

**Pharmaceutical Services Regulations Committees meeting in common for:
Buckinghamshire, Oxfordshire and Berkshire West ICB, Hampshire & IoW ICB & Frimley ICB**

Annex 24 to the minutes of the meeting held on Wednesday 27th March 2024.

MC Shirley Ltd – No Significant Change Relocation

- **CAS no: CAS – 257439 -P1Q7J6**
- **Current Site – 17 Grove Road, Shirley, Southampton SO15 3HH**
- **Proposed Site – 302 Shirley Road, Shirely, Southampton SO15 3HL**
- **Southampton HWB**

1. THE APPLICATION

- 1.1. An application from MC Shirley Ltd for a relocation that does not result in a significant change to pharmaceutical services provision was received on 23rd October 2023. The Applicant was proposing to relocate from 17 Grove Road, Shirley, Southampton SO15 3HH to 302 Shirley Road, Shirely, Southampton SO15 3HL.
- 1.2. The Committee was now required to consider the application in accordance with Regulations 24 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

2. CONSIDERATION

The Committee considered the following:

- 2.1. The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 2.2. The application form provided by the Applicant –
 - 2.2.1. The Committee noted the reasons stated by the Applicant as to why the application should not be refused under Regulation 31.
 - 2.2.2. The Applicant had indicated that the same services would be provided at the new premises and there would be no interruption to service provision.
 - 2.2.3. The current contracted hours would continue to be provided at the new premises.
 - 2.2.4. The Committee noted the “not applicable” responses provided by the Applicant as to why the application should not be refused pursuant to Regulation 24 (3)(a)-(c).
- 2.3. Maps and a photograph of the current premises.
- 2.4. Information from a virtual site visit of the Shirley area that had been undertaken by a Pharmacy Commissioning Hub representative. Members of the Committee were familiar with the area.

- 2.5. Representations made by Boots UK Ltd, Hampshire & Isle of Wight LPC and Temple Bright on behalf of Arun Sharma Chemists Ltd. Noting that Boots UK Ltd and Hampshire & Isle of Wight LPC both had no comments to the application. Temple Bright on behalf of Arun Sharma Chemists Ltd objected to the application.
- 2.6. All additional information, including location and distances of surrounding pharmacies and their opening times.
- 2.7. Department of Health – Regulations under the Health and Social Care Act 2012: Market Entry by means of Pharmaceutical Needs Assessments – Chapter 10.
- 2.8. The Committee noted the proposed location is in a non-controlled locality.
- 2.9. The Committee noted the address of the application was within a non-controlled locality and therefore it would not be required to consider the discontinuation of arrangements for the provision of pharmaceutical services by doctors to the affected patients under Regulation 50.
- 2.10. The Committee decided it was not necessary to hold an oral hearing before determining the application.

Regulation 31 – Refusal: same or adjacent premises

- 2.11. The Committee noted that it was required to refuse an excepted application, if the two conditions under paragraph 31(2) applied. These conditions are –
 - *A person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services (“the existing services”) from the premises to which the application relates, or adjacent premises; **and***
 - *The NHSCB is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).*
- 2.12. The Committee noted the Applicant’s comments with regard to why the application should not be refused pursuant to Regulation 31. There is currently no other NHS pharmacy contractor included in the pharmaceutical list at or adjacent to the proposed premises.
- 2.13. The Committee concluded that it was not required to refuse the application for the purpose of Regulation 31.
- 2.14. Having established that it did not have to refuse the application under Regulation 31 the Committee moved on to consider Regulation 24.
- 2.15. It was noted that the proposed relocation did not involve a change of area of HWB and therefore regulation 24(2) did not apply.
- 2.16. The Committee considered the circumstances when it must refuse such an application as detailed in regulation 24(3) and concluded that none of these circumstances applied in this case.

- 2.17. Having established that the application did not need to be refused under regulation 24(3), the Committee proceeded to consider each of the 5 criteria under regulation 24(1).

