

NHS GRAMPIAN

Report of the Pharmacy Practices Committee of its consideration of an application by Opel & Associates Ltd for inclusion in the Pharmaceutical List within The Health Centre, Tarves Road, Pitmedden, Aberdeenshire AB41 7NX. On Thursday 1st October 2010 at 11.00am the Committee visited the site of the proposed premises and the surrounding area. Thereafter a hearing was held at 1.30pm in the Conference Room, Summerfield House, Eday Road, Aberdeen and was subsequently adjourned. The re-scheduled hearing was held at 10.00am on Thursday, 9th December, 2010 in the Board Room, Aberdeen Royal Infirmary, Foresterhill, Aberdeen.

1 INTRODUCTION

The Committee had before it an application dated 9th August 2010, received by NHS Grampian on 10th August 2010, from Opel & Associates Ltd to request inclusion in the Pharmaceutical List within The Health Centre, Tarves Road, Pitmedden, Aberdeenshire AB41 7NX. With effect from 1 April 2004 NHS Grampian assumed responsibility for the Pharmaceutical List and inclusion therein.

In accordance with the regulations governing applications for new contracts, all interested parties were informed of the application and of their right to make written representation to the Board.

Following consideration of written representations received, the Chair of the Pharmacy Practices Committee decided that the applicant and interested parties should be given the opportunity to give further information to the Committee at a hearing.

2 HEARING

Attendees: Pharmacy Practices Committee: [REDACTED] (Chair), [REDACTED]
[REDACTED]

NHS Grampian: [REDACTED] Legal Advisor and [REDACTED]
Clerk to the Pharmacy Practices Committee, [REDACTED] Director of
Pharmacy

Observing: [REDACTED] Board Secretary and Director of Corporate
Communications

Applicant: [REDACTED] Opel
& Associates Ltd

Interested Parties: [REDACTED] Semple & Semple Healthcare Ltd
[REDACTED] Area Pharmaceutical Committee
[REDACTED] Area Medical
Committee/GP Sub Committee

Prior to the commencement of the meeting the Chair of the Committee established that none of the Committee members had a personal interest regarding the application.

The Chair of the Committee also obtained the agreement of all present for [REDACTED] Board Secretary to sit in on the proceedings.

The Chair of the Committee advised the parties of the procedure of the hearing and its purpose in terms of paragraph 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 which was narrated to all present by the Chair:

“An application made in any case other than the one to which paragraph (3) or (4) applies, shall be granted by the Board, after procedures set out in Schedule 3 have been followed, only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of the pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the pharmaceutical list.”

The Committee members had before them copies of the application by Opel & Associates Ltd and supporting documents as follows:-

- I. Letter dated 21st July 2010 from [REDACTED], Opel & Associated Ltd providing rationale for application
- II. Letter dated 16th August 2010 from Carden medical Investments Ltd – confirmation of lease agreement
- III. Letter dated 23rd August 2010 from Tarves Community Council
- IV. Letter dated 31st August 2010 from Haddo Medical Group
- V. Letter dated 1st September 2010 from Central Aberdeenshire LCHP
- VI. Letter dated 8th September 2010 from Udney Community Council
- VII. Letter dated 20th September 2010 and Rationale from Opel & Associates
- VIII. GP location map
- IX. Pharmacy location map
- X. Article [REDACTED] entitled “Fight Fire With Fire” from Scottish Pharmacist magazine

The Committee members also had before them copies of the following responses:-

- I. Email dated 13th August and 2nd September 2010 from [REDACTED]
- II. Letter dated 13th August 2010 from Rowlands Pharmacy Ltd
- II. Letter dated 24th August 2010 from Area Medical Committee
- III. Letter dated 7th September 2010 from Area Pharmaceutical Committee
- IV. Email dated 10th September 2010 from Central Legal Office address concerns raised in [REDACTED] emails of 13th August and 2nd September 2010

The parties to the hearing had before them copies of the application and representations from other interested parties.

[REDACTED] stated the case for Opel & Associates Ltd and was questioned by the other Interested Parties and the Committee.

Other Interested parties;

[REDACTED] - Semple & Semple Healthcare Ltd
[REDACTED] Chair – Area Medical Committee/GP Sub Committee
[REDACTED] Chair – Area Pharmaceutical Committee

- who were questioned in turn by other interested parties and the Committee.

The interested parties were given the opportunity to summarise their case and then the Applicant was given the opportunity to summarise her case. The parties were then asked if they felt they had received a fair hearing and they agreed they had. The parties were then informed that a report of the proceedings would be sent to the Board within the following 10 working days. The parties would be notified in writing of the Boards decision and their rights of appeal within 5 working days of the Board receiving the final report.

On completion of the hearing, the parties withdrew. The Committee then considered the evidence, which had been placed before it.

3 SUBMISSIONS

3.1 [REDACTED] Opel & Associates Ltd

The PPC will be fully aware that there has been 2 previous applications submitted requesting permission to join the pharmacy list to provide pharmaceutical services in Pitmedden. As the address cited in the previous application was unavailable, neither application could be progressed.

