



PHARMACY PRACTICES COMMITTEE

APPLICATION BY DAVID STEVENSON FOR INCLUSION IN THE PHARMACEUTICAL LIST IN RESPECT OF THE ADDRESS, 25 MAIN STREET, MID CALDER, WEST LOTHIAN, EH53 0AW

DECISION ISSUED 10 September 2019

Pharmacy Practices Committee

| | |
|-----------------|-------------------------------------------------|
| William McQueen | (Non-Executive Board Member and Vice-Chair PPC) |
| Julie Blythe | (Non-contractor Pharmacist) |
| Mike Embrey | (Contractor Pharmacist) |
| Margaret Tait | (Lay Member) |
| John Niven | (Lay Member) |

Administrator to the Pharmacy Practices Committee

Susan Summers, Contractor Support Officer

Accompanied by

Alison McNeillage, General Manager – Primary Care Contracts (until item 21).

1. **Introductory Remarks and Declarations of Interest**

2. The Pharmacy Practices Committee (PPC) convened at 0940 on 28 August 2019 to consider the application from David Stevenson in respect of premises at 25 Main Street, Mid Calder, West Lothian, EH53 0AS.
3. Members introduced themselves.
4. The Chair of the original PPC, Derek Milligan was unable to attend, and was replaced by William McQueen.
5. One of the original lay members of the original PPC, Ian Melville had since resigned, and was replaced by John Niven.
6. Members confirmed that they had both received and considered the papers relevant to the meeting.
7. The Chair asked members to confirm whether they had any personal or conflict of interest in the application, and explained that this was a quasi-judicial hearing and the Board had a duty to ensure that it was fair and impartial.
8. There were no declarations of interest.

9. **Reason for Meeting**

10. The original PPC Hearing was held on 17 October 2017 at which the PPC approved the application.
11. In a NAP Decision dated 13 February 2018 the Committee was asked by the Chair, NAP, to reconvene, to consider both the Pharmaceutical Care Services Plan (PCSP) and the Consultation Analysis Report (CAR) and other matters referred to in Schedule 3 paragraph 3(1) of the National Health Service (Pharmaceutical Services)(Scotland) Regulations 2009 as amended.
12. The PPC reconvened on 15 May 2018 and issued an amended Decision.
13. That decision had been subject to an appeal and in a further decision from the Chair of the NAP dated 29 November 2018 the PPC was asked to reconvene once again to include a summary of the CAR and an explanation of how the CAR was taken into account in arriving at the decision. Thereafter the PPC was required to issue a further amended Decision.
14. The Committee was therefore reconvened on 28 August 2019. It was a hearing without the parties present.

15. **Initial deliberations**

16. Given the unusual circumstances in that there were now two new members of the PPC conducting this reconvened hearing, the Chair indicated that there required to be some initial deliberations as to the way forward. In particular consideration required to be given as to whether the function of the reconvened hearing was to consider and reach a decision on the application anew, or simply to record, so far as it could, an account of the CAR and the rationale the original panel had applied in looking at the material in the CAR when deciding that existing pharmacy provision was inadequate and a new pharmacy was desirable.
17. Legal advice had been sought on whether there required to be a statement of the reasons for the earlier decision as requested by the Chair of the NAP or a decision to be taken as new. The advice received was that this was to be a decision taken as new:

The original decision has been successfully appealed to the NAP. Albeit the very limited ground on which that appeal was upheld largely related to a failure to summarise the CAR, and to narrate the factors that led to the decision being taken, the decision now no longer stands. It is for the reconvened PPC to take that decision again.

18. The Chair invited views on whether to accept the legal advice obtained or offer a different interpretation of the position.
19. PPC members discussed the legal advice, changes to the membership of the panel which had been outwith their control, and the complications that this presented.
20. The Committee then discussed whether it could reach a reasonable and competent decision on the basis of consideration of the papers which had been previously circulated, advice from the lay member and two pharmacy members present at the original hearing, earlier decisions of the PPC and the decisions of the NAP, but

without the applicant or interested parties present. The PPC concluded that it could on the basis that it was able to evaluate afresh all the written materials available to the original hearing, the minutes of that hearing, the latest NHS Lothian Pharmaceutical Care Services Plan, the views of three Committee members present on 17 October 2017 and that this decision to proceed was consistent with the intentions of the NAP judgements.

