

NOT YET ENDORSED AS A CORRECT RECORD

Pharmacy Practices Committee (20)
Minutes of a Meeting held on
Tuesday 27th November 2007
Meeting Room, Kings Park Hotel, Mill Street
Glasgow, G73 2LX

PRESENT:

Mrs Agnes Stewart	Vice Chair
Professor J McKie	Lay Member
Peter Daniels	Deputy Lay Member
Mrs Kay Roberts	Deputy Non Contractor Pharmacist Member
Kenny Irvine	Deputy Contractor Pharmacist Member
Scott McCammon	Deputy Contractor Pharmacist Member

IN ATTENDANCE:

Trish Cawley	Contractor Services Supervisor
Richard Duke	Contracts Manager – Community Pharmacy Development
Robert Gillespie	Lead – Community Pharmacy Development
Janine Glen	Contracts Manager – Community Pharmacy Development

Prior to the consideration of business, the Chairperson asked members if they had an interest in any of the applications to be discussed or if they were associated with a person who had a personal interest in the applications to be considered by the Committee.

ACTION

No declarations of interest were made.

1. APOLOGIES

There were no apologies

2. ANY OTHER BUSINESS NOT INCLUDED IN AGENDA

There were no matters to discuss not already included in Agenda.

Section 1 – Applications Under Regulation 5 (10)

3. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST

Case No: PPC/INCL20/2007

Mr Razwan Shafi, 17 Busby Road, Glasgow G76 9BP

The Committee was asked to consider an application submitted by Mr Razwan Shafi, to provide general pharmaceutical services from premises situated at 17 Busby Road, Glasgow G76 9BP under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 as amended.

The Committee had 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 Mr Shafi, agreed that the application should be considered by oral hearing.

The hearing was convened under paragraph 2(2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 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 service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List."

The Applicant was represented in person by Mr Razwan Shafi ("the Applicant"). The interested party who had submitted written representations during the consultation period, and who had chosen to attend the oral hearing was Mr James Semple, (CHC Pharmacy) assisted by Mrs Mary Jo Kellock ("the Interested Party").

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant's premises, pharmacies, GP surgeries and facilities in the immediate neighbourhood, and the wider area around Croftfoot and Castlemilk.

The procedure adopted by the PPC at the hearing was that the Chair asked the Applicant to make his submission. There followed the opportunity for the Interested Party and the PPC to ask questions. The Interested Party then gave his presentation, with the opportunity for the Applicant and PPC to ask questions. The Interested Party and the Applicant were then given the opportunity to sum up.

The Applicant's Case

Mr Shafi commenced his presentation by thanking the Committee for giving him the opportunity to present his case. He asserted that

currently there was no pharmacy within the Carmunnock area. He advised that Carmunnock was a neighbourhood surrounded on all sides by greenbelt. It comprised two churches; a primary school and Carmunnock Village Recreation club. The commercial services consisted of: a post office, a newsagent, a petrol station, a coffee shop and a restaurant. There was no general medical practice, dental practice or other health service in the village. Carmunnock was located on the edge of the Glasgow City Council boundary and was bound to the north and east by South Lanarkshire and to the west by the B766 bypass.

The population of the village was 1,320 with a current development of 67 residences which should increase the population by approximately 200. This would result in a population of around 1,520. Carmunnock had a significantly elderly population comprising 30% of over 60 year olds compared to the national average of 20%. This would increase as the population aged and there would be an increasing need for healthcare in the area for this particular element of the population. This was further highlighted by the existence of two sheltered housing complexes in the village.

The primary school currently had a roll of 190 children. A particularly dependent vulnerable group that needs immediate healthcare attention. At present parents were required to travel outwith the area to access pharmaceutical care. Apart from the need to travel outwith the area, there were problems with parking at Busby, Clarkston, Croftfoot and Castlemilk.

The closest pharmacy to Carmunnock was situated in the health centre at Castlemilk. This area of Castlemilk suffered from socio-economic deprivation. The villagers of Carmunnock tended to avoid Castlemilk and tended instead to visit Busby, Clarkston or Croftfoot for their healthcare needs. This translated into travelling significant distances to access pharmaceutical services. The residents had options of using either: private transport, public transport or walking to utilise these services. Public transport within the area was provided by the First Group bus service number 31, which ran every 30 minutes. A return journey to access pharmaceutical services could take upwards of one hour which the Applicant asserted was unacceptable. The return journey into the village necessitated a walk uphill which vulnerable groups like the young, the elderly and mothers with small children would find difficult. The alternative of taking public transport meant having to catch two buses to reach the health centre pharmacy.