We are here today to submit an application for Opel & Associates Ltd to join the pharmaceutical list for the provision of pharmaceutical services in Pitmedden. The decision to make this application was made after careful consideration and consultation with the local Community Councils. It is with their support and encouragement that we have pursued this application. If the application is successful, the pharmacy will be located within a modified part of the Pitmedden surgery building.

It is hoped that the application will satisfy the regulations and allow the provision of a new pharmacy contract, which will confer definite advantages to the healthcare and wellbeing of the residents living in the neighbourhood of Pitmedden.

I ask the PPC to consider the application with a view to the Legal Test.

Neighbourhood

The neighbourhood is the simple footprint of the boundaries of the built up village of Pitmedden, which is residential in nature.

The population of Pitmedden in the 2001 census was just over 1000, this has subsequently grown to almost 1500 in the 2006 Community Profile.

Pitmedden is a distinct community with its own school, a public bar, a hotel, village shop, sheltered housing complex and a village hall which is a facility used to full capacity. There is also a local church, a post office, bowling green, tennis court, Public Park and the Formartine Football Club pitches.

The application, if accepted, would be to provide services to the neighbourhood of Pitmedden, but it would be anticipated that smaller communities in the local area, within walking distance such as Udney Green would also be able to avail themselves of this service if desired.

Adequacy of Existing Services

When considering the adequacy of local pharmaceutical services in this neighbourhood, it is clear there are no services and they are therefore inadequate.

In looking at the adequacy of access to pharmaceutical services, it can be seen that the six closest existing pharmacies are located between 5.5 and 11 miles from Pitmedden. These distances have been measured using the AA Route planner and are the shortest possible routes.

Those people in the neighbourhood, who receive their dispensing service from the dispensing GP practice, presently have to travel several miles to seek the advice of a pharmacist, purchase over the counter and pharmacy only medicines or to avail themselves of any of the available pharmaceutical services, which by definition legally cannot be provided by a medical surgery alone.

Public transport in the area of Pitmedden is widely acknowledged as being limited, infrequent and at times unreliable. The simple act of picking up a dispensed prescription would take over 2 hours when using the nearest pharmacy at the given distances. There is a limited taxi service in Pitmedden village itself. However, outside operators charge £20 - £25 for a round trip fare to Ellon, which for most patients is unaffordable.

When the pharmacy in Tarves opens, this will not ease the difficulty that residents in Pitmedden will have in accessing pharmaceutical services. The public transport system has previously been demonstrated to be extremely time consuming as was illustrated by an independent report by BBC Radio Scotland. The recent adverse weather conditions have only served to emphasize this.

Current policy is that the public should have access to the full range of Pharmaceutical Care services, regardless of where they live in Scotland.

In terms of adequacy of existing services, the population of Pitmedden is currently required to travel almost 6 miles to obtain pharmaceutical services.

It would be hard to argue that six miles or perhaps even 3.5 miles is a reasonable distance for a community to travel to access a pharmaceutical service.

Necessity

Finally, it needs to be considered whether it is necessary to grant this application in order to secure the adequate provision of pharmaceutical services. To quote the Cabinet Secretary, Nicola Sturgeon *"as a general rule, the Scottish Government sees it as desirable that where possible, patients should have access to the wider range of pharmaceutical services that can be delivered through a community pharmacy. Where that is not possible, National Health Service Boards can request GP practices to dispense."*

In other words, it is Government policy and always has been that the default position is for patients to acquire their medication from a pharmacy. Only where that is not possible or where the pharmaceutical services are inadequate are the NHS Boards obliged to request GP practices to dispense.

The inadequacy of existing services is exemplified in that there is no pharmacy within the neighbourhood of Pitmedden, not only this but local GP's have been instructed to dispense to the same group of patients suggesting that there is a necessity for a dispensing service.

The proposed pharmacy is likely to have a positive long-term impact on the local community in terms of addressing national policy priorities and local Health Board priorities. It is envisaged that the proposed pharmacy would work closely with the local GP surgery to develop and supplement the services already provided.

The relationship between pharmaceutical and general medical services needs to be robust in order to provide a cohesive service that benefits the local population. By locating the pharmacy within the local medical practice, it can be anticipated that this will occur and it is hoped that by granting this application, Opel & Associates will be able to provide not only an adequate, but also a highly professional pharmaceutical service which will benefit the neighbourhood of Pitmedden.

QUESTIONS FROM INTERESTED PARTIES

██████████ – **Semple & Semple Healthcare Ltd**

██████████ confirmed she had no questions for the applicant.

██████████ – **Area Pharmaceutical Committee**

██████████ asked for confirmation of the services to be provided by the proposed pharmacy. This was confirmed as being the full range of services as required under the Pharmacy Contract.

██████████ – **Area Medical Committee/GP Sub Committee**

██████████ confirmed he had no questions for the applicant.

