

NHS Greater Glasgow and Clyde	Paper No. 24/108
Meeting:	NHSGGC Board Meeting
Purpose of Paper:	For Noting
Classification:	Board Official
Name of Reporting Committee:	Pharmacy Practice Committee
Date of Reporting Committee:	Monday 11 September 2023, reheard on 20 June 2024
Committee Chairperson:	Mr John Matthews

Paper Title:

Application for Inclusion in the Board's Pharmaceutical List – CASE No: PPC/INCL02/2023 – TC Trading (Scotland) Ltd, 4 Blackford Road, PAISLEY, PA2 7EP

Recommendation:

That the board note the decision taken at the recent meeting of the Pharmacy Practice Committee as set out below.

11. Deliberations

- 11.1. The Committee in considering the evidence submitted during the period of consultation, presented during the hearing and recalling observations from site visits, first had to decide the question of the neighbourhood in which the premises, to which the application related, were located.
- 11.2. In discussing the Neighbourhood, the Committee noted the following points:
- The Area Pharmaceutical Committee did not support the proposed Neighbourhood nor the Application;
 - The Applicants use of school catchment boundary;
 - White Cart River remains a natural boundary as does Todd Burn;

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- Dual carriageway road is very busy and crossing it to include Blackhill is a physical barrier;
 - Applicant was suggested to amend neighbourhood from previous 2018 application to include Dykebar;
 - Since previous application new housing was being built / in ground clearing but no new roads / dual carriageways / railways to service these.
- 11.3. The Committee agreed that the neighbourhood should be defined as follows:
- North: White Cart River until Hawkhead Road
- East: Hawkhead Road down A726 Barrhead Road to Lochfield Road
- South: Lochfield Road to Neilston Road
- West: Neilston Road along Causeyside Street, Gordon Street, Mill Street to White Cart River
- 11.4. Whilst agreeing with the Applicant that the White Cart River was an obvious natural boundary to the north of the neighbourhood the PPC believed the Applicant's other boundaries to be somewhat contrived. The PPC noted that the Applicant had used Saucelhill Park as a natural boundary. However, the Committee did not consider this to be a natural neighbourhood boundary as a deviation from a major road i.e. the A726 at Ardgowan Street would need to be made for the park to be located. The PPC believed the use of Hawkhead Road on to Lochfield Road then on to Neilston Road and then north to Causeyside to the White Cart River via Mill Street provided a much more natural boundary for the Neighbourhood.
- 11.5. The neighbourhood proposed by the PPC embraced the traditional communities of Blackhall, Hunterhill, Charleston and Lochfield and included Dykebar.
- 11.6. The Committee was satisfied that the neighbourhood contained amenities frequently used by residents that contributed to the fabric of the community and included schools, places of worship, community centres, shops, parks, medical, dentists and pharmacies as well as plans for development.
- 11.7. Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of pharmaceutical services within or to that neighbourhood and, if the committee deemed them inadequate, whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.
- 11.8. The Committee noted all of the current network of pharmacies provided core services and several contractors referenced in the CAR have changed ownership since the consultation exercise. There is an

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expectation that service levels will increase, although it is too early to expect any meaningful uplift yet. All Interested Parties in attendance while reassuring the Committee that they had capacity to increase their service provision to meet the demand of any increase in population, did not provide any evidence to support this claim. Although not part of the Core Service it was noted that pharmacies in the current network offered a delivery service.

11.9. The PPC considered the CAR, the Committee noting that there were 366 responses. Given that the CAR is not a survey and is dependent on people in the Neighbourhood being aware of the newspaper advertisement and then deciding to engage, or not, with the consultation exercise, the level of response is, in the Committee's opinion satisfactory in the light of experience with other consultations.

11.10 The responses came from a wide range of respondents, and it was clear that the Applicant had engaged with the community to encourage a high response.