The Applicant advised that the establishment of a pharmacy in the village would offer residents direct access to services such as MAS (Minor Ailments Service) which would benefit residents. He asked the Committee to bear in mind contracts that had been granted for isolated neighbourhoods including Twechar, Milton and Torrance and reminded

the Committee that none of these areas had any general medical practitioner presence. Mr Shafi advised that he intended to open the pharmacy for 57 hours per week. This was an increase of 52% when compared to the hours of service provided by CHC Pharmacy at Castlemilk Health Centre, which closed on Saturdays and at lunch times. This meant that the residents of Carmunnock did not have access to services at the health centre during this time.

The Applicant pointed to the letter of support from Carmunnock Community Council which was submitted as part of his initial application. Additionally he had provided a petition of support from over 150 residents and this number had increased to 200 in the intervening period since the initial submission. The 150 signatures had been achieved within two weeks of the petition commencing. The petition had attracted a response from 16% of the residential population within four weeks of its establishment.

Mr Shafi believed that the granting of a pharmacy contract was both desirable and necessary to secure adequate services for the neighbourhood and asked the Committee to grant a new pharmacy contract for the neighbourhood.

The Interested Party Questions the Applicant

In response to questioning from Mr Semple, the Applicant advised that he was aware of the gross margin to be achieved in a pharmacy. When asked by the Chair to explain the relevance of the question, Mr Semple quoted advice contained in the training material produced by the National Appeals Panel which in his opinion suggested that Pharmacy Practice Committees were required to take into consideration the viability issue when considering whether a contract should be granted.

In response to further questioning from Mr Semple, the Applicant advised that he had quoted a population figure of around 1,320 by talking to the Chair of Carmunnock Community Council and obtaining his consideration of the population size. He was aware that the 2001 Census statistics placed the population around 1,100 but contended that 1,320 was a more realistic figure. His estimated increase in population brought about by the new development was also derived from consultation with the Chair of the Community Council.

In response to further questioning from Mr Semple around how many items the Applicant felt a pharmacy in the area would dispense on a monthly basis, Mr Shafi confirmed that he felt the pharmacy would be viable. He further confirmed that he was aware of the implications brought about by the recent Category M changes and he had amended his Business Plan to accommodate this.

The PPC Question the Applicant

In response to questioning from Mrs Roberts, the Applicant advised that he had not yet analysed how many residents would be in the village during the day. He felt this would depend on certain assumptions being made. He asserted that even those who worked outwith the village would be able to use the pharmacy for their prescriptions as the pharmacy would be open at weekends. As the village existed on a cross junction there was the potential for those passing through to avail themselves of the services.

In response to questioning from Mr McCammon, the Applicant confirmed that the proposed premises were 450 square feet. He was aware that the Committee had spoken to the owner of the premises who had quoted the size of the premises as 355 square feet. This was not correct. Mr Shafi advised that he had commissioned plans to be drawn up for the premises and he confirmed that he would be concentrating on pharmacy products and not beauty or personal care items. He further confirmed that the pharmacy would be established within six months of inclusion in the Pharmaceutical List. It would continue to function as a Post Office until the end of January.

In response to questioning from Mr Irvine, the Applicant confirmed that he had drawn up plans for the pharmacy and that he would focus on health items.

In response to further questioning from Mr Irvine, the Applicant advised that he had not picked up on the apparent duplication of some names on the petition.

In response to further questioning from Mr Irvine, the Applicant confirmed that he was aware of the Essential Small Pharmacy Scheme but was not familiar with the details. He further confirmed that he had not looked closely at other statistics like car ownership. He had focused on those elements of the population who would most benefit from pharmaceutical services e.g. elderly.

In response to further questioning from Mr Irvine around his own personal experience of community pharmacy, the Applicant advised that he had graduated in 1993 and had spent ten years working for Boots in England. He had worked at Heathrow and on return to Scotland had worked part time for Boots and as a locum. He had two friends who had set up a successful pharmacy network, and was confident that he had access to a stable support network.

In response to questioning from Mr Daniels, the applicant advised that he had worked on Sundays at varying times in his career. He had opted not to open the pharmacy on Sundays, but would reconsider this if he felt there was demand for such a service.

In response to further questioning from Mr Daniels, the Applicant advised that his plans clearly showed there was sufficient space for a consulting room within the pharmacy. This was made possible by focussing on healthcare aspects of the business and not personal care and beauty items. Focussing on pharmacy only products brought other benefits including reducing shop lifting. He did not feel that his turnover would be compromised by sacrificing other items to focus on pharmacy products.