QUESTIONS FROM COMMITTEE

It was asked if Opel & Associates have adequate finances available to progress with the application if it is approved. It was confirmed to the committee that funding was in place.

It was then asked if the relationship between the pharmacy and the practice would work. It was confirmed that there had been discussions between Opel & Associates and Haddo Medical Group to develop a working relationship, which would benefit patients.

It was asked if any of the GP's had shares in Opel & Associates Ltd. It was confirmed that they did not and that the GP service is a totally separate entity from the proposed pharmacy and there would be no conflict of interest.

It was asked if the pharmacy would open outwith the surgery hours. This was confirmed.

It was asked if the neighbourhood could be confirmed for the committee. It was confirmed by the applicant that the neighbourhood was that of Pitmedden and the green fields surrounding the village on all sides.

INTERESTED PARTIES

██████████ – **SEMPLER & SEMPLER HEALTHCARE LTD**

██████████ began by confirming ██████████ is a partner in Semple & Semple Healthcare Ltd and

will be the sole contractor of Tarves Pharmacy from Tuesday 14th December, 2010 and therefore has a considerable interest in the outcome of this application. [REDACTED] went onto read out a statement on behalf of her partner [REDACTED] as he was unable to attend the hearing due to the weather conditions in the central belt. [REDACTED] also provided the PPC with a copy of the full statement for their records.

Statement read out [REDACTED]

I am here today to explain why pharmaceutical services in Pitmedden can be considered adequate according to the regulations and accordingly, why this application fails. However, the second theme of my statement today is consistency.

My position with regard to the provision of pharmaceutical services in the area bounded by the Haddo Medical Practice, is that NHS pharmaceutical services were inadequate in each of the three population centres (Pitmedden, Tarves and Methlick), which I would describe and have previously described, as discrete neighbourhoods. However, this inadequacy will be addressed by the opening next week of the new Tarves Pharmacy. This will address not only the inadequacy of pharmaceutical services in Tarves, but also in Pitmedden, Methlick and for the rural community in the wider area.

The neighbourhood is that of the village of Pitmedden, bordered on all side by open fields. There are adjoining neighbourhoods with NHS Community pharmacies in:

Tarves – 3.5 miles (opening on 13th December 2010)

Oldmeldrum – 5.7 miles

Ellon – 5.6 miles

Pitmedden is surrounded by a number of smaller hamlets and settlements, which could of course be considered “neighbourhoods”, but I have omitted them on the basis of their size and relevance to this application.

For the purposes of this application, we must include Tarves pharmacy as an existing service, although it has not opened yet. Judicial Reviews have made it quite clear that known events in the near future must be taken into account when determining the adequacy of existing services.

Furthermore, when considering existing pharmacy services, it is only fair to consider those other pharmacies located in Tarves, Ellon and Oldmeldrum and of course, those other pharmacies which may be used by residents of Pitmedden whilst, for example they are at work in Aberdeen.

As the Scottish Government has stated in their very recent consultation on the Control of Entry Regulations.

“Where a patient would have serious difficulty in having their prescribed medicines dispensed, Boards can instruct general medical practitioners to dispense medication to patients.”

It is not the case that GP dispensing should take place in a neighbourhood simply because it has an inadequate pharmaceutical service. The extent of the lack of service

should be such that access to a pharmacy presents patients with a serious difficulty.

With the opening of Tarves pharmacy, there is absolutely no question of patients having a serious difficulty in accessing a pharmacy and accordingly, dispensing at Pitmedden must cease.

To be honest I don't understand why NHS Grampian ever allowed the Pitmedden Surgery to dispense. The towns and pharmacies of Ellon and Oldmeldrum are both easily accessible by public transport or by car. But we are not here to debate why GP dispensing at Pitmedden should never have been allowed. We're here to consider the adequacy of pharmaceutical services in Pitmedden, particularly in light of the granting of an NHS Pharmacy contract in Tarves.

To recap, there is no existing pharmaceutical services in the neighbourhood in which the premises are located. Of course this is far from unusual, especially in NHS Grampian. There are however, pharmacy services provided to the neighbourhood, primarily from Ellon, Oldmeldrum and as of next week from Tarves.

Adequacy of Existing Services

The key question in any application is the adequacy of the existing services previously described. If they are adequate, then the application fails. That is the end of the matter. I believe the services previously described, to a neighbourhood such as Pitmedden, are more than adequate.

A brief work about "adequacy." I am of course, paraphrasing from a famous Judicial Review and I'm sure the PPC are aware of it if not the applicants.

"There are no degrees of adequacy, adequate is a fixed point on a continuum which starts at "no service" and ending at "a perfect service." You cannot offer new services or improved services, better services or more convenient services to an already adequate service and make it more adequate. Adequate is a fixed point on the continuum

Just to reiterate, NHS Boards should not request dispensing by GPs simply because they think services in a neighbourhood are inadequate. Serious difficulty in accessing services is a point much further back down this quality of service continuum. In fact, not far off "no service." So with that out of the way, let us consider the adequacy of the pharmaceutical services currently offered to the residents of Pitmedden.

