

**NOT YET ENDORSED AS A CORRECT RECORD**

**Pharmacy Practices Committee (07)**

Minutes of a Meeting held on  
Thursday 7<sup>th</sup> April 2011 in  
The Hilton Grosvenor Hotel, 1-10 Grosvenor Terrace  
Galsgow G12 0TA

<b>PRESENT:</b>	Dr Catherine Benton	Deputy Chair
	Mr Alan Fraser	Lay Member
	Councillor William O'Rourke	Deputy Lay Member
	Professor Howard McNulty	Deputy Non Contractor Pharmacist Member
	Mr Alasdair MacIntyre	Contractor Pharmacist Member
<b>IN ATTENDANCE:</b>	Trish Cawley	Contracts Supervisor – Community Pharmacy Development
	Robert Gillespie	Lead - Community Pharmacy Development
	Janine Glen	Contracts Manager – Community Pharmacy Development

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

**ACTION**

**No member declared an interest in the application to be considered.**

**1. APOLOGIES**

Apologies were submitted on behalf of Mrs Catherine Anderton and Mr Colin Fergusson

**Section 1 – Applications Under Regulation 5 (10)**

**2. MINUTES**

The minutes of the meeting held on Thursday 17<sup>th</sup> February 2011 PPC[M]2011/04 and Thursday 3<sup>rd</sup> March 2011 PPC[M] 2011/05 were approved as an accurate record, pending the following clarification:

**In PPC [M]2011/04 – Page 2 – paragraph commencing “The procedure adopted by the Pharmacy Practices Committee.....”**

The words “and the other Interested Parties” should be inserted after “for the Applicant”.

**3. MATTERS ARISING NOT INCLUDED ON AGENDA**

There were no matters arising from the minutes, which were not already included in the

Agenda.

Prior to the commencement of business, the Committee considered a request from the Applicant that he be allowed to show video evidence which he considered material to his argument that pharmaceutical services in the neighbourhood in which his proposed premises were situated, were inadequate. The Applicant was aware of the requirement to submit additional evidence within ten days prior to the hearing, but wished the Committee's agreement to proceed.

The Applicant had previously sought advice regarding this issue and had received some level of assurance from a Board officer that the Committee would allow consideration of the video and wished to proceed on that basis.

The Committee, in closed session gave careful consideration to the Applicant's request. After comprehensive discussion regarding the issue and taking all information available into consideration, the Committee declined to allow the video into evidence.

This decision was based on several factors including that the Applicant was aware of the Committee's general exclusion of video evidence from their considerations, that the Committee's processes (which had been notified previously to the Applicant and Interested Parties) showed clearly that PowerPoint/video (or similar electronic medium) evidence were not permitted in oral hearing, and that the Committee were entitled to consider an application in such a manner as it sought fit.

Prior to consideration of the application, the Chair asked Mr Gillespie to advise the Applicant of the Committee's decision. He advised that the Committee were keen to hear all information in relation to the Applicant's case, and suggested that while the video could not be played, the Applicant should describe the contents of the video in his presentation. The Applicant accepted the Committee's decision and agreed to proceed on this basis.

#### 4. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST

**Case No: PPC/INCL13/2010**

**Mr Neeraj Salwan, Level 1 Fraser Building, 65 Hillhead Street, University of Glasgow, Glasgow G12 8QF**

The Committee were asked to consider an application submitted by Mr Neeraj Salwan to provide general pharmaceutical services from premises situated at Level 1, Fraser Building, 65 Hillhead Street, University of Glasgow, Glasgow G12 8QF under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee had to determine whether the granting of the application was necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant's proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Mr Salwan agreed that the application should be considered by oral hearing.

The hearing was convened under paragraph 3 (2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended (“the Regulations”). In terms of this paragraph, the PPC “shall determine an application in such a manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the PPC was whether “the provision of pharmaceutical services at the premises named in the application was necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List.”

The Applicant was represented in person by Mr Neeraj Salwan (“the Applicant”), assisted by Mr Arvind Salwan. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing was Mr Andrew Mooney (Boots UK Ltd) (“The Interested Party”).

The Chair asked those persons assisting to confirm that they were not appearing as a Counsel, Solicitor or Advocate. Mr Arvind Salwan confirmed that he was not.

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant’s proposed premises, existing pharmacies, GP surgeries and facilities in the immediate area and surrounding areas following: Saltoun Street, Observatory Road, Byres Road, University Avenue, Kelvin Way, Bank Street, Great Western Road, Park Road, Eldon Street, Gibson Street, Hillhead Street, Great George Street, Kersland Street, Vinicombe Street, Cranworth Street, Cresswell Street, Byres Road, Great Western Road, Hyndland Road, Highburgh Road and Byres Road.

The Committee noted that the premises were constructed and were currently empty. The pharmacy area was not yet fitted out. The Committee had gained access to the premises and had viewed them in their entirety.

The procedure adopted by the Pharmacy Practices Committee (“the PPC”) at the hearing was that the Chair asked the Applicant to make his submission. There followed the opportunity for the Interested Parties and the PPC to ask questions. The Interested Parties were then asked to make their submissions one by one. After each submission, there followed the opportunity for the Applicant and the PPC to ask questions. The Interested Parties and the Applicant were then given the opportunity to sum up.

### **The Applicant’s Case**

**The Applicant** thanked the Committee for the opportunity to present the. He advised that as it was the Easter holidays, the ~~area~~ was area was a lot quieter than usual and not reflective of normal circumstances.

Mr Salwan requested that the hearing be viewed as a new application and not in relation to any previous application. In line with the regulations, each hearing should be looked upon afresh, and so, he hoped today’s hearing would be judged

on the merits of the current application and the evidence presented to the PPC. According to the guidelines, the hearing should be treated on the basis that the application had not been heard before; in actuality it were indeed a new application given the range of new evidence and developments in the neighbourhood.

He advised that he fully appreciated the role of the interested parties and he would never intentionally be critical of their business. However, he was also obliged to point out relevant factors that relate to the application and which showed inadequacy. He believed that an additional pharmacy would help to alleviate existing pressure on local pharmacies and help to deliver a truly patient centric service.

The Applicant averred that, since the closure of a pharmacy on Byres Road three years ago, the neighbourhood had crucially lacked a pharmacy, as three pharmacies had traditionally been required to secure adequate provision of services. Since then, there had been subsequent key changes to the neighbourhood - an increase in population and major housing and special accommodation developments, which in turn had placed increase pressure on the two remaining pharmacies. A more significant change was the fact that, not one, but two new medical surgeries had relocated to the area within the past 18 months. As a result there were many more registered patients than ever before, with both chronic and acute medical needs. Consequently, all of these factors, compounded by the impact of the recent pharmacy closure, had placed a strain on the existing pharmacies and the quality of service for patients, from lengthy waiting times to shortened consultations, from access problems to parking challenges – in short, patient care and service levels were being compromised due to the impact of these major changes. The Applicant also advised it was important to note that there had been a change to the pharmacy contract since the pharmacy on Byres Road closed. MAS (Minor Ailment Service), CMS (Chronic Medication Service) and AMS (Acute Medication Service) all required patients to avail themselves of a pharmacy; the NHS had made it clear that a pharmacy should be the first point of contact for patients rather than a GP for all minor ailments but this was not working effectively in Hillhead. The change in contract meant that working patterns had changed and there was greater pressure on pharmacists and their time. With the changes he had highlighted, there was a high amount of pressure on the local system. He had spoken to local GPs, and he knew they were concerned about the amount of registered patients that continued to visit them to get a prescription for a MAS type medication. The GPs considered this a fundamental inadequacy in the service. One GP said he was seeing too many patients coming in for advice on smoking cessation and EHC consultations and he failed to see how local services could be adequate as a lot of his time was still being taken up with consultations that he thought the local pharmacies should be dealing with. By the very fact that there could be an additional pharmacy in this area, means that this would help attract a lot more registrations for MAS and new contract services, as it would be able to work more closely with patients, the two medical centres and surgeries. An additional pharmacy was necessary to secure adequacy of this service.

The proposed community pharmacy, adjacent to the Barclay Medical Centre, which registered any patient groups from the local area, would be clearly signposted,

would provide dedicated disabled parking and be DDA compliant; there would be two spacious consultation rooms, ample seating and a room for health clinics and group sessions - it would have the capacity to offer those services that are currently not offered by existing pharmacies. The health board had an opportunity to allow this location to provide an exemplary and much needed service to the local community, similar to any integrated health centre, including ready access to GPs, nurses and a practice manager.

The Applicant advised that his presentation was evidence-based and would cover two areas which he believed met the legal test. He hoped this would help demonstrate why this pharmacy was necessary and desirable to secure adequate provision.

The two areas were:

- 1. Inadequacies and fragmentation of services – including public support and complaint, and accessibility; and**
- 2. Significant changed circumstances to the Neighbourhood – including population growth and housing, schooling and health centre developments.**

The first of these were:

**. Inadequacies and fragmentation of services – including public support and complaint, and accessibility**

The response to the Health Board's own public consultation on this application showed that the equivalent of 9 in 10 respondents support the application. A quote from one response – "The pharmacy I use on Byres Road is very busy and they never have all of my items on my prescription so I need to keep going back. Byres Road is a lot busier than I used to remember and parking is impossible. I have many elderly friends and relatives and we are all of the view that this new pharmacy would let us easily walk to here for any advice we need; this would be very beneficial to my friends who can't get out and because when you are not well you don't want to wait in a long queue to be served."

The Applicant advised that it was worth pointing out that one of the local contractors had also withdrawn his objection and was now supportive of the application based on his own investigations.

This application also had the support of Baillie Malik, Councillor for Hillhead and Chairman of the North West Sector CHP. In his response to the previous consultation, the CHP stated, "... members had no objections to the application. On the contrary, it was felt that the service and the location would be advantageous to the population."