21. Alison McNeillage left the meeting.

22. **Information available to the PPC**

23. The reconvened PPC had the following papers available at the reconvened hearing:

- Copies of the original papers from the hearing of 17 October 2017:
 - i. Application form A(1) from David Stevenson with supporting information
 - ii. Objection letter from Lindsay & Gilmour
 - iii. Objection letter from Boots (UK) Ltd
 - iv. Objection letter from Deans Pharmacy
 - v. Objection letter from Lloyds Pharmacy
 - vi. Letter of support from Mid Calder Community Council
 - vii. Email from Lothian Medical Committee (LMC)
 - viii. Unsolicited observation email from Kirknewton Pharmacy
 - ix. Consultation Analysis Report (CAR)
 - x. Maps of the area
 - xi. Dispensing figures
 - xii. Pharmacy profiles
- Decision of the PPC of 17 October 2017 dated 24 October 2017
- Letter of appeal from Lindsay and Gilmour dated 10 November 2017
- Letter of appeal from Boots dated 14 November 2017
- NAP Decision dated 13 February 2018
- Amended Decision of the PPC of 15 May 2018
- Letter of appeal from Lindsay and Gilmour dated 10 September 2018
- NAP Decision dated 29 November 2018
- A copy of the 2018 NHS Lothian Plan for Provision of Pharmaceutical Care Services Delivered via Community Pharmacy (PSCP).

24. **Discussion**

25. The Committee reviewed the CAR and the current PCSP. It noted that this PCSP also made reference to the difference in the average population served by each pharmacy between the four Health and Social Care Partnership areas in Lothian, with West Lothian continuing to have the highest population per community pharmacy: namely 5485 people per pharmacy in West Lothian compared to between 4525 and 4740 in other local authority districts in Lothian.

26. The Chair acknowledged that the advice and recollections from the Committee members who were in attendance at the original PPC hearing were important to the current Committee's accurate appreciation of the original discussion surrounding the CAR and PCSP.

27. Consultation Analysis Report

28. The Consultation Analysis Report had been jointly agreed by NHS Lothian and David Stevenson.

29. The advertisement calling for responses was published in the West Lothian Courier and was posted on NHS Lothian's website. Mid Calder Community Council, the Patient Partnership Forum, Local Councillors and MSPs were informed; Respondents could either respond electronically or could request a hard copy and respond in writing. The consultation ran for a total of 90 working days, the final day for responses being 17th December 2015.

30. The total number of responses received was 297. 263 were submitted from individual members of the public, 7 were submitted from a group/organisation and 29 respondents skipped the question. Two respondents submitted both as an individual and as a group/organisation. The Committee noted the views expressed by interested parties representing pharmacies in neighbouring areas that it was not known where these respondents lived, but it concluded that the number of responses was higher than had been associated with some other pharmacy applications to NHS Lothian and that the views expressed could be taken to be a reasonable expression of the views of the Mid-Calder community.

31. The CAR had contained 9 questions.

32. The Committee, in reaching their decision, gave careful consideration to the number of responses, the content of those responses and the further detail provided by respondents when the questionnaire allowed this. The Committee's consideration of each question in the CAR was as follows:

33. Neighbourhood

Question 1

The Committee noted that 277 (94.9%) of respondents agreed that the neighbourhood described by the applicant was accurate. The Applicant's definition of the neighbourhood was agreed by the original PPC on 17 October 2017:

*The village of Mid Calder, specifically defined with the following boundaries:
Calder Park Road and the River Almond to the North
Murieston Water to the South
The Lizzie Bryce roundabout and Livingston Road (the A899) to the West
The B8046 Pumpherston Road to the East*

The Committee noted that no significant challenge to that definition had been raised. The Committee had before it maps allowing the defined area to be observed. The Committee considered the original decision agreed by the Committee at its hearing in 2017 and concluded that no notable circumstances had changed, and confirmed that the definition of the neighbourhood of Mid Calder was sound and should be upheld.

34. Adequacy of Existing Services

Question 2

Some 219 respondents (85.5%) felt that there were gaps/deficiencies in the existing provision of pharmaceutical services to the neighbourhood. The Committee noted that this view probably reflected a combination of the simple

absence of any Pharmacy at present in the defined neighbourhood and the perception of respondents who were elderly, or disabled, or had chronic ailments, or were families with young children who did not have access to a vehicle during Pharmacy opening hours, many of whom felt that they had poor access to a local pharmacy. The Committee also ascribed weight to the view expressed by the Community Council that access on foot or public transport to the nearest Pharmacy was not straightforward and that the quality of service provided at neighbouring pharmacies had shortcomings.

Question 3

The Committee noted that 275 respondents (95.2%) felt that a community pharmacy would have a positive impact in the neighbourhood. In the absence of the options for respondents to make written comments the Committee took into consideration that the Mid Calder Community Council had made strong representation to the PPC hearing in 2017 citing that pharmacy services in Mid Calder were inadequate as Mid Calder had a mature population with many residents not able to drive or walk the distance to the nearest pharmacies. In addition, the frequency of the bus service to the nearest pharmacy in East Calder meant that a round trip could take several hours.

Question 4

This question asked respondents for their views on the pharmaceutical services being proposed by the applicant e.g.

- Positive comments (89%)
- Negative comments (7%)
- Neutral comments (4%)

The Committee noted the responses to this question. It was not surprising that respondents would regard a new incoming supplier of services as an attractive prospect. The Committee did not think that approving this application would lead to a diminution of the availability of pharmaceutical services elsewhere. They noted that (as detailed in paragraph 25) the provision of pharmacies across West Lothian was more sparse than elsewhere in Lothian. The Committee noted that there were no GP services in Mid Calder itself.