When determining adequacy, there are two main factors to consider. The first is the demographics of the population in question, by which I mean the size of the population, the mobility, the age and the level of deprivation. The latter have the largest effect on general health. The second is the ease of access to the pharmacies currently offering the service.

Firstly, according to Aberdeenshire Council, the population of Pitmedden is 1424 which is not expected to increase. The demographics for Pitmedden as obtained from the SNS Report 2009 is working age of 62%, pensionable age is 12.85%, children 25% and income deprived 4%. Therefore Pitmedden is termed as a healthy, wealthy and young population. However, that fact would not preclude the awarding of an NHS pharmacy contract. The question is how easy is it for this healthy, wealthy population to access an

NHS pharmaceutical services?

Secondly, how easy is it for this population to access an NHS Pharmaceutical Service? Actually, in this case the question will be how easy will it be when dispensing ceases, since until now they do not receive a full pharmaceutical service. They can't, they never see a prescription. Well, being a young and relatively rural population, the primary mode of transport will be by car. This is one of the "givens" of a rural lifestyle. We can get an idea of the levels of car ownership from the 2001 census. Bearing in mind, this census is now nine years out of date.

The levels of 1 car or van ownership per household in Pitmedden is 41.94%, compared to 43.35% in Scotland. For households with 2 or more cars or vans, the figure is 41.24% in Pitmedden as compared to 18.62% for Scotland. However 10.37% of the population are without a car, perhaps 140. So we can clearly see that there is an extremely high level of car ownership in Pitmedden, almost half the households owning 2 cars.

And there's more we can reasonably assume. If there are any housebound residents of Pitmedden, then they will be in this group and for the housebound, the location of the local pharmacy is irrelevant because they can rely on home deliveries. A service they do not currently receive. However, Tarves pharmacy will provide a comprehensive prescription collection and home delivery service. So we can reasonably assume that there are only between zero and 80 residents who do not have access to a car and this doesn't take into account helpful neighbours. Excluding the housebound, this group will rely heavily on public transport.

Just to confirm the figures about car ownership and the ways that residents access services, I would like to refer to a report prepared by the combined community councils of Methlick, Tarves and Udney in advance of the recent Tarves NAP hearing.

This is a valuable document, ironically since it was prepared by the campaign which opposed my pharmacy and now supports the Pitmedden application.

A survey of 1000 households, including Pitmedden was undertaken and of the 2000 questionnaires distributed, 846 were returned, which is well above the average of 22%. It was also noted there was no press coverage prior to the survey so as not to unduly influence residents in the area covered within the boundary of the Haddo Medical Practice.

The survey results showed that of those returned questionnaires, 11% used public transport, 84% use their car and the remaining 5% use other means of transport to access the nearest pharmacy. However, many people do not habitually use their local pharmacy. The journey time to the closest pharmacy will now be 5 minutes.

One statement is interesting though "...poor public transport in our communities...." It has been a recurring theme of the Tarves/Pitmedden applications that constant references are made to the inadequacy of public transport. Obviously, given that we are talking about the inadequacy of public transport to a pharmacy, the key issue is: "How easy is it to get from the neighbourhood in which the premises are located to a neighbourhood with a pharmacy?" In fact, in a recent item on BBC Landward, the presenter was invited to the area by local activists and produced an extremely one-sided news item about the opening of the pharmacy in Tarves and the proposal to open on in

Pitmedden. As part of the programme, he actually made the journey from Tarves to a pharmacy by public transport and confirmed the claims that have been made over and over again that the return journey can take two hours.

There are 16 different journeys per day, Monday-Friday that can be taken by residents of Pitmedden in order to access an NHS Community Pharmacy by bus, roughly speaking two every hour. The shortest round trip is 23 minutes, with a 9 minute dash to the pharmacy and the longest by far is 1 hr 31 minutes with 1 hr 17 minutes at the destination. Unsurprisingly, the shortest and easiest journey is to Tarves and back.

This is not an inadequate situation for the small number of residents who use public transport. In fact, the residents of Pitmedden have an excellent public transport service and this is a very different message than we have been hearing until now, but it is a factual message. The Saturday and Sunday services are not a full Monday-Friday service, but they are available.

To recap, the residents of Pitmedden have high levels of car ownership and in particular unusually high levels of two or three car ownership and there are a small number of residents in Pitmedden who would require public transport to visit a pharmacy. The driving distance to a pharmacy will be 5 minutes. Therefore residents of Pitmedden will have no difficulty in accessing NHS pharmacy services.

There can't really be any evidence of inadequacy. There are two reasons for this. The first is that the GPs are still dispensing. Only when they cease dispensing will the residents of Pitmedden have any idea of how easy it is to access the pharmacy in Tarves or indeed the pharmacies in Ellon and Oldmeldrum. The evidence that they will find it easy to access the pharmacies at these three sites is overwhelming, as I have just shown.