The Applicant agreed with the Chair of the CHP when he stated in his letter of support for this application, "A pharmacy would support the growing needs of the

community and also some of the policies of the CHP.” His comment suggested that and additional pharmacy was necessary. The Applicant further agreed with the CHP view that this pharmacy would help the strategic objectives of the CHP across various services, for example alcohol awareness. The CHCP website stated: “As pharmacies are often the only regular contact many people have with healthcare professionals, their role in raising alcohol awareness was very important.” The Applicant advised that he had noted that the reception desk of the new Ashton Road medical centre prominently displayed questionnaires on the fast alcohol screening test, suggesting the importance of this issue in the area. Existing pharmacies did not provide any specific help on this and certain other health issues - his pharmacy location had the space and the capacity to offer services that were currently not provided, such as self-help groups and clinics.

There was also support from Pauline McNeill MSP who, concerned by a Capability Scotland report on access to, and adequacy of, the area’s pharmacy services for disabled patients, had also raised parliamentary questions. Other MSPs and councillors, the Glasgow Old People’s Welfare Association and the Glasgow Disability Alliance also support the application – ***the latter stressing the level of current inadequacy*** - as did local GPs and healthcare professionals. He advised that the Committee would have noted from their letters that some GPs feel burdened by minor ailments requests by patients and believed that an additional pharmacy would better meet the needs of both patients and carers.

Although the consultation period was limited, by way of an extension to the ethos of a public consultation, the supporting evidence proved that there was a high level of support for the application for a community pharmacy.

The Applicant asked members of the Committee to be aware that the Health Board received around 200 letters of complaint last year. This figure had been verified by the Health Board through a recent Freedom of Information request. Complaints included, “My contraceptive pill was rarely in stock which was a big problem” and “The pharmacy had not had my contraceptive pill on three occasions despite me taking the most common type” and “The pharmacy has also had, as they put it, ‘supply difficulties’, and I had no way to get special medicated bandages for three months!”

In the Applicant’s opinion it was clearly inadequate for a pharmacy not to have someone’s prescription for three months or for a patient to make three consecutive visits to get their medication. A high percentage of complaints also mentioned lengthy waiting times, stock shortage, lack of information and overcrowding. For example, an ongoing problem was with an oral contraceptive, Marvelon, which according to patients and GPs, the same local operator had had difficulties sourcing, possibly as a monopoly structure limited their supply chain; it was also unable to supply certain drugs for over a week last winter.

In addition to public support and complaint, of the two pharmacies in Hillhead, neither was suitable for patients with a disability, mobility issues or parents with prams. Due to a step block at its entrance, the Boots on Great Western Road was not DDA compliant, a point duly acknowledged by the Interested Party at a

previous hearing and recorded in the minutes (31 March 2010). The Interested Party then went on to also state, "the layout at Byres Road was not ideal". So what did these material points indicate? They indicated that there was only one pharmacy serving the whole of Hillhead that might be suitable in terms of DDA compliance.

The Applicant averred that the pharmacy on Byres Road, was externally obstructed by a large bus shelter; SPT (Strathclyde Passenger Transport) asserted that they had never received a request seeking to reposition this (in over 10 years). From a planning point of view, although the premises had restrictive structural columns, it was not possible to upgrade this site - yet patients continued to be disadvantaged by this inadequacy. There was also no disabled parking, limited dropped kerbs, street furniture and steep gradients. The university had some 2,000 people who had disclosed a disability and according to CHP statistics, this area was likely to contain the largest number of adults and older people with a physical disability, at over 15,000. The combined total of learning difficulties plus physically disabled people came to 20,000 yet this did not include mental health or older people - many of whom were disabled. Although these figures were for the entire CHP area, which was bigger than just Hillhead, they nevertheless helped to show the size of this group.

Given the extent of the inadequacy, the Applicant sought independent advice from Capability Scotland, who undertook a risk assessment of pharmacy services. Extracts from the report stated:

***The pharmacy was clearly failing in adequate provision of services to anyone with a disability and Capability Scotland did not consider it to be a suitable pharmaceutical service for this group. In our opinion, it falls well short of what would be expected in terms of DDA compliance.***

***The team were very impressed with the level of accessibility of the proposed site for the campus pharmacy. The team encountered no access barriers in the Barclay Medical Centre.***

***This was in sharp contrast to the experience of the volunteers when they visited the pharmacy on Byres Road. All three volunteers independently stated that the pharmacy was not accessible to them and agreed that the majority of disabled people would find the shop inaccessible.***

***The wheelchair-using volunteer found both doors difficult to use. Access to the door on the right hand side was restricted by the bus stop situated directly in front on the door. The door on the left hand side was heavy and had no door opening mechanism.***

***The layout of the shop makes it very difficult for wheelchair users to navigate, both independently and with assistance. Our wheelchair using volunteer, uses a small wheelchair and there was no doubt that a person with a larger wheelchair would not be able to pass. The cluttered nature of the shop, including products to be shelved in boxes on the floor, and narrow aisles makes the shop inaccessible for wheelchair***

**users. It was very easy to miss the button to open the door and a wheelchair user would have to turn around on themselves to do this if they didn't know it was there. The boxes, columns and narrow aisles were also a very dangerous hazard for the disabled users.**

**Grant, the wheelchair user, also found that there was no space to queue for the pharmacy. He kept being asked to move forwards and back so that people could get past. When it came to Grant's turn to be served at the pharmacy checkout, he had to speak loudly to the member of staff as there was some distance between them. The width of the shelving units in this area, stocked with products, were inadequate for wheelchair users and anyone with a hearing or visual impairment.**

**Grant commented that he would not want to have to ask for something in private or embarrassing when there was no privacy. He also commented that he felt patronised by the member of staff who raised her voice when speaking to him.**

**Our hearing impaired volunteer found the shop to be inaccessible, very noisy and cramped inside. Induction loops were not provided at checkouts. Although several of the checkouts display the sign for an induction loop, Liz found that the checkouts were not fitted with loops. When Liz asked for a loop the member of staff retrieved it from the consulting room and commented that they did not keep it charged. It is very bad practice and a breach of guidelines to display a sign for an induction loop if a loop is not provided. Hearing impaired people should not have to ask for the loop to be set up and many would not. Given the lack of this facility, Liz was unable to be served for any health related matter and would have had to revisit when the induction loop had been charged up and installed properly.**

**Our visually impaired volunteer found the shop to be inaccessible for the same reasons as the wheelchair user – badly positioned columns, clutter and lack of space for circulation. The boxes were a real risk to her safety and it was very difficult to move around, particularly due to the layout and the long queues. There was difficulty with entrance to/ exit from the heavy non-automatic doors. The exit of the shop was very precarious. Linda was concerned that people with less vision than herself could easily walk into the columns and hurt themselves.**

**Therefore Capability Scotland believed that the inaccessibility of the [Boots] premises rendered the pharmaceutical provision inadequate for disabled patients.**

The Applicant advised that this was an impartial, independent assessment by Capability Scotland and its service users and many issues remain outstanding; he could provide the report and also asked the Committee to consider the letter from the Glasgow Disability Alliance and the current experience of their Hillhead members. He further advised that it was important that the PPC were made aware of the fact that the touch-pad, automatic doors for disabled patients were not operational for a lengthy period of time. This incident led to great difficulty for patients, both able-bodied and those with a disability, and could be shown through a recording made at the time. In his opinion, a picture painted a thousand words and given the nature of such mechanical failures, a visual recording was the only way to prove this failing. The Applicant accepted the Committee's decision not to

enter the video into the hearing. He advised that the recording had been made two months previous and showed clips of mothers with prams trying to access the premises via the automatic doors which were not operational. This scenario lasted approximately ten days and illustrated the on-going concerns highlighted by the Capability Scotland report and the issues raised by Baillie Malik and the Glasgow Disability Alliance.

He advised that a survey (of 100 people)) undertaken at the time showed that:

- 100% of respondents did not think it acceptable for the automatic doors to not function
- 98% of respondents thought it was inadequate that there was no automatic access for disabled patients for this length of time
- 95% of respondents thought the pharmacy or health board should have addressed this as a matter of priority
- And - 100% of respondents thought that Hillhead would benefit from an additional pharmacy

The Applicant advised that he could provide the Committee with some survey responses if it were helpful and verify dates.

Based on a conservative estimate, of 4 patients per hour relying on the use of the doors, from parents with prams to those in a wheelchair, or with visual impairment or limited mobility – then conceivably 48 patients were affected each weekday, 36 on a Saturday and 26 on a Sunday; that was over 300 patients in one week and over 600 patients across a two week period – and probably a lot more given the Applicant had not adjusted the estimated figure for weekends and given this busy time of year for chemists. He hoped the Committee would agree that this incident demonstrated clear inadequacy and that it was unacceptable for such failings to exist and impact on patients. He advised that he had raised the inadequacy of services for disabled patients some time ago and were saddened to see that these continued until as recently as two months ago.

The Applicant averred that as if this issue was not bad enough, as well as the disabled doors not working, for some reason, there was also a conscious decision to lock one or other of the doors every morning over this period; he had included photographs that showed this in his supporting information. The closure of the doors was done in a systematic manner, and the locked doors alternated each day, all during opening hours. The outcome of this action was that either all patients were being directed via the dysfunctional disabled access doors or that all patients were being directed via the non-automatic doors, compounding the situation for anyone with a disability using these doors. The Applicant considered this breached health and safety procedures and fire safety regulations and having only one exit available in a double unit shop this size posed a risk to patient safety. It was important to stress that this was just two months ago. In the Applicant's opinion the level of inadequacy needed to be addressed as a priority

and he implored the PPC to carefully look at this situation.

He questioned whether anyone would find such inadequacy acceptable if it affected them personally? He questioned whether it was acceptable if our parents, our partners, an elderly neighbour or a mother with a young child were faced with such difficulties in our own local area?

He advised that The Better Health, Better Care Action Plan included targets to improve healthcare specifically for those with long-term disability. One point stated that evidence of patient experience was to be included in performance management targets. Another point stressed the value of support to carers – an issue close to his own heart due to the care of his elderly parents, one of whom had a long-term disability; it was a shame that the delivery of this action plan was inadequate in this particular neighbourhood.

The Applicant reminded the Committee that the site for the proposed pharmacy was fully DDA compliant, with dedicated disabled services including car parking, two patient toilets, a lift and mobility scooters – none of these features were provided by existing contractors in this neighbourhood. The proposed pharmacy offered automatic sensors, so there was no need to press any touch pads, and it offered sliding automatic doors, rather than heavy doors on hinges. The doors opened into a clear area and the exit was on to an open, uncluttered street with adjacent dedicated disabled parking. The pharmacy would also be a lot more accessible for patients who resided within the vicinity, and so, reduce any geographical barriers that may restrict their use of services, as well as make their experience less difficult. The Applicant was determined to meet patient and carer needs.