Question 5

The PPC noted that 206 respondents answered “No” and 17 responses answered “Yes” to the question about anything being missing from the list of services to be provided. The Committee noted that there was no further detail in the CAR elaborating on what the missing services were thought to be and that the figures showed substantial satisfaction with the proposed services.

Question 6

The PPC noted the majority response (265 positive responses/94.4%) to the question about a community pharmacy in the neighbourhood working with other NHS health services such as GP practices and concluded that there was a professional obligation by Community Pharmacies to work with other NHS health services and that this would bring benefit to the local population. The applicant had cited the Government’s new strategic commitment to increasing access to community pharmacy as the first port of call for managing self limiting illnesses and stable long term conditions. Whilst noting that community pharmacies outwith the neighbourhood did provide deliveries to Mid Calder the Committee concluded that establishment of a community pharmacy in Mid Calder would benefit patients who might otherwise have to travel to access health services.

Question 7

In relation to the question about whether the proposed pharmacy would have a positive or negative impact on existing NHS services the PPC noted that 262 respondents (92.9%) had answered positive. The Committee noted that the population on the whole was reasonably affluent with higher than average car ownership and that it was likely that a proportion of residents of Mid Calder, in particular those travelling by car, would access pharmacy services on their way to and from work. The Committee went on to note that residents living on the east side of Mid Calder would probably find it easier to access pharmacy services in East Calder. However, the elderly and families with children attending the local primary school would benefit from a local, easily accessible pharmacy and this would have a positive impact on existing NHS services. Also, the new housing proposed both in Mid and East Calder will put additional pressure on pharmaceutical services in the area; a pharmacy in Mid Calder would be desirable to help to ease this pressure.

Question 8

This question related to the location of the proposed community pharmacy. Many of the positive comments (222 comments/96%) stated that the location was good/ideal/excellent/perfect. The Committee noted the strong, positive responses to the proposed location and that assurances had been given by the Applicant and supported by the Community Council, that parking would be improved at the location in 2018.

Question 9

Again there was a positive response (86%) to the proposed opening hours though the Committee noted that some of the neighbouring pharmacies offered longer opening hours than those proposed by the Applicant.

35. The Committee went on to look at the existing pharmacy services in the area. The Committee concluded that because of the distances to travel by the population of Mid Calder, difficulties in public transport in respect of frequencies and location of stopping points, and unsuitable sections of pedestrian access for those with limited mobility or accompanied by small children, the existing services were inadequate.
36. The Committee noted that the nearest GP practice was in East Calder and that most of the patients currently accessed pharmacy services in East Calder. A pharmacy located in Mid Calder would be able to supplement the GP services in East Calder by providing the proposed range of services which would be desirable.
37. The Committee further noted that evidence and opinion from the Mid Calder Community Council had been given to the PPC hearing in 2017 about complaints surrounding the level of service offered by the pharmacies in the local area and the strength and volume of representations to them from residents of Mid Calder about the desirability of a pharmacy in Mid Calder. It was further noted that the representatives of the Interested Parties had stated that they were not aware of any specific complaints so there existed a conflict of opinion on the quality of existing provision. The PPC concluded that the level of pharmaceutical service available currently to the neighbourhood of Mid Calder was not adequate in particular for certain groups in the community.
38. **Delay**
39. The Chair invited observations from Committee members on the NAP Chair's criticism of the Board for the delays which had occurred in getting to this stage in

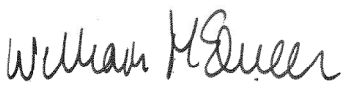
relation to this application for inclusion in the pharmaceutical list. The Committee acknowledged that the criticism was valid and requested that the Chair raise these concerns about delays in the PPC process with NHS Lothian. He undertook to do so and to make some proposals for reducing this risk in future.

40. In accordance with the statutory procedure the Pharmacist members of the Committee (Ms Blythe and Mr Embrey) left the meeting and were excluded from the voting process.

41. **Decision**

42. The PPC had been asked by the Chair NAP to reconvene once again to include a summary of the CAR and an explanation of how the CAR was taken into account in arriving at the decision. A summary of the CAR has been presented in paragraphs 27 to 34 above. Within that summary and in paragraphs 35 to 37 the PPC has explained how the CAR and consideration of the evidence available to it was taken into account.

43. Taking into account all of the information currently available, with the input from members present at the hearing on 17 October 2017, and for the reasons set out above – in relation to inadequate current service provision into the neighbourhood of Mid Calder and in the earlier decisions of the PPC - the Committee decided that it agreed with the decision of the PPC taken in October 2017 which should be upheld. The Committee decided that the provision of pharmaceutical services at the premises 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 that accordingly the application should be granted. The decision was unanimous.

Signed..... 
William McQueen, Vice Chair
Pharmacy Practices Committee

Date 10 September 2019