members of the Pharmacy Practices Committee entitled to vote that the application be granted.

Signed: _____

Dr Martin Cheyne
Acting Chair
Pharmacy Practices Committee

Date: _____