The Applicant advised that he would like to mention an OFT market investigation (January 2003) that he found useful “If a neighbourhood had only two pharmacies providing adequate services to half the community, whilst the other half cannot gain access to either of the pharmacies because they reside on the other side of the neighbourhood, any application for inclusion on the pharmaceutical list was likely to succeed. The success of the application would depend on evidence that the community were lacking in adequate provision of services and would gain greater access to such services if the application were granted. This type of application would, in all likelihood, be deemed ‘necessary’.”

## **2. Significant changed circumstances to the Neighbourhood – including population growth and housing, schooling and health centre developments**

The Applicant asked the Committee to consider some of the parallels between this application and the Court of Session ruling, in June 2010, on an application by Lloyds Pharmacy in Fort William (in 2007). In this case, the Court ruled that the establishment of a new health centre - a relocation of two-and-a-half miles - resulted in changed circumstances in the neighbourhood *in which it became located*, and which led to inadequacy given the lack of a pharmacy in the new health centre. This case supported a central tenet of his application and, as the judgment stated in relation to the new health centre, “The matter can be resolved

if one recognises that if the existing provision was missing a desirable feature, then it may not be adequate." So, in context to this, the relocation of the Barclay Medical Centre had caused inadequacy.

He advised that Hillhead now had, not one, but two new health centres than was previously the case. The Barclay Medical Centre opened in summer 2009 and Ashton House Medical Practice opened in summer 2010. The former was a relocation from Maryhill; the latter a relocation from Hyndland. Both were approved by the Health Board. Prior to the Barclay Medical Centre, there was a case for health inequality and the success of the Health Board's decision to grant the relocation helped to overcome this; this was now also the case for a pharmacy. Given it was the same neighbourhood and population, surely some of the same reasons for granting these two relocations would also apply for the granting a pharmacy license?

These two substantial GP services, that previously did not exist, have resulted in around a dozen GPs and four nurses and growing patient lists. It was a real success story for the Health Board. For example, there were now 8,000 patients registered at the Barclay Medical Centre. This was an increase of around 3,000 over the past year alone, a sizeable increase since its relocation in 2009; the patient list was expected to continue to grow by 2,000 patients a year for the next three to four years. As per the letter from this practice, this situation had led to an expansion in the number of GPs, an increase in the volume of prescriptions, and so, the desirability for a community pharmacy. In addition, the more recently established Ashton House Medical Practice had around 1,000 patients. By way of comparison to the Lloyds case, these relocations demonstrate important and material changed circumstances to the neighbourhood. However, despite these major changes, there had been no change to the level of pharmaceutical services, other than the closure of a pharmacy.

The Applicant suggested that it was interesting to note that registered patients included those that live in the city centre, around the Royal Infirmary, Govan, the south side – yet all relied on healthcare in the neighbourhood as they spent their daytime there.

The Applicant proposed to offer extended opening hours and services that existing pharmacies were unable to provide, including self-help group sessions and drop-in clinics on travel, mental health, sexual health and other areas which patients require.

With regard to Hillhead, there had been a significant population growth in the neighbourhood over recent years, and this trend continued, as could be evidenced by new housing developments and additional, purpose-built residences for those in higher education. This continued to place increasing pressure on existing services. There had never been a greater need to revert to the previous model of three pharmacies to ensure adequacy in services in Hillhead. The Applicant did not believe that granting this application would cause over-provision of services. The area's two pharmacies already dispensed more prescriptions than the national average which showed that there was no capacity to cope with the

ongoing changes in the area, from a growing population to the range of new developments.

The Neighbourhood could be defined as follows and was determined by natural boundaries (as per PPC definition before):

North: Great Western Road to Kelvinbridge;

East: Kelvinbridge following the River Kelvin south;

West: River Kelvin traveling westwards, following Dumbarton Road to Byres Road, and taking in Thurso Street; and

South: Byres Road to its meeting with Great Western Road.

The Applicant advised that the CHP Development Plan Update, stated that the population of Hillhead and Woodlands was the highest in West Glasgow, at 19,850 – double that of Anniesland, Jordanhill and Whiteinch combined (a total of 9,752) and double that of Anderston and Yorkhill (which was 9,544); it was 5,000 more than the population of the City Centre and Merchant City (14,038) and 8,000 more than Broomhill and Partick West (11,219). In other words, the CHP had verified that this neighbourhood was the most densely populated in West Glasgow. Hillhead was a key area within this neighbourhood yet it had only two pharmacies, for over 20,000 people, yet other, smaller areas may contain more than two pharmacies. For example, there were three pharmacies on Dumbarton Road, almost adjacent to one another. There were three pharmacies within Milngavie Town Centre, which was smaller and essentially non-residential. According to the 2001 Census, the daytime population was 22,166, although it was likely to be much more than that now. There was a significant lag between current population levels and the available population statistics, so the Applicant suggested that the scale of new developments in and around Hillhead be an indicator of this growth.

The Applicant suggested it was a complex situation, as there were many non-residents coming into the area for work as well as for study. There were many residents that both remained in and left the area and then there were tourists and shoppers given the popularity of the West End. This was similar to the **Cribbs Causeway case** as applications had been granted in locations such as airports and shopping centres, such as Braehead, where the decision was based on the level of transient population coming into an area. It was a similar situation in this neighbourhood – yet, unlike shopping centres, this area also had stable factors such as an established population, established shopping, two new medical centres with growing patient lists plus many new housing developments.

The Applicant recollected from his childhood that there was even a pharmacy on Gibson Street many years ago, run by Mr. Lawrie. As an observation, there was not a single pharmacy from the junction of Byres Road/ University Avenue, along University Avenue down Gibson Street and along Woodlands Road, until you go through Charing Cross; this was a distance of 2.5 miles.

The Applicant advised that there was much evidence to show major population growth in this neighbourhood over recent and coming years. The following

information had been provided by Development and Regeneration Services, Glasgow City Council and new residential developments included, as per the map:

Thurso Street - Unite accommodation for over 400 adult learners  
62 Cecil Street  
Two sites on Great George Street (6 & 66)  
10 Otago Street  
Lilybank Terrace, Laurel Park School  
Bank Street (39 & 57)  
28 Kersland Street

As newly confirmed this week, the following have not been shown on the submitted map: developments at Nairn Street and Argyle Street (number 1175).

Likely to be granted shortly were developments in Gilbert Street and Old Dumbarton Road (numbers 2 and 200). The Council expected these to progress and had stated that there was a significant demand for new housing.

There were also developments in areas surrounding the neighbourhood, for example, 33 new two and three bedroom apartments on Queen Margaret Drive, a £14 million affordable housing development of around 90 new flats at Ferry Road in Partick and 81 new flats in a former school on Victoria Crescent Road, off Byres Road. These were all new developments and would add to increasing the local population.

**The Applicant highlighted another case *Lloyds v National Appeal Panel Stranraer (2004)*, Lord Drummond Young made it clear that, when assessing whether or not to approve an application, it was not sufficient to simply consider the adequacy of existing provision of services when it was known there were future changes which would result in an inadequacy of pharmaceutical service provision. Given the evidence that he had provided so far, specifically in respect of the two medical centres and the DDA issues, if the PPC were still of the view that existing services were adequate, then surely in light of the other changes underway around housing, schooling and population increase, there was evidence to demonstrate that the existing services would certainly become inadequate within a matter of months.**

The Applicant asked the Committee to consider the impact on services of the major relocation of Hillhead Primary School from Cecil Street to a gap site at Gibson Street/ Otago Street, and which would open in August. In context to the neighbourhood, the site of the proposed pharmacy would ensure that this would be the closest and most accessible pharmacy to the new school. This would mean that a sizeable number of teachers, parents, grandparents and children would be reliant on services on this side of Hillhead where the pharmacy was being proposed. The school would cater for 700 pupils so on the assumption of one parent to each child for morning drop-off and afternoon pick-up, this would be 350 parents per day, times two visits, plus the combined staff number of around 100.

The Applicant appreciated that parents and teachers at the current Cecil Street based school had relied heavily on the Boots on Great Western Road for many years; however, this reliance was not going to stop just because the school relocated – this reliance would very much continue with the relocation, and would actually increase given the major expansion of the school at its new site; it was a major change to the footprint of the area and it would be important to anticipate the pharmaceutical needs of patients. The influx of parents, teachers and children not currently within this area, but coming into the area on a daily basis from August, would be a major shift in population, and this would create demand for new, additional services in the area. For example, patients from the new Thurso Street and Gibson Street developments, and the new school – 1,000 plus people - would use University Avenue as a major thoroughfare for their daily business, and so, a pharmacy located on this side of Hillhead Street would be naturally en route for them on foot or by car; the pharmacy could meet these near future patient needs.

This development involved the merger of five schools, to form a unified Hillhead Primary plus an Early Years Centre. The new school would replace the existing provision at Dowanhill, Hillhead, Kelvinhaugh and Willowbank Primary schools along with Dowanhill and Willows Nursery schools – meaning that these parents, teachers and children would add to the overall population of this side of Hillhead. As this was a section of society that had a particularly high reliance on pharmacies, a community pharmacy located at 65 Hillhead Street would be an invaluable service to patients of all ages - especially due to its location.

The Applicant advised that this side of the neighbourhood was under-served in terms of pharmaceutical services, and he believed the proposed location would be able to serve a sizeable residential community without encroaching on other contractors; the proposed pharmacy would cater for patients from Gibson Street, Otago Street, Westbank Quadrant, Great George Street, Cowan Street, Bank Street, Oakfield Avenue, University Avenue, Hillhead Street, Southpark Avenue, Glasgow Street, Bower Street and Cecil Street.

This proposed pharmacy would greatly help patients and ensure improved access and additional services. The future population would include a higher percentage of older people, a number of which would have mobility challenges, an issue which the site addressed.