11.11 The Committee discussed the CAR in detail and considered the narrative responses to questions 5, 6, and 7 which could better assist them in determining adequacy of the existing pharmaceutical services. Mr Woods (Lay Member) detailed an analysis that stripped-out indeterminate and convenience comments from the text responses for each question leaving proxy views on adequacy/inadequacy as below:-

Question 5: "Do you believe that existing pharmaceutical services provided in/to the defined neighbourhood are adequate?"

Adequate = 10% Inadequate = 90%

Question 6: "What is your current level of satisfaction/dissatisfaction with current provision..."

Satisfied = 13% Dissatisfied = 87%

Question 7: "What are your views on the provision of...services proposed by the Intended Applicant?"

Negative view = 17% Positive view = 83%

The consistency of the outcomes gave the PPC some confidence in the weight to be given to the CAR responses.

11.12 It was noted that a significant majority of the CAR pointed towards inadequacy from local pharmacies, particularly Abbey Chemist, and that there was evidence of patients without medicines, or exceptionally long waiting times which could be articulated as an inadequacy.

11.13 Although Abbey, Lonend, had installed a robot, had a 24/7 facility for collection, and had re-modelled the pharmacy layout, the PPC considered

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that this has been to the detriment of the patient experience of the quality of service, as evidenced in the CAR. From NHS Open Data sources presented by the Applicant and supplemented by Primary Care dispensing figures, the pharmacy at Lonend would probably dispense the best part of a quarter of a million prescriptions this year. The Committee felt that this was a considerable challenge for a pharmacy which has, commendably, developed its premises and service offering over the years, but has now reached the point of being unable to provide an adequate quality of service within the constraints of the premises.

- 11.14 To some extent Mr Mohammed acknowledged these issues in his evidence to the Committee.
- 11.15 The Committee were mindful that pressure on Community Pharmacies will only increase due to the additional services that they are being required to provide.
- 11.16 This combined with low car ownership and ongoing limited public transport would demonstrate a need and requirement within the Applicant's defined neighbourhood. It was felt that on the basis of such negative reviews within the CAR (more than any committee member had ever seen) the PPC had to give appropriate weight and credibility to the detail and tone in which these had been put. The committee felt that this was evidence of current services within the neighbourhood being inadequate.
- 11.17 Whilst during the hearing interested parties noted that they all had capacity, the information within the CAR and evidence provided during the Hearing demonstrated that there is a growing need for additional pharmaceutical services in the neighbourhood.
- 11.18 The PPC were aware that due to their revision of the Neighbourhood, and the developments in Cather Crescent and Lonend, the population will be higher than the Applicant's figure of 6,403. There was an exchange with the Boots representative about the frequency of pharmacist at Neilston Road. The applicant felt that three pharmacists in the last four years may have a negative effect on pharmacy care to patients
- 11.19 The Committee noted that a variety of bus routes and times were noted in the CAR for residents who were able to use a bus, the likelihood was that the citizen would need to wait an hour for the return bus if they could not get off the bus, walk to the pharmacy, get their prescription and walk back to the bus stop. The committee recognised the recent large investments in new technology made by Abbey Pharmacy but noted this had reduced the space available for clients and some CAR comment were made about a reduction in privacy when talking to the pharmacist about sensitive matters.

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- 11.20 For patients with young children or those with mobility issues, the access route between the proposed premises and surrounding areas was challenging due to large flights of steps from one area and a very busy road with very few crossing points from another.
- 11.21 Although car ownership was noted to be around 31% very few houses in the neighbourhood had access to garages or driveways.
- 11.22 Following the withdrawal of Mr Josh Miller, Mr Gordon Dykes and Mr Colin Fergusson in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, the Committee, for the reasons set out above, that the provision of pharmaceutical service in and to the Neighbourhood were inadequate.
- 11.23 The Committee considered whether granting this Application was necessary in order to secure adequate provision of pharmaceutical services in and to the Neighbourhood. The Committee agreed that it was necessary and desirable to grant the Application in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the Application was granted. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.
- 11.24 Mr Josh Miller, Mr Gordon Dykes and Mr Colin Fergusson returned to the meeting and were advised of the decision of the Committee.