They may say that it isn't as convenient as picking up a repeat prescription from the Pitmedden surgery or maybe having an antibiotic dispensed straight after a consultation with a GP at the surgery. But that's not the same thing. Previous convenience of a dispensing service does not give this small population an automatic right to an equally convenient NHS Pharmaceutical service, any more than any small village which already has an adequate pharmaceutical service, though not located in the village.

This is an important point and it is the reason for the huge public support for a pharmacy in Pitmedden. Residents are used to having a convenient outlet for their prescriptions, right next to their GP. They have no real experience of a full NHS pharmaceutical service. They understandably demand that this convenient service is maintained and they have been told that the only way it can be maintained is to have an NHS pharmacy in the Pitmedden surgery. I'm afraid the regulations are not designed to satisfy a demand for convenience. They are designed to ensure a rational spread of NHS community pharmacists in a cash-strapped NHS.

NHS community pharmacies cost a lot of money and that cost is ultimately borne by the NHS, that's why we have Control of Entry arrangements. You may also think that the adequacy of NHS Pharmaceutical Services is inextricably linked to their closeness to a GP. Not true.

NHS pharmacy services are operated independently of GPs. The days of prescriptions

having to be collected from the surgery and then taken to the pharmacy are long gone. 85% of prescriptions are repeats and almost every pharmacy now collects repeat prescriptions on their patient's behalf. CMS and 48 week repeats will drive this separation of NHS pharmacy and GMS services further apart, though bringing co-operation between pharmacist and GP closer.

The panel may be aware of the recent failed application in Caol, Inverness within a new purpose built health centre. This application went all the way to Judicial Review, to no avail. The fact that the health centre was some distance from the nearest pharmacy was not considered relevant by NAP, all the matters is whether services in the neighbourhood are adequate. Inconvenient perhaps, inadequate, not the same thing.

Let us also not forget the remarkable influence GPs can have over their patients. That influence can be exerted when they are fighting off a pharmacy application or indeed when they want support for their own pharmacy business venture. Personally, I don't approve of this.

Residents of Pitmedden have an adequate pharmacy service and the application fails at this most important hurdle in the Legal Test.

I mentioned at the start of my presentation that a secondary theme was consistency. I have been through the minutes of the PPC hearing, the NAP hearing and any public statements I [REDACTED] have made regarding my application in Tarves and my objection to this application in Pitmedden. My arguments have been consistent throughout and I challenge anyone to find one inconsistent statement I have made. Someone may claim that my application in Pitmedden is clear evidence of inconsistency. I hate to disappoint, but that application was withdrawn as soon as the Tarves application was granted and I have the email to prove it. Can the same be said for the other interested parties?

Now, don't get me wrong, the APC and AMC are perfectly within their rights to take an opinion of any application. Of course they are. What I find extremely worrying is the complete lack of consistency shown by these two Statutory Health Board Committees. Can I remind you of the position of the APC when I applied to open a pharmacy in Tarves. [REDACTED] advised that there is genuine concern amongst the APC and highlighted their concerns around the allocation of a pharmacy contract in Tarves, saying it felt that this application to establish a new pharmacy was neither necessary nor desirable. Fair enough.

However, in September, 2010 with an extra pharmacy contract now having been awarded in the area previously served by the Haddo Medical Group, the view of the APC changes to state that the APC is supportive of a new pharmacy contract to provide pharmaceutical services in the neighbourhood of Pitmedden as there is no current provision of the full range of services as defined within the pharmacy contract.

I am used to a lack of understanding of the regulations amongst APC members, but I would have hoped for a little more consistency in their thinking. How can a pharmacy in Tarves be not necessary nor desirable, but a pharmacy in Pitmedden, even with a brand new pharmacy opening 3.5 miles up the road be supported?

Then we have the Area Medical Committee. In November 2009, the AMC advised the

PPC that “the committee considers adequacy of service to patients is provided by the current arrangements.” Contrast this with the response to the application by Opel & Associates to open a pharmacy in Pitmedden where “the AMC is pleased to support this application.”

Please note the applicants are not the GP practice. Even though they have made it clear in the press that they are behind the application, a GP practice cannot own a pharmacy. That’s why the application is by Opel & Associates. If granted, the income derived from the pharmacy will be paid as a dividend to these GPs as directors of a Limited company. Are we to believe they will take their dividend and invest it in GMS? Seriously?

I do wonder what has brought about the sudden interest in and support for commercial pharmacy businesses. At the Tarves PPC, ██████ reiterated that my application in Tarves was neither necessary nor desirable and went on to state the application was unnecessary as there are 10 pharmacies within a 10 mile radius of Tarves. Patients may avail themselves of pharmaceutical services at any of these locations by the AMC for this application when they were not supportive of the application in Tarves. So residents of Tarves are expected to access services at a pharmacy within a 10 mile radius, but residents of Pitmedden who have, as I have shown, an infinitely better bus service cannot access the 4 pharmacies within a 5 or 10 minute drive or bus journey! Consistent? No, I do not think so!