In response to final questioning from Mr Daniels, the Applicant confirmed that the petition included in the papers only contained a proportion of the total signatures gained. This was because he had had to submit additional information within a timescale which had precluded him from including the signatures gathered over the last two weeks.

There were no questions to the Applicant from Professor McKie, Mr Gillespie or the Chair.

The Interested Party's Case – Mr James Semple (CHC Pharmacy)

Mr Semple thanked the Committee for providing CHC Pharmacy the opportunity to make representation. He advised that on the issue of neighbourhood he agreed with the Applicant. He considered the neighbourhood to be the village of Carmunnock bounded as it was by open land on all sides. He advised that the existing services in the village were provided by CHC Pharmacy in Castlemilk, by Freeman's Pharmacy in Busby and from the pharmacy in Croftfoot.

Mr Semple advised that he had spoken to Mr Kayne (Freeman's Pharmacy) the day before the hearing. Mr Kayne had expressed his disappointment at not having been included in the consultation process associated with the application. While he was aware that the procedure applied by the Board had resulted in his not being included, he believed that he was most certainly an interested party.

In terms of adequacy, Mr Semple advised that Carmunnock was a wealthy village, with little unemployment and that the services provided to it were adequate. The vast majority of the population had access to cars, public transport links were excellent and a delivery service was available to the household.

In terms of healthcare needs, the community of Carmunnock enjoyed significantly better health than the Scottish average, even taking the slightly higher age profile into consideration with a 3% improvement on the Scottish average being in "good health". The 2001 Census statistics showed that 26% of the village's population were of pensionable age against a Scottish average of 18%. He reminded the Committee that not all pensioners were "elderly" and contested that Mr Shafi's claim that 30% of the population was elderly was over-inflated. The population of over 75s was only 12%, which equated to approximately 120 people.

Mr Semple advised that the simple fact of the matter was that Carmunnock had a well off population with high car ownership and good health. Due to the absence of other services e.g. a reasonable sized grocer, the population of the village required to access all of their services in adjacent suburbs or in East Kilbride.

Mr Semple advised that if the Committee were to interpret the question of “inadequacy” as meaning “does Carmunnock need a pharmacy”, the answer was “it didn’t” and so the existing services were adequate. Mr Semple asserted that even assuming that the Committee came to the conclusion that the services in Carmunnock were inadequate because there was no pharmaceutical service currently in the village; the application should still not be granted because of the construction of the legal test required under the Regulations. Mr Semple advised that if the Committee were to simply consider the neighbourhood and the adequacy of the existing services, then there would be nothing to stop pharmacists opening premises in every single small village and hamlet in the country; of which there were hundreds. The wording of the current pharmacy regulations prevented this from happening as they specifically demanded that an application was only granted when it was “necessary or desirable to **secure** (Mr Semple’s emphasis) an adequate pharmaceutical service in the neighbourhood.” Mr Semple then went on to quote from the PPC Training material provided by the National Appeals Panel at section 5.8 and 5.9.

“5.8 If you consider that the existing provision of services in the neighbourhood is wholly inadequate that does not necessarily mean that it is either necessary or desirable to grant the application. The test requires that it is necessary or desirable in order to secure adequate provision of pharmaceutical services.

5.9 If the applicant’s business is not likely to be viable, then it may not achieve the aim of securing adequate provision. The Committee may find that the existing service is inadequate but that granting the application will not secure adequate provision and there it should be refused.”

Mr Semple advised that the most important question for the PPC today was not the neighbourhood and not the adequacy of the existing service, but would a pharmacy in Carmunnock be viable? He suggested that any experienced contractor would answer “No” to this question.

Mr Semple suggested that the basis for this assertion was based in statistics which showed that the average number of prescriptions dispensed per month per person in Scotland (2006/2007) was 1.254. Given the Census population of Carmunnock was 1,106, this would equate to an estimate prescription volume for the area of 1,387. Even using Mr Shafi’s population figure of 1,500, this gave a prescription

volume of 1,875 items per month. This estimate was only relevant assuming that Carmunnock residents had an average health profile and that 100% of the residents would have their prescriptions dispensed at the proposed pharmacy. Mr Semple was confident that no-one would travel to the village from outside to have their prescription dispensed. Taking these factors into consideration, Mr Semple estimated the maximum number of prescriptions the pharmacy may expect to dispense would be somewhere between 1,387 and 1,875 per month. This was not sustainable.