12. **BUSINESS – MATTERS CONSIDERED BY THE CHAIR**

12.1 **Changes of Ownership**

The Committee, having previously been circulated with the relevant paper, noted the contents which gave details of Changes of Ownership considered by the Chair since the date of the last meeting:

12.1.1 **Case No: PPC/COO1/2023 – M&D Green Dispensing Chemist Ltd T/A M&D Green 5-7 William Street, Johnstone PA5 8DP**

- 12.1.2 The Board received an application from M&D Green Dispensing Chemist Ltd for inclusion in the Board's Pharmaceutical List at the pharmacy previously listed as W B Penman Ltd, T/A Penmans Pharmacy at the address given above, with effect from 1st April 2023. The trading name of the pharmacy will change to M&D Green William Street Pharmacy.

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- 12.1.3 The Committee is advised that the level of service will not be reduced by the new Contractor and that the new Contractor was suitably registered with the General Pharmaceutical Council.
- 12.1.4 Given the above, the Chairman agreed that the criteria required by the Regulations were fulfilled, and accordingly approved the application.
- 12.2 **Case No: PPC/COO2/2023 – M&D Green Dispensing Chemist Ltd T/A M&D Green 72 High Street Pharmacy, 72 High Street, Johnstone PA5 8SG**
- 12.2.1 The Board received an application from M&D Green Dispensing Chemist Ltd for inclusion in the Board's Pharmaceutical List at the pharmacy previously listed as W B Penman Ltd, T/A Penmans Pharmacy at the address given above, with effect from 1st April 2023. The trading name of the pharmacy will change to M&D Green 72 High Street Pharmacy.
- 12.2.2 The Committee is advised that the level of service will not be reduced by the new Contractor and that the new Contractor was suitably registered with the General Pharmaceutical Council.
- 12.2.3 Given the above, the Chairman agreed that the criteria required by the Regulations were fulfilled, and accordingly approved the application.
- 12.3 **Case No: PPC/COO3/2023 – M&D Green Dispensing Chemist Ltd T/A M&D Green Lochwinnoch Pharmacy, 14a High Street, Lochwinnoch PA12 4DA**
- 12.3.1 The Board received an application from M&D Green Dispensing Chemist Ltd for inclusion in the Board's Pharmaceutical List at the pharmacy previously listed as W B Penman Ltd, T/A Penmans Pharmacy at the address given above, with effect from 1st April 2023. The trading name of the pharmacy will change to M&D Green Lochwinnoch Pharmacy.
- 12.3.2 The Committee is advised that the level of service will not be reduced by the new Contractor and that the new Contractor was suitably registered with the General Pharmaceutical Council.
- 12.3.3 Given the above, the Chairman agreed that the criteria required by the Regulations were fulfilled, and accordingly approved the application.
- 12.4 **Case No: PPC/COO17/2023 – Care Pharmacies Ltd, T/A Care Pharmacy, 2354 Dumbarton Road, Yoker, Glasgow G14 0JX**
- 12.4.1 The Board received an application from Care Pharmacies Ltd for inclusion in the Board's Pharmaceutical List at the pharmacy previously listed as Dr William Wilson & Mr Garry Scott, T/A Thistle Pharmacy at the address

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given above, with effect from 1st June 2023. The trading name of the pharmacy will change to Care Pharmacy.

12.4.2 The Committee is advised that the level of service will not be reduced by the new Contractor and that the new Contractor was suitably registered with the General Pharmaceutical Council.

12.4.3 Given the above, the Chairman agreed that the criteria required by the Regulations were fulfilled, and accordingly approved the application.

12.4 **Case No: Various COO for Lloyds Pharmacies**

12.4.1 The Board received the applications listed below from individuals/partnerships/companies seeking inclusion in the Board's Pharmaceutical List at pharmacies previously listed as Lloyds Pharmacy Ltd, T/A Lloydspharmacy at the addresses listed. The effective dates of change and intended trading name of the pharmacy are as noted in attached Appendix.