██████ does not understand the Pharmacy Regulations. It is entirely true that my aim is to provide services to the entire population of the wider area of Tarves, Methlick and Pitmedden. This would be called a catchment area. It does not mean it is my neighbourhood. The quirk in the regulations, the application of the Legal Test only to the neighbourhood in which the proposed premises are located, is the source of much confusion. But when you get your head round it, it is entirely logical. Once a pharmacy exists, it is not precluded from providing a service to neighbourhood’s outwith the neighbourhood in which it is located and consideration of the adequacy of service in these adjacent neighbourhoods must include this service. That’s kind of complicated, but it is THE REGULATIONS.

Of course I would expect my colleagues in Ellon and Oldmeldrum to also strive to provide a service to many of these patients.

As I mentioned earlier, ██████ also told the NAP that there was a 2.5 hour round trip from Tarves to Pitmedden. I will be interested to hear if he repeats this absolute nonsense when he makes his own presentation. ██████ presentation to the PPC in December 2009 and the NAP in June 2010 is completely at odds with his support for Opel & Associates application to provide services in Pitmedden. As I said, it is for the AMC to advise the Board as they see fit. However, I find this gross inconsistency to be worrying. Let’s not kid ourselves on what this is really about.

The GP’s who run the Haddo Medical Group are likely to lose a significant portion of income, income that is not required to provide GMS. That’s not my opinion that is the clear opinion of the Scottish Government. And if it’s not for GMS, then it’s obviously for something else. They fought hard to prevent a pharmacy opening in Tarves, because they knew that this would result in a loss of their dispensing profit. They now believe they can simply apply to open their own pharmacy in Pitmedden and let there be no

doubt about it, will be confident that from the pharmacy in Pitmedden, they can continue to dispense to all of their patients, even those in Tarves and Methlick. There is nothing in regulations to prevent Haddo Medical Group or as it happens their associated pharmacy business from dispensing all prescriptions from Pitmedden, then simply have them handed out to patients from the now defunct dispensaries at Tarves and Methlick. The GPs already have the support of the community councils in this respect.

I quote from a Community Council meeting in Udney Green, where the Pitmedden application was discussed.

The question was asked whether Tarves residents have access to the Pitmedden pharmacy?

As a contractor, I'll happily compete for business with my colleagues. That is the nature of our business. Where no contractor can compete is when the competitor is the GP practice at which all the patients are registered. GPs have a degree of influence over their patients which is a credit to the service they perform. But that degree of influence should not be allowed to be used to drive patients to a pharmacy company controlled by them and certainly not when it drives another pharmacy contractor out of business as will undoubtedly be the case, with the loss of pharmaceutical services in Tarves and everything [REDACTED] has invested in Tarves pharmacy.

This is the insidious situation which has been allowed to happen in England, where the 100 hour exemption has led to a huge explosion in GP owned pharmacies, to the huge detriment of the existing pharmacy contractors. This is where [REDACTED], the man who filled in the application makes his money. We do things differently in Scotland. We always have done and hopefully we always will.

One final comment on my theme of consistency. In December 2009 the NHS Grampian PPC determined that *"The committee then agreed that whilst it was necessary to ensure adequate pharmaceutical services are provided for the population of Tarves, these can easily be accessed within a ten minute drive, giving a choice of 10 community pharmacies within a 10 mile radius of Tarves.*

The applicant's case was based on the ease and convenience of patients visiting the proposed new pharmacy. It did not undermine the view provided by a number of parties that existing services from adjoining areas met the needs of the neighbourhood. Therefore the committee was unanimous in deciding that it was neither necessary nor desirable to grant the application."

Given the mobility of the population of Tarves, I have no real complaints about that decision. The only factor which swung the NAP decision was the further detail I provided on the public transport services from Tarves to Ellon and Oldmeldrum, which I have mentioned today. Things have changed since December 2009. There is now a brand new pharmacy opening in Tarves, a mere 3.5 miles from the proposed site. The same transport difficulties do not exist in Pitmedden and there is now a brand new pharmacy a mere 5 minutes drive up the road.

I trust that unlike the APC and AMC, this panel will show some consistency. I would respectfully ask you to refuse this application and thank you for your time.

Questions from Interested Parties

██████████ – Opel & Associate Ltd

██████████ was asked that if she felt Tarves would be viable in its own right, why would Semple & Semple Healthcare Ltd feel Pitmedden did not have the right to its own pharmacy? ██████████ replied by stating that there's now a pharmacy in Tarves and therefore Pitmedden would not need one.

██████████ was asked to clarify the car statistics she stated for Pitmedden. She confirmed that from her figures, almost 52% of the population had either 1 or no car.

██████████ was asked that of those 52% of the population with 1 car, how did she think this car was used? ██████████ declined to answer.

██████████ – Area Pharmaceutical Committee

██████████ had no questions for ██████████.