In explanation, Mr Semple pointed to the gross profit required from a pharmacy. This remained directly related to prescription turnover. The more prescriptions a pharmacy dispensed, the higher the gross profit. The costs associated with a community pharmacy were front loaded – they rose very slowly as the pharmacy did more business but in general terms a pharmacy dispensing zero items would have the same costs as one dispensing 1,000 items. The average starting costs per month was in the region of £8-9k. The break even point for a pharmacy based on £10 per item, a 25% margin, and a 10% OTC element was 2,300 items per month. There was no reasonable prospect of a pharmacy in Carmunnock reaching this level.

Mr Semple asked the Committee to discount the Essential Small Pharmacy facility, which he claimed, was not fit for purpose and was about to be abolished. In addition there was no guarantee that a pharmacy would be awarded the status.

Mr Semple advised that there were a large number of villages of the size of Carmunnock in Scotland and very few would support a pharmacy. The ones that would support a pharmacy were situated in rural areas which attracted people from a large surrounding area to utilise their services (e.g. Doune in Perthshire). Mr Semple asserted that a pharmacy in Carmunnock would be not be secure and the application should fail.

There were no questions to Mr Semple from the Applicant.

The PPC Question Mr Semple

In response to questioning from Mr Daniels, Mr Semple advised that his argument was based around the fact that a pharmacy in Carmunnock would not be viable. He reiterated his statistics around the average prescription dispensed per person per month, which showed that a pharmacy in Carmunnock could only hope to dispense a maximum of 1,387 items per month. This was on the assumption that 100% of prescriptions were dispensed in the pharmacy. This level would not make the pharmacy viable.

In response to further questioning from Mr Daniels around the petition

submitted by the Applicant, Mr Semple advised that he would expect everyone in the village to sign the petition. In response to Mr Daniels question as to how this level of support related to his assertion that the services were adequate, Mr Semple responded by reiterating that there was a harsh economic reality to be faced that there was not enough volume in the village to sustain a pharmacy. There was no dispensing GP or any GP service.

In response to further questioning from Mr Daniels, Mr Semple advised that the Committee must fully consider the issue of viability when it was related to the question of securing adequate pharmaceutical services in a neighbourhood.

In response to questioning from Mr Irvine, Mr Semple agreed that at the outset front end costs associated with a pharmacy might reduce were the pharmacy was staffed by the owner. He advised that while this may be sustainable as a short term solution, it would be unlikely for a pharmacy owner not to take drawings from the business in the long term. He reiterated that a pharmacy in Carmunnock would only be viable if the number of residents increased, and as the village was a designated conservation area, this would be highly unlikely.

In response to further questioning from Mr Irvine, Mr Semple explained that the global sum for community pharmacy would not accommodate having a pharmacy in every small area. Each new contract would exert increased pressure on the cash limited resource.

In response to final questioning from Mr Irvine, Mr Semple confirmed his agreement that the residents of Carmunnock would wish to support services in the village. He suggested however that Carmunnock was a commuter village. There were few residents in the village during the day, as most were at work. There would be no residents around during the day to give support to the pharmacy.

In response to questioning from Professor McKie, Mr Semple confirmed that he had not taken legal advice around his interpretation of the NAP guidance. He advised that he was quoting directly from the training material.

In response to questioning from Mrs Roberts, Mr Semple confirmed that he felt the existing services in Carmunnock to be adequate. Carmunnock was a small village with a mobile population which needed to travel outwith the village as part of their everyday existence. The services outside the village were adequate and Carmunnock therefore did not need a pharmacy. No-one would be disadvantaged if the pharmacy contract were not granted.

In response to final questioning from Mrs Roberts, Mr Semple advised that the population of Carmunnock would access immediately required

services such as MAS from where they currently accessed other services.

There were no questions to Mr Semple from Mr McCammon, Mr Gillespie or the Chair.

The Interested Party Sums Up

Mr Semple advised the Committee that it would be fantastic if every neighbourhood could have a pharmacy, but the reality was that a pharmacy wasn't needed in every neighbourhood. Carmunnock was a neighbourhood that didn't require a pharmacy. Services to the area were adequate. If the Committee considered that the current services weren't adequate there was still no need to grant the application as it failed to comply with the legal test. The harsh economic fact was that a population of around 1,000 would not sustain a pharmacy.