12.4.2 The Committee is advised in each case the level of service will not be reduced by the new Contractor and that the new Contractor will be suitably registered with the General Pharmaceutical Council at the time the ownership changes.

12.4.3 Given the above, the Chairman agreed that the criteria required by the Regulations were fulfilled, and accordingly approved each application.

12.4.5 **HOMOLOGATED/**

13. **Minor Relocation of Existing Services**

The Committee, having previously been circulated with the relevant paper, noted the contents which gave details of Changes of Ownership considered by the Chair since the date of the last meeting:

13.1 **Case No: PPC/MRELOC01/2023 – Mearns Healthcare Ltd, T/A Dears Pharmacy, 124-126 Ayr Road, Newton Mearns, Glasgow G77 6EG**

13.1.1 Mearns Pharmacy, T/A Dears Pharmacy, made an application to the Board to extend their existing pharmacy from 124 Ayr Road, Newton Mearns, Glasgow G77 6EG to the above unit.

13.1.2 The Lead Pharmacist for Community Care and the NHS Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Subcommittee both recommended that the application fulfilled the criteria for minor relocation as defined within the current pharmacy regulations.

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13.1.3 The Chair, taking into consideration these recommendations agreed that the criteria required by the Regulations were fulfilled and accordingly approved the application.

13.2 **Case No: PPC/MRELOC02/2023 – Care Pharmacies Ltd, T/A Care Pharmacy, 2358-2360 Dumbarton Road Dumbarton Road, Yoker, Glasgow G14 0JX**

13.2.1 Care Pharmacies Ltd, trading as Care Pharmacy, made an application to the Board to relocate their existing pharmacy 2354 Dumbarton Road, Yoker, Glasgow G14 0JX to the above unit.

13.2.2 The Lead Pharmacist for Community Care and the NHS Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Subcommittee both recommended that the application fulfilled the criteria for minor relocation as defined within the current pharmacy regulations.

13.2.3 The Chair, taking into consideration these recommendations agreed that the criteria required by the Regulations were fulfilled and accordingly approved the application.

The meeting closed at 1500 hrs

15. **RESPONSE TO NATIONAL APPEALS PANEL**

Deliberations

15.1 The Chair of the National Appeals Panel (NAP) in a determination dated 12th June 2024, remitted the application back to the PPC for reconsideration, having considered that the appeals made in respect of two grounds were successful.

15.2 In relation to one of the grounds of appeal, the Chair asked that the PPC's decision should be undertaken with reference to other sources of evidence and information taking care not to over rely on the CAR.

15.3 In relation to the other Ground of appeal the PPC were required to provide sufficient reasons- when reaching their decision.

15.4 In line with the NAP instruction, members who sat when the PPC initially considered the application, met at 9.00am on Thursday 20th June 2024.

15.5 Prior to the Chair formally commencing the session, the PPC discussed at length the NAP determination. The pharmacist members of the PPC raised a question as to whether the Chair of the NAP's decision was for

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them to only remedy those parts of the original decision that he had detailed in his determination, or was it for the PPC to reconsider the application in its entirety. If it was deemed to be the latter, then this would be difficult given the passage of time that had passed. If it was deemed to be the former, the pharmacist members were mindful that they would be asked to refine a decision which, although they had contributed to, had been taken by the Lay members of the original PPC and which they did not necessarily agree with.