The area included a high number of ethnic minorities, and so, support around translation and equality would remain important for healthcare providers and the pharmacy would address this from day one. The overall area had 40% of the ethnic minority community, and this was expected to grow; the Applicant would provide a bi-lingual service to those patients that required this, through the pharmacist or the pharmacy assistant as well as the university's translation services located in the same building - he believed this would service help to address a health inequality as it would enable and encourage more people to get help and advice in their language. The pharmacy would help the Health Board achieve its HEAT targets in relation to services such as MELTS – minority ethnic long-term medicines services – especially as this was currently not provided by any pharmacy in this

neighbourhood, which the Applicant found very surprising given the high percentage of ethnic minorities.

Finally, the application stated the pharmacy would operate core hours but the needs of parents and staff in relation to the new school would be better met through extended hours and it would be possible to open 8am-9pm seven days a week, allowing for evening group sessions and better support for patients and carers. This was feasible at the proposed site given that the nearby library was open until 2am.

In conclusion, the Applicant advised that there was a duty of care to patients and, in relation to the issues he had highlighted, he would request that respected members give full consideration to the facts and merits of the application. The Applicant believed he had demonstrated that the application met the legal test in terms of necessity and desirability.

### **The Interested Party Questions the Applicant**

In response to questioning from **Mr Mooney** regarding the population statistics contained in his presentation, the Applicant advised that he had sent a letter to Glasgow City Council, providing a map showing the boundaries of his defined neighbourhood and seeking an indication of the population within this area. The Council's response was that there were 20,000 people in this area based on the datazones.

In response to further questioning from Mr Mooney on this subject and whether this estimate took into consideration areas outwith the neighbourhood, the Applicant reiterated that he had presented the information which the City Council provided.

In response to questioning from Mr Mooney regarding growth in the area from 2001 and whether this could be quantified, the Applicant advised that he preferred to look at general trends rather than numbers. He advised that developments in the neighbourhood were higher than average, and cited the new school as an example. The number of students had also increased which would have an effect on the demand for services.

In response to questioning from Mr Mooney regarding the housing development within the area and whether this was new provision or refurbishment, the Applicant confirmed that the plans related to new build. He further reiterated that Glasgow City Council statistics confirmed a steady increase in population. He further confirmed that in his opinion all of the developments contained in his presentation would come to fruition. All had full planning consent.

Mr Mooney asked the Applicant if he knew what the outcome was of the Fort William judicial review mentioned in the Applicant's presentation. The Applicant declined to answer this question.

In response to questioning from Mr Mooney as to whether the Applicant fed back the findings of the DDA (Disability Discrimination Act) access failings to Boots UK Ltd, the Applicant advised that the report had been commissioned from Capability Scotland as part of his preparation work. He further confirmed that he had not forwarded the report to Boots UK Ltd.

In response to questioning from Mr Mooney regarding the letters of support and the Applicant's views on the similar themes contained within them, the Applicant advised that letters of support had flooded in to the Health Board in connection with the application. He confirmed that these letters of support had not been solicited by the Applicant.

In response to questioning from Mr Mooney, the Applicant advised that the pharmacy, if granted, would belong to the wider community and would not be solely used by students.

### **The PPC Question the Applicant**

In response to a series of questions from **Mr MacIntyre** regarding the population statistics contained in his presentation, the Applicant confirmed that the definition of Hillhead and Woodlands took in a wider area than his defined neighbourhood. He further reiterated that the statistic of 20,000 had been provided by Glasgow City Council who had provided this estimate on the basis of a map provided by the Applicant which showed the boundaries of the defined neighbourhood. The Applicant accepted that two of the datazones within the neighbourhood extended beyond the boundaries, but he was not aware of the total population of these two zones.

In response to further questioning from Mr MacIntyre regarding the proposed hours of opening of the pharmacy, he Applicant advised that in the original submission, the hours of opening were cited as Mon – Fri: 9.00am – 6.00pm, Saturday: 9.00am – 1.00pm; Sunday: Closed. This had been done on the basis that at this time the Applicant was unable to elicit an undertaking from the University for extended hours. Subsequently the University had provided an assurance that the pharmacy could provide extended opening hours, and the proposed hours of service had been amended to reflect this.

In response to further questioning from Mr MacIntyre regarding development within the area, the Applicant agreed that his initial submission had illustrated a conservative estimate of the potential development within the area. He asked the Committee to consider the statistics put forward in his presentation rather than refer to his initial submission.

In response to further questioning from Mr MacIntyre regarding the Applicant's perception that there was a poor uptake of some services in the area, the Applicant advised that the GPs felt they continued to undertake consultations for issues which could be dealt with via services which could be provided by community pharmacies. The Applicant advised that he did not know whether the uptake of such services would increase if community pharmacies were allowed to advertise the provision of these services.

In response to final questioning from Mr MacIntyre regarding the Applicant's comments on supply difficulties, the Applicant accepted that some of the supply problems related to issues with the manufacturing process. He reiterated however that some of the issues raised by the complainants could have been avoided with better communication between the GP practice and the community pharmacy.

In response to questioning from **Mr Fraser** as to whether the perceived inadequacy in services provided by Boots the Chemist from its Byres Road branch would be solved if the

pharmacy relocated, the Applicant advised that location was only one of the issues with the pharmacy. Other issues such as long waiting times would remain

In response to further questioning from Mr Fraser regarding the lack of parking in the area, the Applicant accepted that some residents within the neighbourhood would take their prescriptions to pharmacies outwith the neighbourhood i.e. the city centre and would therefore have no need to avail themselves of a parking space.

In response to questions from Mr Fraser regarding the proposed opening hours of the pharmacy, the Applicant confirmed his intention to open on a Sunday. He further advised that this would not be provided as part of a rota arrangement with any other pharmacy.

In response to final questioning from Mr Fraser seeking a response to the question posed earlier regarding the outcome of the Fort William judicial review, the Applicant advised that he had used the judgment solely to make a comparison.

In response to questioning from **Mr Gillespie**, the Applicant confirmed that at the outset the majority of service users would be students of Galsgow University. He believed that a shift would occur once the new school was established which would see more non-students using the services provided by the pharmacy. He did not envisage a time when the pharmacy would not have a student patient base.

In response to further questioning from Mr Gillespie around comments made regarding the low uptake of MAS within the neighbourhood, the Applicant clarified that there was a general feeling that uptake of this service was low. He estimated that the proportion of students who might be eligible for the service to be between 5,000 – 6,000 out of a total of 20,000.

In response to questioning from **Professor McNulty** in which the Applicant was asked to justify the north boundary of his neighbourhood, the Applicant advised that Great Western Road was relatively difficult to cross, however an additional factor existed in the change in topography. He further advised that he had not taken his north boundary above Great Western Road as he considered the housing to be of different stock.

In response to further questioning from Professor McNulty, the Applicant advised that residents living to the left of byres Road, say in Atholl Lane could be considered to live in the neighbourhood of Hyndland, which was served by pharmacies on Hyndland Road and Hyndland Street.

In response to further questioning from Professor McNulty regarding the issue of inadequacy, the Applicant advised that the Health Board had received nearly 200 letters of complaint relating to service provision in the neighbourhood. In addition he had provided a raft of evidence supporting the view of inadequacy.

Professor McNulty asked the Applicant to detail which services would be provided from the proposed pharmacy that would specifically meet the needs of students. The Applicant advised that he would provide a travel health clinic; all items needed for back-packing, a range of OTC/P medicines, free condom service and would be willing to work with the two GP practices in the area of alcohol awareness. In response to Professor McNulty's

supplementary question on whether the University had asked him to provide specific services, the Applicant advised that he had been asked to provide the travel health clinic.

In response to further questioning from Professor McNulty asking the Applicant to respond to the fact that there were several community pharmacies within 0.5 miles from the proposed premises and that travel to these existing services was easy, the Applicant advised that this might be the case for able-bodied students, but pointed the Committee's attention to the letter submitted by Baillie Malik and the comments made by the Galsgow Disability Alliance.

In response to further questioning from Professor McNulty regarding population statistics and that according to 2001 census statistics the population of the area known as Hillhead was in the region of 5,000, the Applicant advised that he didn't focus on population statistics. He would rather look at general trends. He pointed to the Cribbs Causeway ruling which provided that transient population could be taken into consideration when determining neighbourhood. He highlighted the number of students in the area, the influx of people who would come with the new super school and the proposed housing developments. He reiterated that in this application it was important to look at what was going on in the area during the day.

In response to final questioning from Professor McNulty, the Applicant considered that an Independent Pharmacy could operate with a prescription load of approximately 2,000 per month.

In response to questioning from **the Chair** regarding how he could commit to such extended opening hours, the Applicant advised that the pharmacist would be able to work through lunch. He further advised that the opening hours would be monitored and that he would consult with the Health Board if any change was to be made. He was confident that people would get to know the pharmacy was open extended hours, which would generate its own demand.

In response to further questioning from the Chair, the Applicant confirmed that the pharmacy would be open to all, including tourists.

In response to final questioning from the Chair, the Applicant confirmed that the pharmacy would provide a delivery service if this was needed.

In response to a follow up question from Mr Gillespie regarding the submissions made by students to the Health Board, the Applicant confirmed that these had been solicited by the University and that he had not been involved. He declined to comment on the submissions.

In response to a follow up question from Mr Fraser, the Applicant advised that car users would find it easier to park next to the proposed premises as there were metered parking bays opposite the Fraser building.

In response to a follow up question from Mr MacIntyre regarding the student population, the Applicant confirmed that the statistic used in his presentation represented the total University population including those students who attended other sites. He reiterated

however that the majority of students attended on this site.

There were no questions to the Applicant from **Councillor O'Rourke**.

### **The Interested Party's Case (Mr Andrew Mooney – Boots UK Ltd)**

**Mr Mooney** thanked the Committee for the opportunity to present on behalf of Boots UK Ltd.

He advised that this application had been fully heard on two previous occasions by NHS Greater Glasgow & Clyde's PPC and rejected. He urged the Committee to review in particular the minutes of the hearing of the 31<sup>st</sup> March 2010 in which a full and detailed discussion and analysis of the neighbourhood was completed and the application refused. On both these occasions the NAP appeals on these decisions were dismissed as having no reasonable grounds.