Regulation 24(1) – Relocation that do not result in significant change to pharmaceutical services provision (different premises in the area of the relevant HWB)

- 2.18. The Committee had regard to Regulation 24(1), which requires the following five conditions to be met:

Regulation 24.-(1) Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB (HWB1) if-

- (a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;*
- (b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list-*
 - (i) in any part of the area of HWB1, or*
 - (ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*
- (c) the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*
- (d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB chooses to commission them); and*
- (e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow).*

Regulation 24(1)(a)

- 2.19. The applicant has defined the patient groups accustomed to accessing pharmaceutical services at the existing premises in their application. Those being:
- *Patients that utilise the free collection & delivery service.*
 - *Patients that originate from GP surgeries requiring access to Pharmaceutical Services.*
 - *Patients that require access to Pharmaceutical Services other than after a visit to a GP surgery.*
- 2.20. The Committee noted the close proximity of the current premises and the proposed premises/central shopping area. The distance between the two premises is 150 yards, the average walking time is 2 minutes. The applicant described the route as being “straightforward with no major barriers to overcome”.

- 2.21. The Committee noted that the journey by foot is on flat, maintained and well-lit pavements. The Committee also noted that both premises can be accessed using the same bus route/bus stops.
- 2.22. The Committee noted that both the existing and proposed premises are central to the Shirley area and that therefore access from where people live or shop is not significantly different at either site.
- 2.23. The Committee was satisfied that given the close proximity of the proposed premises to the current premises and the central location of both premises, that the location of the new premises is not significantly less accessible for the patient groups accustomed to accessing pharmaceutical services at the existing premises.

Regulation 24(1)(b)

- 2.24. The Committee had no evidence or information to suggest that granting the application would result in a significant change to arrangements for the provision of local pharmaceutical services or pharmaceutical services other than those provided by a dispensing doctor.
- 2.25. The Committee was satisfied that the relocation would not result in a significant change to the arrangements for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list in any part of the HWB.
- 2.26. Having due regard to regulation 24(1)(b) (ii), the Committee was aware that the location of the proposed premises was not within 1.6 kilometres of a controlled locality in a neighbouring HWB.

Regulation 24(1)(c)

- 2.27. The Committee had no reason to think there would be significant detriment to proper planning and there was no information from any other party arguing significant detriment to proper planning. The Committee considered the locations of existing pharmacies as well as the proposed site and medical practices within the area and was satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area.

- 2.28. **Regulation 24(1)(d)** – the Applicant had confirmed that the same services would be provided at the new premises as are currently being provided at the existing premises. The Committee was satisfied that the condition in Paragraph (d) had been met.

- 2.29. **Regulation 24(1)(e)** - the Applicant confirmed that the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow), The Committee was satisfied that the condition in paragraph (e) had been met.

- 2.30. The Committee was satisfied that the provisions of Regulation 24(3)(a)–(d) do not apply.

- 2.31. The Committee determined that conditions under Regulation 24(1)(a), (b), (c), (d) and (e) are satisfied.

- 2.32.

3. DECISION

- 3.1. The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 3.2. The Committee determines the application as follows –
 - 3.2.1. the Committee was satisfied that the location of the new premises is not significantly less accessible for the patient groups.
 - 3.2.2. the Committee was satisfied that the relocation would not result in a significant change to pharmaceutical services or dispensing services.
 - 3.2.3. the Committee was satisfied that granting the application would not cause significant detriment to proper planning.
 - 3.2.4. the Committee was satisfied that the same services would be provided at the new premises.
 - 3.2.5. the Committee was satisfied that the provision of pharmaceutical services will not be interrupted.
- 3.3. The Committee determined to **grant** the application.

4. THIRD PARTY RIGHTS OF APPEAL

- 4.1. The application is granted so the applicant does not have appeal rights.
- 4.2. The Committee decided that the parties that should have third party rights of appeal are:
Arun Sharma Chemists Ltd.