██████████ – Area Medical Committee/GP Sub Committee

██████████ was asked to clarify her knowledge of Gordon having the fastest growing population in Grampian, with 24 new homes currently having planning permission for the Pitmedden area. ██████████ declined to answer.

Questions from the Committee

██████████ was asked to confirm her partnership of Semple & Semple Healthcare Ltd. ██████████ confirmed she was a partner of Semple & Semple Healthcare Ltd.

██████████ was asked for clarification of the neighbourhood served by Tarves pharmacy. This was confirmed as being Tarves and the surrounding green fields.

██████████ was asked to confirm the bus schedule between Tarves and Pitmedden. ██████████ provided a bus timetable with details of the bus times highlighted.

██████████ was asked to confirm what Semple & Semple Healthcare Ltd felt was the neighbourhood of Pitmedden. ██████████ confirmed this as the village of Pitmedden and the surrounding green fields.

██████████ was asked if ██████████ was a pharmacist, a partner in Semple & Semple Healthcare Ltd and will be the sole contractor of Tarves Pharmacy when it opens for business. ██████████ confirmed this, but maintained she does not see herself as an interested party.

██████████ was asked why ██████████ felt she has no experience of the Pharmacy Regulations and the PPC process. ██████████ declined to answer.

██████████ was asked to confirm the population of Tarves and Pitmedden. ██████████ responded by stating the population of Tarves was 967 and Pitmedden 1424.

██████████ was asked to clarify the statement read out on behalf of ██████████, where it states there was no right for a small neighbourhood to a pharmacy. ██████████ declined

to answer.

██████████ was asked why households with more than one car were less entitled to pharmacy services than those with one or no cars. ██████████ declined to answer this question.

██████████ was asked to confirm when Tarves Pharmacy was due to open. ██████████ confirmed this as being Monday 13th December, 2010.

██████████ – **AREA PHARMACEUTICAL COMMITTEE**

██████████ started by stating she agreed with ██████████ and yes the APC's views have changed. At the time of the Tarves application, it had been felt there was adequate services provided from the surrounding areas, as was the PPC. It was NAP who overturned this decision based on their definition of the neighbourhood. It was therefore the role of the APC to consider any further applications based on the NAP's definition of neighbourhood. The view of the APC as a professional committee is that the public should have easy access to a full range of pharmaceutical services within their neighbourhood. The APC are supportive of a pharmacy in principle, but caution requires to be taken when considering viability of new pharmacies.

Questions from Interested Parties

██████████ – **Opel & Associates Ltd**

██████████ confirmed she had no questions.

██████████ – **SEMPLE & SEMPLE Healthcare Ltd**

██████████ confirmed she had no questions.

██████████ – **Area Medical Committee/GP Sub Committee**

██████████ confirmed he had no questions.

Questions from Committee

There were no questions from the committee.

██████████ – **AREA MEDICAL COMMITTEE**

██████████ stated the Area Medical Committee is supportive of this application as it is a co-operative approach to the provision of pharmaceutical services combined with GP services. The local community supports this application and as a result of the 2009 Regulations, the PPC must take into consideration the views of the public. The AMC considers this application will be beneficial to the residents of Pitmedden and fully support this application.

Questions from Interested Parties

██████████ – Opel & Associates Ltd

██████████ confirmed she had no questions for ██████████.

██████████ – SEMPLE & SEMPLE Healthcare Ltd

██████████ confirmed she had no questions for ██████████.

██████████ – Area Pharmaceutical Committee

██████████ was asked to confirm the co-operative service being offered. ██████████ advised that joint working between pharmacists and GP's in providing a full range of pharmacy and GP services relating to the Pharmacy Contract, for example patients with COPD could only prove beneficial for the patient.

██████████ was asked if he felt the co-operative between the proposed new Pharmacy and the medical practice would work. ██████████ confirmed he felt this would work very well and was very supportive of this co-operative working approach between GPs and pharmacists.

Questions from the Committee

██████████ was asked if the practice intends giving up their dispensing rights entirely. ██████████ replied that he could not answer this as he was not representing the Haddo Medical Practice.

██████████ was asked if the AMC had a view on the adequacy of services in the neighbourhood. ██████████ replied by stating he is confident that services to patients will improve due to the co-operative working between the proposed pharmacy and the GP's.

██████████ was asked to confirm if he represented both the AMC and GP Sub and he confirmed this.

4 SUMMING UP

██████████ – Area Medical Committee/GP Sub Committee

██████████ summed up by stating the AMC/GP Sub would like to see more co-operative ventures by community pharmacy going ahead, as they support the joint provision of enhanced patient care.

██████████ – Area Pharmaceutical Committee

██████████ summed up by stating the APC want the provision of pharmacy services in communities. However, she is very aware these pharmacy businesses need to be viable.

██████████ – Semple & Semple Healthcare Ltd

The easiest way is to think about this application is to forget about the fact that is it within a GP surgery, it is not relevant. Also, forget about the fact that this neighbourhood has had a dispensary for some time. Again, this is not relevant. Strip away these irrelevant factors and approach this purely according to the regulations.