He averred that the evidence and case put forward today was virtually the same as that previously presented by the same application. The only fundamental difference Mr Mooney could see was the Applicant's attempt to challenge Boots compliance to disability legislation. In the company's view the Boots branch on Byres Road met these challenges and had been adequately adjusted when issues had been raised to ensure access to services. Mr Mooney advised that it was disappointing therefore from Boots' perspective that Capability Scotland did not feel that they could approach the company directly to discuss the making of improvements.

He advised that the topography in the neighbourhood in question was obviously challenging from a disabled persons perspective, however this would be a factor no matter where a community pharmacy was located. He understood that mobility scooters were available for example in the Barclays Medical Practice to support mobility in the locality.

He asked that it should be recognizes that there were no significant changes to the neighbourhood population, health needs or circumstances that should fundamentally change the previous decisions. The minor changes in the neighbourhood highlighted would not place any significant pressure on existing services that had the capacity and capability to grow.

He suggested that many of the Applicant's statistics were misleading i.e. population statistics relating to wider catchment areas which had other adequate pharmacy provided and the solicited local support could be challenged as having a slightly bias viewpoint which seemed to reflect "received wisdom."

Mr Mooney thought it interesting that local political figures thanked Mr Salwan for bringing this matter to their attention and used subjective language to support his position, however they seemed to suggest a full and more detailed consultation was required. Furthermore, the template nature of some of the submissions caused him some concern.

If a balanced rational assessment was made, Boots UK Ltd did not believe that the claims of inadequacy or claims of service deterioration could be substantiated. In contrast the Customer Care Measure for 2010/11 which ended on 31<sup>st</sup> March 2011 revealed improving

service metrics and customer satisfaction. This was independent, unbiased customer feedback. The results showed that 78% of respondents were satisfied with the time to collect their prescription. 52% were satisfied with the time waited for their prescription and 60% were satisfied with the clean and tidy pharmacy environment and approachable pharmacy staff.

Whilst Mr Mooney fully respected local stakeholders' sentiments to improve services for their constituents, he questioned whether all those approached had received a balanced appraisal to enable a full understanding of the current provision and implications on access if a new contract was granted. He further questioned whether they had an informed perspective.

Mr Mooney defined his neighbourhood as:

**North: Great Western Road to Kelvin Bridge;**  
**East: Kelvin Bridge following the River Kelvin South;**  
**South: the River Kelvin travelling westwards following Dumbarton Road to Byres Road; and**  
**West: Byres Road to its meeting with Great Western Road.**

Resident population within the defined neighbourhood was 4,000 – 4,500 persons. This had grown by 6% from the 2001 census to 2009 mid year estimates. This was on the basis of datazones which almost matched the identified neighbourhoods.

SIMD and Health & Well Being profiles would highlight the resident population to be generally health, mobile, affluent and have excellent access to services. This taken together with an analysis of the last 12 months prescription data would highlight that the existing pharmacies (8 pharmacies within 1km of proposed site) were not over burdened, had free capacity to provide further services and in addition to a third contract being not necessary or desirable, would in fact put financial pressure on the smaller pharmacy business which offered extended opening hours and actually improved accessibility to benefit patients.

Mr Mooney advised that the reason for the closure of the third pharmacy was that it was not independently financially viable.

In terms of MAS the population profile indicated why uptake was low; most people were not eligible. In addition the service specification for the service did not permit company marketing.

The Wellbeing Profile for Hillhead and Woodlands, with a population of approximately 22,800 showed that the area had 40% less children; 22% more adult and 43% less elderly than the Scottish average.

Mr Mooney also pointed out that Hillhead as defined by Baillie Malik in his supporting submission had more than two pharmacies which all provided comprehensive and adequate pharmacy services.

He advised that Byres Road was the main destination for access to Banks, Post-office,

Hillhead Library, Underground, Hot food/M&S/Supermarkets and pubs. Students and residents would all frequently visit and make use of these services.

From the University website Mr Mooney had obtained information which showed that in February 2009, there were 20,000 undergraduates and 5,000 post-graduates across the following campuses; Gilmorehill, Garscube (Bearsden) Vet School, Sport facilities and Dental School (City Centre). The University had a large population of students who stayed at home and who would access GP services at home and 40% of the University's students came from the West of Scotland.

In the previous hearing on 31<sup>st</sup> March 2010, Mr Salwan stated "it was extremely difficult to clearly define a neighbourhood within this type of location, however as the university's student population was a highly transient one; he did not believe it to be straightforward to define clear boundaries. This reflected that students were spread across Glasgow and a wider catchment area and therefore accessed services in numerous locations.

Mr Mooney questioned that with the current financial pressures and against a backdrop of University cuts how certain was it that the housing development application would materialise. He further averred that the proposed premises within the Fraser building which in the Applicant's opinion would be a pharmacy "belonging to the students", would not be the first choice for parents using the new school. Great Western Road, Argyle Street and Park Road were more convenient from a walking perspective.

He advised that the new medical centres in the area had small patient lists and the Barclay Medical Practice was a branch surgery of a practice in Maryhill Health Centre. He did not think it would generate significant enough additional workload to stretch the existing pharmacy network. The Barclay Medical Practice had reported 500 consultations but he questioned how many of these were face to face with prescriptions provided. In Mr Mooney's opinion, the practice appeared to be a modern practice which provided innovative services such as internet appointment booking.

He advised that Boots UK Ltd had made reasonable adjustments to the Byres Road branch which in Boots' view complied fully with the requirements of DDA and the Equality Act to enable users to access and use services appropriately. Operational issues which were not satisfactory had been addressed. By way of example, Mr Mooney pointed to the reprofiling of store staffing and rescheduling of deliveries to ensure that stock delivered is worked immediate in an attempt to remove physical barriers within the branch. Boots UK Ltd welcomed feedback on any further adjustments/improvements they could feasibly make and responded formally to the Capability Scotland report to NHS Greater Galsgow & Clyde on the 20<sup>th</sup> August 2010.

He advised that the Boots branch at 693 Great Western Road was fully rebranded recently and Local Authority planning requirements ensured DDA compliance. The branch had a ramp, automatic door and call button. The auto-door was perhaps more appropriate than some of the doors/access to local medical practices.

Mr Mooney advised that the existing service must be inadequate for an application to be granted. A more convenient or desirable distribution of existing contracts cannot be considered under the current legal test if no inadequacy in the current services can be

determined.

He advised that the application had not been supported by the NHS Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-committee. Statistical information in the Applicant's supporting information could be misleading as it related to neighbourhoods far bigger than that in questions. He advised that there were actually eight pharmacies within 1km of the Applicant's proposed premises.

Mr Mooney reminded the Committee that the two Boots pharmacies operating within the neighbourhood both offered a full and comprehensive pharmacy service including both core and supplementary services over extended opening hours. They also offered a free repeat prescription collection service and a delivery service where appropriate. Customer satisfaction with the pharmacy services offered by Boots and waiting times were reflected in the improving scores in an independent and anonymous customer survey which involved real customers providing feedback.

The Byres Road branch had auto-doors, a hearing loop, dropped counter, adequate pharmacy access and waiting area. On street parking was available, although a ten minute only time limit was in force for standard users, which provided movement in the area. Mr Mooney advised that he had recently had a conversation with two of the traffic wardens who patrolled the area who had advised that they would allow disabled badge holders to park indefinitely.

In terms of dispensing activity the Boots branched dispensed below the average number of items per year based on ISD (information Statistics Division) info for NHS Greater Glasgow & Clyde's 312 pharmacies in 2010. Given this business profile and Boots' commitment to developing pharmaceutical care services they had capacity and capability to meet increased service demand.

Taking into consideration the community health and well-being profile and SIMD data this supported Mr Mooney's proposition that the vast majority of the population in the neighbourhood were healthy, reasonably affluent and mobile.

This evidence supported Boots' view that the current pharmaceutical service provision was adequate and the new contract was neither necessary nor desirable in order to secure adequate provision of services in the defined neighbourhood. In addition, the breadth of the letters of objection highlighted that this neighbourhood had the benefit of services from a number of providers from out-with the neighbourhood.

Mr Mooney moved finally to say that with regarding to future adequacy of the pharmaceutical services offered by Boots, they were committed to continually reviewing and developing their service provision and infrastructure and premises to meet the challenges of the pharmacy contract and to improve patient care. They had made significant investment in their pharmacy, people and opening hours across NHS Greater Glasgow & Clyde to ensure they could meet patient need and expectation. They did, however, rely on communication and feedback both from customers and the Health Board on their requirements and/or concerns. To this end if the current situation was not deemed appropriate they would work with stakeholders to ensure that local needs were met in the most appropriate manner.

### The Applicant Questions Mr Mooney

In response to questioning by **the Applicant**, Mr Mooney confirmed that he did not know what the day time population of the neighbourhood was. He could not agree with the Applicant's assertion that it was over 15,000 as he did not know the level but accepted that it would be in excess of 5,000. He reiterated however that this population would easily access services in the resident neighbourhood.

In response to further questioning from the Applicant regarding the Boots branch on Byres Road, Mr Mooney advised the Applicant that the independent survey carried out to gauge customer satisfaction showed that Boots were providing an adequate service.

In response to a series of questions from the Applicant regarding the apparent mechanical malfunctions with the auto-doors at the Byres Road branch, Mr Mooney asserted that it was not unlikely that pharmacies would experience maintenance issues regardless of its position. He reminded the Applicant that the country had experienced a severe winter which had brought disruption to many services. He further confirmed that he was not aware of the dates when the doors had malfunctioned, but could confirm that the company had received no customer complaints.

In response to further questioning from the Applicant regarding comments made by the Glasgow Disability Alliance, Mr Mooney advised that he couldn't comment on whether it was acceptable for the branch to have an issue with the doors or the inconvenience this would cause to disabled customers. He reminded the Applicant that the premises requirements were not a consideration in terms of the application.

In response to questioning from the Applicant as to whether he knew the call buzzer was not working at the 693 Great Western Road branch, Mr Mooney confirmed that it was working.

In response to questioning from the Applicant as to whether Mr Mooney felt he had contradicted himself by saying there was no developments in the area and then going on to use the development of the new school within his presentation, Mr Mooney clarified that he had spoken about minor changes and not no changes.