The Applicant Sums Up

Mr Shafi advised that Mr Kayne of Freeman's Pharmacy had a high homoeopathic element to his business. He would not be detrimentally affected if the application were granted. There was no current pharmacy in Carmunnock. The nearest was situated in Castlemilk. This pharmacy was not open at weekend. Within the area of Carmunnock there was a high elderly population with 29.8% of the population over 65. His personal opinion was that the current services were inadequate and as such the granting of the contract was necessary and desirable.

Before the Applicant and the Interested Parties left the hearing, the Chair asked them to confirm that they had had a full and fair hearing. All confirmed that they had.

The PPC was required and did take into account all relevant factors concerning the issue of:-

- a) Neighbourhood;
- b) Adequacy of existing pharmaceutical services in the neighbourhood and, in particular, whether the provision of pharmaceutical services at the premises named in the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located.

The PPC took into all account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

- a) Chemist contractors within the vicinity of the applicant's premises;

- b) The NHS Greater Glasgow & Clyde Area Pharmaceutical (General Practitioner Sub-Committee);
- c) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee).

The Committee also considered;-

- d) The location of the nearest existing pharmaceutical services;
- e) Demographic information regarding the Carmunnock area; and
- f) NHS Greater Glasgow and Clyde plans for future development of services.

DECISION

Having considered the evidence presented to it, and the PPC's observation from the site visits, the PPC had to decide first the question of the neighbourhood in which the premises to which the application related, were located.

The Committee considered the various neighbourhoods put forward by the Applicant, the Interested Party and the GP Sub-Committee. Taking all information into consideration, the Committee considered that the neighbourhood should be defined as follows:

North: Arden Craig Road;

East: Greenfield, moving south across the G759 and Kittochside Road to meet the A726 trunk road;

South: the A726 trunk road to the B756 Busby Road to its meeting with the B766 Carmunnock Road;

West: the B766 trunk road, north to its meeting with Arden Craig Road.

The Committee felt that this was distinct neighbourhood. The area was commonly known as Carmunnock, a conservation village lying within three miles of East Kilbride and Busby.

Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability

Having reached that decision, the PPC was then required to consider the adequacy of pharmaceutical services in that neighbourhood, and whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in that neighbourhood.

Within the neighbourhood as defined by the PPC there was no

pharmacy. The Committee noted that the residents were required to travel to nearby Castlemilk to access pharmaceutical services, or to East Kilbride or Busby, which were both further away.

The Committee considered Mr Semple's comments around the potential prescription load which a pharmacy in the area could be expected to achieve. The Committee were mindful that the new pharmacy contract was not solely dependent on the dispensing of prescriptions, but rather the provision of services within a neighbourhood, by a pharmacist providing care at the heart of the community. As the new contract developed and electronic transfer of prescriptions reduced the requirement to visit a GP surgery, there would be more need for pharmaceutical intervention within a neighbourhood. Those suffering from acute and chronic conditions within the village did not have access to immediate services. The Committee agreed that in terms of the way in which pharmaceutical services were developing in response to government initiatives, the current services available in the neighbourhood of Carmunnock were not adequate.

The Committee were mindful that assertions had been made around the potential viability of any new pharmacy in the area, and concluded that there was no firm evidence to show that the Applicant could not provide services to the extent that the pharmacy would attain viability.

In accordance with the statutory procedure the Chemist Contractor Members of the Committee Scott McCammon and Kenny Irvine 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 not necessary or 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 PPC that the application be granted.

The Chemist Contractor Members of the Committee Scott McCammon and Kenny Irvine and Board Officers rejoined the meeting at this stage.

4. NATIONAL APPEALS PANEL DETERMINATION

The Committee having previously been circulated with paper 2007/58 noted the contents which gave details of the National Appeals Panel's

**Contractor
Services
Supervisor**

determination of appeals lodged against the Committee's decision in the following cases:

Premichem Pharmacy Ltd – Unit E, Kingston Quay, Morrison Street, Glasgow G5.8 (Case No: PPC/INCL11/2007)

The Committee noted that the National Appeals Panel had dismissed the Appeal submitted against the PPC's decision to refuse Premichem Pharmacy Ltd's application to establish a pharmacy at the above address. As such Premichem's name was not included in the Board's Provisional Pharmaceutical List, and the file on the application had been closed.

5. ANY OTHER COMPETENT BUSINESS

There was no other competent business.

6. DATE OF NEXT MEETING

Scheduled for Thursday 13th December 2007 at 12.30pm. Venue to be confirmed.

The Meeting ended at 4.30p.m.