This is a small village with 1424 residents. The population is highly mobile, is in the high income bracket and with almost no unemployment.

There are 3 existing pharmacies within a 10 minute drive and a brand new pharmacy opening a 5 minute drive away. For the very small proportion of the population with no access to a car, there is a regular bus service to all three pharmacies, with a journey time of around 10 minutes.

Should the PPC or indeed NAP grant any application in such a village? Should a PPC or indeed NAP grant any application a mere 5 minute drive from a brand new pharmacy, which hasn't even been given the opportunity to demonstrate the excellent service it can provide to this population?

The answer to both questions is No.

This application completely fails the legal test. I would ask that the panel refuses it. My livelihood depends on it.

██████████ – Opel & Associates Ltd

We believe this application passes the legal test, in that a pharmacy is necessary and desirable in order to secure an adequate pharmaceutical service in the neighbourhood in which the proposed premises are located.

The parties were then asked by the Chairman if they felt they had received a fair hearing ██████████ had reservations about this as she did not consider herself an interested party and had been asked to attend the hearing at very short notice. However, the Chair of the PPC checked the paperwork confirming ██████████ attendance and this had been dated 22nd November, 2010 some 17 days in advance of the hearing date. ██████████ was again asked to confirm her partnership in Semple & Semple Healthcare Ltd, the current owners of Tarves Pharmacy and ██████████ confirmed this.

The Chair confirmed the applicant and interested parties would be notified in writing of the result of the hearing within 10 days and of their relevant rights of appeal. At this point the applicant and interested parties withdrew from the hearing, prior to the committee's deliberations.

On completion of the hearing, the parties withdrew. The Committee then considered the evidence, which had been placed before it.

5 Conclusions

Having considered the papers, representations during the hearing, the other written information available and their own site visit, the Committee concluded as follows.

6 Neighbourhood

The committee agreed the neighbourhood was defined as the Village of Pitmedden and the green fields around it. It was also noted from the submissions from the applicant and interested parties; they all agreed the neighbourhood as being the Village of Pitmedden and the green fields around it.

7 Adequacy of existing provision of pharmaceutical services

The Committee then considered the adequacy of existing pharmaceutical services in the neighbourhood of Pitmedden. The committee noted that there was a dispensing doctor service but concentrated on the fact that the full range of pharmacy services as defined in the Pharmacy Contract were within a 5-10 minute drive of Pitmedden at Tarves. Therefore the existing pharmaceutical services provided were considered adequate. The committee was unanimous in deciding the existing provision of pharmaceutical services within the neighbourhood of Pitmedden as being adequate.

8 DECISION

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

The Committee considered the neighbourhood put forward by the applicant and the interested parties in relation to the application. The committee considered that the neighbourhood should be defined as follows:

It was agreed the green fields around the village of Pitmedden was a natural boundary, because of its physical nature which marked the edge of the neighbourhood to the north, south, east and west of the village. Therefore the neighbourhood was confirmed as the village of Pitmedden and the green fields surrounding it to the north, south, east and west of the village.

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

The Committee noted that within the neighbourhood as defined by the PPC, there were no pharmacies. However, the closest pharmacies were outside the defined neighbourhood, with the closest being 3.5 miles to the north of the defined neighborhood, which was within easy access to the neighbourhood, by car and public

transport. This pharmacy was Tarves Pharmacy, which was due to open for business on 13th December, 2010. The Committee considered that the level of existing services provided was satisfactory, due to there being access to pharmaceutical services outwith the defined neighbourhood of Pitmedden. The Committee therefore concluded that the existing pharmaceutical services in the neighbourhood were adequate.

The Committee noted the Applicant's comments regarding the Dispensing Doctors within the area. However, in reaching its decision, the Committee did not take into account those dispensing services as the provision of such services was a matter for Grampian Health Board, in terms of the GMS contract with the GPs concerned. The Committee also noted the information received from the interested parties and evidence gained from the Committee's site visit.

The Committee was satisfied that no evidence had been produced which demonstrated that the services currently provided to the neighbourhood were inadequate.

Having regard to the overall services provided by the existing contractors in the towns within a 10 mile radius 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 the neighbourhood of Pitmedden was currently adequately served. The committee agreed it would be desirable for the neighbourhood of Pitmedden to receive the full range of pharmaceutical services as defined in the Pharmacy Contract but that the terms of the existing regulations regrettably did not facilitate that. The committee are bound by the regulations in making their decision. The Committee felt that this issue was one that should be addressed at a national level.

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

9 DECIDED

The PPC was satisfied the provision of pharmaceutical services to the neighbourhood of Pitmedden was adequately serviced by the provision of pharmaceutical services in the other neighbourhoods in which pharmacy premises were located by persons whose names are included in the Pharmaceutical List. In the circumstances, it was the unanimous decision of the PPC that the application be refused.

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