In response to questioning from the Applicant around the customer satisfaction survey conducted by Boots, Mr Mooney advised that this was an internal survey, which was managed independently by a third party. He did not agree with the Applicant's assertion that the report could be developed to show Boots in a good light.

In response to questioning from the Applicant regarding the Capability Scotland report, Mr Mooney advised that this had been handled internally, with a formal response being made to the Health Board in August 2010. He further confirmed that the company had taken all reasonable steps to ensure compliance under DDA and taking a rational and balanced view in terms of SIMD and the scores for the datazones within the neighbourhood, he was confident that the branch provided adequate access for the demographic profile of the neighbourhood.

In response to final questioning from the Applicant, Mr Mooney agreed that new development in the area had changed the neighbourhood, but that these changes were not so significant that those community pharmacies already providing service weren't providing adequate services. He did not feel the changes effected the fundamental service provision.

### **The PPC Question Mr Mooney**

In response to questioning from **Mr MacIntyre**, regarding the availability of stock, Mr Mooney advised that within the Boots UK organisation there was a Clinical Governance structure which monitored such issues. If there had been complaints from patients such as those highlighted by the Applicant in his presentation, these would have been investigated. The stock issues raised by the Applicant in his presentation were national issues. Mr Mooney was not aware of any specific issues in Byres Road. He further advised that in the event of a stock issue the Pharmacist would contact another local branch in the existing network to source the item. This would include pharmacies outwith the Boots chain.

In response to further questioning from Mr MacIntyre, Mr Mooney advised that in his opinion, it would take an able bodied person between five and ten minutes to travel from the Fraser building to Byres Road.

In response to questioning from **Councillor O'Rourke**, regarding why Mr Mooney had questioned whether the proposed pharmacy would be viable when the Applicant had apparently conducted research into this area prior to making the application, Mr Mooney advised that the Applicant's business model of utilizing two pharmacists within the pharmacy would have considerable cost. Taking into consideration the demographic profile of the area, Mr Mooney questioned whether there was sufficient business to support an additional pharmacy.

In response to further questioning from Councillor O'Rourke, Mr Mooney advised that if granted, the opening of an additional pharmacy in the area might cause Boots to review the current operational model in its branches within the neighbourhood. This might include opening hours especially in the Great Western Road branch which was a relatively quiet pharmacy.

In response to questioning from **Mr Fraser** regarding the comments made by Mr Mooney in his presentation about traffic wardens providing an undertaking that they wouldn't move disabled badge holders who had exceed the ten minute parking limit, Mr Mooney advised that this was fair comment.

In response to questioning from **Mr Gillespie** regarding the steps taken by Boots UK Ltd subsequent to the Capability Scotland report and whether further improvements were to be made, Mr Mooney advised that Boots UK Ltd had now made all reasonable adjustments to the branch to ensure DDA compliance. The only other major change planned was the installation of automatic doors on the left hand entrance to the Byres Road branch.

In response to questioning from **Professor McNulty**, Mr Mooney confirmed that Boots UK

Ltd was satisfied with the level of response from the Customer Satisfaction Survey and the scores seemed to be adequate.

In response to further questioning from Professor McNulty regarding what services the company would provide specifically for students, Mr Mooney advised that the branches provided EHC, Smoking Cessation, all core services and any supplementary services required by the Health Board. Beyond this they provided supervised methadone and compliance aids.

In response to further questioning from Professor McNulty, Mr Mooney agreed that the services provided from the Byres Road branch were adequate, but that the premises were not optimal. Boots had tried to relocate other branches to improve service provision but had been constrained by the regulatory framework in place at that time. It was therefore not simple to undertake relocation.

In response to a question from Professor McNulty, Mr Mooney advised that there was access to the consultation room via the baby aisle.

In response to final questioning from Professor McNulty regarding the notices which the Applicant suggested had been placed in the doors of the Byres Road branch advising that the doors had been locked and were out of use, Mr Money advised that he couldn't recall these notices being up, however as he was not involved in operational issues this wasn't surprising. He advised however that all community pharmacies experienced such issues at one time or another and that these were not issues that required the granting of an additional pharmacy contract.

In response to questioning from **the Chair**, regarding the locked doors, Mr Mooney agreed that this was a health and safety issue if the doors had been locked for two weeks.

In response to further questioning from the Chair, Mr Mooney confirmed that neither of the Boots branches in the neighbourhood participated in the free condom service.

In response to further questioning from the Chair regarding Baillie Malik's comments around "Hillhead" as an area, Mr Mooney confirmed that he understood that Baillie Malik was not referring to the CHP as a whole. He reiterated however that the area commonly known as "Hillhead" extended beyond the Applicant's defined neighbourhood and there were more than two pharmacies in that area.

In response to final questioning from the Chair regarding the opening hours at 693 Great Western Road, Mr Mooney reiterated his previous response that if a further contract were granted, Boots UK Ltd might have to review the current operational model of the branches, however there were no plans at present to reduce the opening hours of the pharmacy.

### **Summing Up**

The Applicant and the Interested Party were then given the opportunity to sum up.

**Mr Mooney** advised that the neighbourhood had a resident population of approximately 4,500. Within this area there were two pharmacies. The resident population was healthy,

relatively affluent and mobile. Services provided by the existing network were adequate. There was no further evidence to suggest otherwise. There had been no material difference to the area which would lead to the existing network being overburdened. He asked the Committee to refuse the application on this basis.

**Mr Salwan** advised that in accordance to the guidelines, the legal test states that the PPC, on behalf of the Board, will grant an application only if it satisfied that the provision of pharmaceutical services is ***necessary or desirable*** in order to secure adequate provision of services in the Neighbourhood in which the proposed premises are located. I would like to remind you of the six reasons why granting this application can be considered to be ***necessary or desirable***:

There is ongoing population growth and many new developments in this Neighbourhood, including significant commercial housing, substantial higher education accommodation and the establishment of a new 'super-school', which will mean parents and children of schools not currently in this area coming into the area on a daily basis from August. This will be a major shift in population, with an influx of new patients, and this will create demand for new, additional services in the area. These significant developments support the case for an additional pharmacy in this specific location; patients from the new Thurso Street and Gibson Street developments, and the new school – 1,000 plus people - will use University Avenue as a major thoroughfare for their daily business, and so, a pharmacy located on this side of Hillhead Street will be naturally en route for them on foot or by car.

Since the closure of one of the Byres Road pharmacies three years ago, not one, but two new medical centres have opened in this area and both within the past 18 months; each of them have a growing patient list and the new inadequacy that can arise as a result of relocation of GP services should be considered in a historical and legal context. The impact of the closure of the pharmacy has, gradually over three years, impacted on the quality of service for patients and this has been compounded by other key changes to the Neighbourhood. This application seeks to revert to the model whereby it was considered not so long ago that three pharmacies were required to secure adequate provision of services; the need for this level of service is now greater than it has ever been.

The impact of the new pharmacy contract should be considered, particularly given the professional opinion of local GPs that there is an inadequacy given the low uptake of the Minor Ailments Service, a situation likely to worsen as patient lists continue to show growth and due to the shortage of pharmaceutical provision for the community.

The report by Capability Scotland unequivocally proved that pharmacy provision was failing disabled patients. The two examples of ongoing operational issues from earlier this year prove that patients still face inadequate access to services and these remain disrupted for long periods and compromise patient safety; surely you will agree that this is simply unacceptable if the health board is going to maintain quality standards and lead by example? The proposed pharmacy site will meet all DDA compliance, with ready access for all of the local community and with additional services not currently provided. Boots has had over nine months to act on this report and it has not done so. There are clear inadequacies here today as there were 12 months ago. I would seek reassurances that the health board makes a professionally qualified decision in terms of the Equality Act 2010. The doors were intentionally locked for two weeks – this was not mechanical. The

fact that the disabled doors were not working for two weeks is a separate incident that occurred at the same time. I will state the exact dates for each incident.

The health board received around 200 complaints last year about inadequacies in local pharmacy provision. This suggests that local services are not coping with **existing** demand and patient care is being compromised and the scale of ongoing developments and population growth will make the situation worse; as I mentioned, the Lloyds vs. NAP case from 2004 brought to my attention the point that it is not sufficient to simply consider the adequacy of existing provision of services when it is known there are future changes which could lead to inadequacy of service.

Finally, the health board's own public consultation showed a very high level of public support for this application. This is reinforced by the qualified support of GPs, local and national disability organisations, an organisation representing the city's elderly and both the CHP and its chair, who has provided a letter stating that a pharmacy would support the policy of the CHP and help better meet the needs of this local community. The necessity and desirability of an additional pharmacy is clearly evident.

The interested party has tried his best to defend its position – the fact of the matter is he was not involved in an operational capacity and doesn't really have any idea what is happening on the ground – from health and safety and fire safety issues, disability issues, long waiting times and serious inadequacies they just cannot get on top of.

In order to ensure the best, patient centric healthcare, I hope respected members will agree that there is a case for both necessity and desirability here. This pharmacy is necessary and desirable for these six key reasons and in order to secure adequacy of services for the local community now and in the future.

Before the applicant and interested parties left the hearing, the Chair asked Mr Salwan and Mr Mooney to confirm that they had had a full and fair hearing. All confirmed individually that they had.

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

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

In addition to the oral submissions put before them, the PPC also took into account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

- a) Chemist contractors within the vicinity of the Applicant's premises, namely:
  - Buchanan & Campbell Ltd – 368 Dumbarton Road, Galsgow G11;
  - Boots UK Ltd – various addresses;

- Park Road Pharmacy – 405 Great Western Road, Glasgow G4;
  - Houlihan Pharmacy Partick – 312 Dumbarton Road, Glasgow G11 – see point p) below;
  - LG Pharmacy Ltd – 476 St Vincent Street, Glasgow G3;
  - Lloydspharmacy Ltd – various addresses; and
  - Andrew Hand Pharmacy – 510 Dumbarton Road, Glasgow G11
- b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee);
- c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee;

**The Committee noted that in accordance with the requirement to consult the public, notification of the application had been sent to:**

- d) - The Glaswegian (advert run on Wednesday 10<sup>th</sup> November 2010) – eight responses were received;
- e) - West Glasgow CH(C)P – no response was received;
- f) The following community councils:
- Hillhead Community Council – no response received;
  - Kelvin North Community Council – no response received;
  - Kelvinside Community Council – no response received;
  - Partick Community Council – no response received;
  - Woodlands & Park Community Council – no response received;
  - Woodside Community Council – no response received; and
  - Yorkhill & Kelvingrove Community Council – no response received.