- 15.6 The PPC asked Mrs Glen to seek Central Legal Office (CLO) opinion on this matter.
- 15.7 Mr Stephen Waclawski from CLO considered the question put to him, and provided the response attached to this minute.
- 15.8 The PPC were satisfied that they could continue and the Chair brought the meeting to order.
- 15.9 The PPC revisited the evidence to familiarise themselves again with the case and explored their original reasoning. It was agreed that all of the content in the original decision formed part of the refreshed decision.
- 15.10 The PPC noted that they had not agreed with the Applicant's definition of neighbourhood, considering instead to extend the West boundary. This neighbourhood was larger and would by definition contain more residential population. The PPC were mindful that the information gathering methods employed during the Joint Consultation exercise would have reached residents within the extended neighbourhood and beyond.
- 15.11 The methods of engagement were varied and would have reached a wide population. The exercise was inclusive and as accessible as possible. The PPC revisited Para 11.9 Page 59 of their original minute and noted that the Joint Consultation exercise was not restricted to the newspaper advertisement. The PPC were satisfied that there were numerous methods to engage as many respondents as possible beyond the original neighbourhood definition.
- 15.12 The PPC acknowledged that the relevant test was the adequacy of service in and to the defined neighbourhood. The CAR and to a significant extent representations at the original hearing had focused primarily on the services provided by one of the existing contractors. The PPC noted that this contractor provided the bulk of the service to the neighbourhood given its close proximity to the nearest GP practice, and the number of prescriptions dispensed by the pharmacy. Most of the negative comments in the CAR related to this pharmacy, and as stated in Paragraph 11.14 of the original note, the Contractor (who had been present at the original hearing) had acknowledged that in an attempt to

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increase the volume of dispensing services from the pharmacy had sacrificed other areas of his business model, which had directly affected the provision of services and by extension patient satisfaction. From a site visit to this contractor's pharmacy, it was noted that there was a significant queue to enter the pharmacy, and it was obvious that the pharmacy was at the physical limit of how it could extend – this was also alluded to by Mr. Mohammed during the original oral session. The PPC also again noted that Mr Mohammed had attempted to improve his service delivery by remodelling the pharmacy interior and installing a 24-hour automated delivery system, and other improvements. However it was the PPC's conclusion that given the large volume of items provided to the neighbourhood by this pharmacy, the service demands, and the physical constraints on the pharmacy, resulted in an inadequate service.

- 15.13 Taking this situation into account, the PPC were satisfied that the provision of pharmaceutical services in the neighbourhood were not adequate.
- 15.14 The PPC were mindful that the weight they could give to the provision of pharmaceutical services to the neighbourhood was restricted to those contractors who had attended the original oral hearing. Although the PPC were provided with information about the other pharmacies, the weight they could place on this was restricted due to the absence of these representatives at the original oral hearing; without representation at the oral hearing there's no opportunity for evidence to be presented and/or challenged.

Decision

- 15.15 Following the withdrawal of Mr Colin Fergusson, Mr Josh Miller and Mr Gordon Dykes in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, the Committee, considered that the provision of pharmaceutical services in and to the Neighbourhood were inadequate.
- 15.16 The Committee unanimously agreed that it was necessary to grant the Application in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the Application was granted. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.
- 15.17 It was the opinion of the PPC that there were deficiencies in service and the legal test had been met. Having come to this conclusion the PPC in keeping with Lord Drummond Young's assertion the PPC had to undertake a further two stage approach then considered whether it was necessary or desirable to grant the application. The PPC were aware that if the

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proposal was to make up a shortfall it would be necessary to grant the application. However, in granting an application on the basis of desirability that may result in over provision at the present time but would result in securing adequacy for the future.

- 15.18 The PPC considered that the granting of the application would make up a shortfall in service provision. This was needed for several reasons including:
- 15.19 - The Contractor who provided the bulk of the pharmaceutical service in the neighbourhood had sacrificed their service provision capability in pursuit of dispensing volume. This had reduced the patient experience as was evidenced through the negative comments in the CAR;
- 15.20 - The PPC did not consider that any of the existing contractors present at the original oral hearing had provided any evidence of their assertion that they had capacity to undertake additional services;
- 15.21 - Having regard to the 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 12 months, and the level of service provided by those contractors to the neighbourhood, the committee agreed that the neighbourhood was not currently adequately served.

The meeting closed at 1230 hrs