The Committee also considered;-

- g) The location of the nearest existing pharmaceutical services;
- h) The location of the nearest existing medical services;
- j) Demographic information regarding post code sectors G3.8, G4.9 and G12.8;
- k) Information from Glasgow City Council's Department of Development & Regeneration Services and Department of Land & Environmental Services regarding future plans for development within the area;
- l) NHS Greater Glasgow and Clyde plans for future development of services;
- m) Patterns of public transport in the area surrounding the Applicant's proposed premises;
- n) Information from the Board's Clinical Governance Support Unit;

- o) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone; and
- p) A tabled letter from Mr Denis Houlihan withdrawing his objection to the application, the inclusion of which had been considered and agreed by the Chair prior to the meeting. A copy had been provided to Mr Mooney and the Applicant and both given time to consider its' contents.

## **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 to which the application related were located.

The Committee considered the various neighbourhoods 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:

**North:** Great Western Road to Kelvin Bridge;

**East:** Kelvin Bridge following the River Kelvin south;

**South:** the River Kelvin traveling westwards to Benalder Street and then northwards to Byres Road ; and

**West:** Byres Road to its meeting with Great Western Road.

In the Committee's opinion Great Western Road was a boundary not in terms of any difficulty in crossing the road, but because the area beyond this was of a different topography. The residential element to the north of Great Western Road was affluent flatted accommodation as opposed to student accommodation. The River Kelvin was both a physical boundary and marked the edge of a different neighbourhood. Byres Road was a busy shopping thorough fair. The main university buildings lay on one side of the street, with the other bounding an area of flatted accommodation, beyond which was residential accommodation at the more affluent end of the scale.

## **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 that neighbourhood, and whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in that neighbourhood.

The Committee noted that within the neighbourhood as defined by the PPC there were two pharmacies with a further 6 within 1 km just outside the neighbourhood. These pharmacies provided all core pharmacy services, along with several supplementary services. The Committee considered that the level of existing services did ensure satisfactory access to pharmaceutical services for the population within the defined neighbourhood.

The Committee noted the comprehensive presentation put forward made by the Applicant

and the points made therein. These issues had been distilled into six main points which the Applicant had used to sum up his case. After comprehensive discussion, the Committee addressed each point.

In terms of ongoing development and population growth, the Committee noted from the information provided by Glasgow City Council that several new developments were planned in the area, which would bring an increase to the current resident population. The Committee did not share the Applicant's views however that this increase or the increase from the 2001 Census statistics would have a material effect on the demand for pharmaceutical services in the neighbourhood.

The Committee noted the prescription load figures for pharmacies within the defined neighbourhood and those within one mile from the proposed premises and noted that these were relatively stable and did not show any indication of having increased exponentially with any increase in population. There was therefore little evidence that the increase in population had caused a corresponding increase in the number of prescriptions being dispensed. The Committee was satisfied that the existing pharmaceutical network had sufficient capacity to adequately absorb any further demand emanating from any of the development planned within the area.

The Committee considered the transient population within the neighbourhood which would avail themselves of services during the day. The University itself, Byres Road and Great Western Road were established areas of activity which had been in existence for some time. The current pharmaceutical network had evolved to meet the demands placed upon it, and the Committee could see no evidence, nor had the Applicant provided any evidence to suggest the existing pharmacies would be unable to absorb any additional demands placed upon them from new developments.

The two medical practices were relatively new additions to the neighbourhood. The Barclay Medical Practice was a branch surgery, albeit a significant one, of a main surgery situated in Maryhill Health Centre. It was not possible to extricate prescription load statistics solely for this branch, however there was no evidence to suggest that the existing network was not adequately dealing with the level of prescriptions emanating from the surgery. Dr Kennedy's practice at Ashton Road had recently relocated from Hyndland Road. The Committee was aware that the practice list size was currently just over 1,200. Many of these patients would reside in the Hyndland area and would chose to remain registered with Dr Kennedy after his move to Ashton Road. Although the number of GP practices in the neighbourhood had increased there was no evidence to suggest that these additions had resulted in a corresponding increase to the number of prescriptions being presented for dispensing to the current pharmaceutical network. The prescription load figures for the area showed a relatively stable level with no indication that the increase in surgeries had placed any undue pressure on demand for services.

The Committee considered the comments made by the Applicant at Point 2 of his summing up, surrounding the previous situation where there had been three pharmacies on Byres Road. The Applicant had stated "This application seeks to revert to the model whereby it was considered not so long ago that three pharmacies were required to secure adequate provision of services." The Committee was reminded that no such requirement had been tested. The three pharmacies on Byres Road had been in existence since

before the Control of Entry Regulations were introduced and as such were not subject to the legal test. There was no evidence to show that three pharmacies were required to meet the demand for services in the area, either currently or in the past. The number of pharmacies on Byres Road was historical rather than a concerted effort to match provision of services to any needs assessment.

In terms of point 3 in the Applicant's summing up, the Committee noted that a significant number of the University population would not have any need to access MAS given the eligibility criteria. There was no evidence to show that the lack of uptake of the service was due to any inadequacy in current pharmaceutical provision. Furthermore the demographic profile of the neighbourhood confirmed that it was one of relative affluence with relatively low health needs; as such requirement of MAS would be low. There were six pharmacies within 1km from the Applicant's proposed premises, all of which would provide this service to the relatively low percentage of the population who would be eligible to access this service.

The Committee then went on to discuss the Capability Scotland report commissioned by the Applicant as part of his research into the provision of pharmacy services in the neighbourhood. The Committee acknowledged the steps taken by Boots UK Ltd to remedy issues highlighted in the report; however they agreed that further steps should be taken to make further improvements and the pace of change increased. The Committee recognised the adaptations made to the Boots branch at 693 Great Western Road. The Committee recognised the difficulties at Byres Road in terms of access, however were satisfied that the company were providing an adequate pharmaceutical service in difficult circumstances.

The Committee noted that a number of complaints had been received by the Board's Clinical Governance Support Unit over several weeks in 2010. All of the complaints submitted were on the same pro-forma. Each one listed a number of issues although it appeared that the individuals were expected to tick/circle statements they agreed with, rather than submit specific issues. Of the number received, acknowledgements were sent to those entire where the names and addresses could be deciphered. The letter sent advised the individuals that in relation to the NHS complaints procedure for Family Health Service practitioners indicated that any issues had to be raised in the first instance with the contractor concerned i.e. directly to the community pharmacy concerned. Following the letter several people telephoned the Support Unit to advise they were not complaining, but had just signed a petition. The Committee were aware that if any individual did take the opportunity to raise a complaint with a specific pharmacy, the Health Board might not have become aware of this unless a case had proceeded to the next stage of the complaints process. As the Boots representative had not mentioned within his presentation that any complaints had been received, and had confirmed in his response to questioning that no complaints had been received, the Committee could only conclude that none of the complainers had availed themselves of the opportunity to commence the complaints process and proceed with a formal complaint.

Only three of the complaints mentioned specific issues, all of which related to supply issues. The Committee was aware of the current difficulties experienced by community pharmacies across the country in terms of supply difficulties for some items. This situation was not restricted to one wholesaler or one manufacturer and all community pharmacies

were likely to experience such difficulties for at least one item requested by a patient.

The Committee noted the level of support for the application and welcomed the comments submitted during the consultation process. They were mindful however that members of the general public when considering the issue for an additional contract, were more likely to consider the issue in terms of convenience and that an additional pharmacy might make their life easier. They were not likely to be aware of the concept of adequacy which the legislative framework required the Committee to consider when determining such applications. While the Committee recognised that the issues experienced by those who had chosen to comment, they did not agree that these issues would be addressed by the granting of an additional contract in the neighbourhood. The Committee was mindful that further work needed to be undertaken by Boots UK Ltd in terms of their branch in Byres Road and looked forward to the completion of these improvements. They nevertheless considered the current services to be adequate.

The Committee considered the Applicant's various reasons for granting the application and while they agreed they were commendable, did not feel they led to a conclusion that the current service in the area was inadequate.

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 currently adequately served.

**In accordance with the statutory procedure the Chemist Contractor Members of the Committee, Alasdair MacIntyre left the room during the decision process:**

**DECIDED/-**

The PPC was satisfied that the provision of pharmaceutical services at the premises of the Applicant was not necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List and in the circumstances, it was the unanimous decision of the PPC that the application be refused.

**Contractor  
Services  
Supervisor**

**The Chemist Contractor Members of the Committee Alasdair MacIntyre rejoined the meeting at this stage.**

**5. APPLICATIONS STILL TO BE CONSIDERED**

The Committee having previously been circulated with Paper 2011/14 noted the contents which gave details of applications received by the Board and which had still to be considered. The Committee agreed the following applications should be considered by means of an oral hearing:

**- Saima & Saira Latif – 84 Parkneuk Road, Mansewood, Glasgow G43 2AF**

**6. MATTERS CONSIDERED BY THE CHAIR SINCE THE DATE OF THE LAST MEETING**

The Committee having previously been circulated with Paper 2011/15 noted the contents which gave details of matters considered by the Chair since the date of the last meeting:

### **Change of Ownership**

**Case No: PPC/CO01/2011 – Salwan Pharmacy Ltd, 11 Fieldhead Square, Glasgow G43 1HL**

The Board had received an application from Salwan Pharmacy Ltd for inclusion in the Board's Pharmaceutical List at a pharmacy previously listed as Houlihan Pharmacy Ltd T/A Eastwood Pharmacy at the address given above. The change of ownership was effective from 1<sup>st</sup> March 2011.

The Committee was advised that the level of service was not reduced by the new contractor and that the new contractor was suitably registered with the General Pharmaceutical Council.

Given the above, the Committee agreed that the application could be granted in terms of Regulation 4 of the current Pharmaceutical Regulations.

**NOTED/-**

## **7. MATTERS CONSIDERED BY THE CHAIR SINCE THE DATE OF THE LAST MEETING**

The Committee having previously been circulated with Paper 2011/16 noted the contents which gave details of matters considered by the Chair since the date of the last meeting:

### **Minor Relocation of Existing Pharmaceutical Services**

**Case No: PPC/MRELOC01/2011 – Lloydspharmacy Ltd – 1626 Great Western Road, Anniesland, Galsgow G13 1HH**

The Committee considered the action taken by the Chairman on an application for a minor relocation of a NHS Dispensing contract currently held by Lloydspharmacy Ltd, at the above address.

The Committee noted that the application did not fulfill the criteria for a minor relocation under Regulation 5 (4) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 as amended.

The Committee noted that the Chairman had refused the application, having been satisfied that the application did not fulfill the requirements laid down in the Pharmaceutical Regulations.

**NOTED/-**

## **8. NATIONAL APPEALS PANEL DETERMINATION**

The Committee having previously been circulated with paper 2011/17 noted the contents which gave details of the National Appeals Panel's determination of appeals lodged against the Committee's decision in the following cases:

**Mohammed Ameen & Mohammed Rashid, 460 Ballater Street, Glasgow G5 0QW  
(Case No: PPC/INCL07/2010)**

The Committee noted that the National Appeals Panel had dismissed the Appeal submitted against the PPC's decision to refuse Mr Ameen and Mr Rashid's application to establish a pharmacy at the above address. As such their names were not included in the Board's Provisional Pharmaceutical List, and the file on the application had been closed.

**9. LETTER OF COMPLAINT**

The Committee having previously been circulated with paper 2011/18 noted the contents which included a letter from Ms Erine Don, Practice Manager, Crookston Medical Practice who had written to the Committee making complaint against comments made by an Applicant in the course of an oral hearing.

The Committee had considered an application at their meeting on 20<sup>th</sup> January 2011. During the Applicant's presentation they had made mention of comments alleged to have been made by Ms Don regarding other community pharmacies within the neighbourhood.

Ms Don became aware via the Committee's minutes that these comments had been attributed to her. She contacted the Board to confirm that she had not given the Applicant permission to use any comments made by her during what was a short meeting discussing pharmacy services in general. Ms Don advised that some of the comments used by the Applicant had not been made at all and other comments had been misquoted. Ms Don was keen that the PPC be made aware that the Crookston Medical Practice had a well established and productive relationship with their local Boots pharmacy and any comments made by the Applicant which suggested otherwise, were unfounded.

The Committee noted Ms Don's concerns and expressed their thanks to her for bringing the issue to their attention.

***NOTED/-***

**10. ANY OTHER COMPETENT BUSINESS**

There was no other competent business.

**11. DATE OF NEXT MEETING**

The next meeting of the Committee would take place on 21<sup>st</sup> April 2011.

**NOT YET ENDORSED AS A CORRECT RECORD**

**Pharmacy Practices Committee (08)**  
Minutes of a Meeting held on  
Thursday 21<sup>st</sup> April 2011 at 11.30 am in  
Rhuallan House, 1 Montgomerie Drive  
Giffnock, Glasgow G46 6PY

<b>PRESENT:</b>	Dr Catherine Benton	Deputy Chair
	Mrs Maura Lynch	Deputy Lay Member
	Councillor Luciano Rebecchi	Deputy Lay Member
	Dr James Johnson	Non Contractor Pharmacist Member
	Mr Gordon Dykes	Contractor Pharmacist Member
	Mr Kenny Irvine	Deputy Contractor Pharmacist Member
 <b>IN ATTENDANCE:</b>	 Dale Cochran	 Contracts Supervisor – Community Pharmacy Development
	Richard Duke	Contracts Manager – Community Pharmacy Development
	Janine Glen	Contracts Manager – Community Pharmacy Development
	Elaine Paton	Community Pharmacy Development Pharmacist

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

**ACTION**

**No member declared an interest in the application to be considered.**

**1. APOLOGIES**

There were no apologies.

**Section 1 – Applications Under Regulation 5 (10)**

**2. MINUTES**

The minutes of the meeting held on Monday 14<sup>th</sup> March 2011 PPC[M]2011/06 were approved as an accurate record.

**3. MATTERS ARISING NOT INCLUDED ON AGENDA**

There were no matters arising from the minutes, which were not already included in the Agenda.

**4. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST**

**Case No: PPC/INCL14/2010****Rowlands Pharmacy, Unit 2 Greenlaw Village, Newton Mearns, Glasgow G77 6NP**

The Committee were asked to consider an application submitted by Rowlands Pharmacy to provide general pharmaceutical services from premises situated at Unit 2 Greenlaw Village, Newton Mearns, Glasgow G77 6NP under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee had to determine whether the granting of the application were necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant's proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Rowlands Pharmacy agreed that the application should be considered by oral hearing.

The hearing were convened under paragraph 3 (2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended ("the Regulations"). In terms of this paragraph, the PPC "shall determine an application in such a manner as it thinks fit". In terms of Regulation 5(10) of the Regulations, the question for the PPC were whether "the provision of pharmaceutical services at the premises named in the application were necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List."

The Applicant was represented in person by Mr Alasdair Shearer None of the Interested Parties who had submitted written representations during the consultation period had chosen to attend the oral hearing.

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant's proposed premises, existing pharmacies, GP surgeries and facilities in the immediate area and surrounding areas following: Stewarton Road (B769); Warnock Road; Corroul Road; Harvie Road; Crookfur Road; Stewarton Road; Barrhead Road; Greenfarm Road; Crookfur Road; Greenlaw Road; Teawell Road; Meadowhill; Capelrig Road; Netherplace Road; Hunter Drive and Ayr Road (A77).

The Committee noted that the premises were constructed and were currently empty. The pharmacy area was not yet fitted out. The Committee did not gain access to the premises but were able to view them from the outside.

The procedure adopted by the Pharmacy Practices Committee ("the PPC") at the hearing was that the Chair asked the Applicant to make his submission. There followed the opportunity for the PPC to ask questions. The Applicant was then given the opportunity to sum up.

**The Applicant's Case**

**The Applicant** thanked the Committee for giving Rowlands Pharmacy the time to

come along to present their case.

He confirmed that the application had been submitted with the sole intention of relocating Rowland's current premises at Harvie Avenue, and moving the contract to the Greenlaw site. It is not an application for an additional contract as the original contract would close and move to the new premises.

The neighbourhood as defined by Rowlands Pharmacy was:

**North: from junction 4 of the M77, through greenbelt land and Whitecraigs Golf club to meet the A77 Ayr Road;**

**East: the A77 Ayr Road;**

**South: Where the A77 met the M77; and**

**West: the M77.**

This neighbourhood was also agreed at a previous National Appeals Panel hearing in the same area, and was also defined by Greater Glasgow and Clyde APC.

He advised that looking at the demographics and driving around Newton Mearns it could be seen how affluent the area was. Using Census data, life expectancy in Newton Mearns was above the Scottish average, 78% of the population had good general health compared to the national average of 68% and 90.3% of the population had access to one or more cars. Within the boundaries the Applicant had defined, there were currently four pharmacies; Rowlands at Harvie Avenue, Glendinnings, with Superdrug and Boots within the shopping centre.

The proposed move was around half a mile from the Applicant's current site. It did not leapfrog any existing contractor, and it did not take us into another neighbourhood. The move would serve the same population.

The Greenlaw Village development was a substantial project; a £25 million development aimed at a retail park, restaurants, Waitrose supermarket and also a hope to provide GP services from the location. There had been substantial building of residential homes around the development as well.

The location of the proposed premises was at Unit 2. The Applicant advised that the "retail park" would be better described as a shopping parade – a bookmakers, beauticians, fish & chip shop and dry clearers were all located there, along with an NHS dentist. In reality then, this was the typical scene where you would expect to find a pharmacy. In the Applicant's opinion, this had the makings of a new centre for this neighbourhood.

The Applicant advised that the dynamics of the neighbourhood were changing and that was why Rowlands were proposing this move. This development was changing where people would do their local shopping. This was becoming the

hub for these residents. It was where they would come to shop for groceries. The parade of shops at Harvie Avenue would not be the centre for these residents.

The Applicant stated that the proposed move of the pharmacy would not affect the accessibility to pharmacy services within the neighbourhood. He argued that it would be easier for many residents to access the new premises though those to the east of Harvie Avenue would have slightly further to travel. But this would be only a maximum of half a mile, with roads and pavements that were well laid out and there was an amended bus route to take in the new development though many people in this area would be travelling by car. Tesco Metro had already proved popular with local residents, and the Waitrose store was sure to be a big pull for the residents of Newton Mearns.

Moving premises would give the Applicant a fit for purpose unit for which they had submitted plans of the proposed layout. It would be fitted to the company's "new concept layout" which was featured positively in a number of pharmacy press publications. They had streamlined "front shop" products offering, instead concentrating on advice-driven sales. The Applicant had distinct, clear categories for medicines, health and wellbeing, weight management and other services. They believed it was important to design the pharmacy to be patient focused; ensuring face to face consultation with the pharmacist.

The Applicant asked the Committee to see that this was a minor relocation within the same neighbourhood, a neighbourhood that had changed recently, and as a result, changed the way in which services were accessed by those who lived in it. The move would not disadvantage anyone within the neighbourhood, and as such was very much still accessible and desirable.

### **The PPC Question the Applicant**

In response to questioning from **Mr Dykes**, the Applicant accepted that Rowlands Pharmacy had objected to previous applications to open a new pharmacy contract at the Greenlaw Village Development. He advised however, that he viewed this current application as being different. There had been a suggestion in the previous application that the Retail Park was a neighbourhood in its own right. Rowlands had disagreed with this view. Rowlands advised that the current service in the neighbourhood was adequate. They were merely looking to relocate services.

In response to further questioning from Mr Dykes as to whether Rowlands would close their pharmacy in Harvie Avenue if the application were granted, Mr Shearer confirmed that this was difficult to say as the company would continue to have terms on the lease of the premises. He did not believe there was a need for an additional contract and it had always been the company's intention to move premises.

In response to further questioning from Mr Dykes regarding parking provision at the new development, the Applicant advised that in his opinion, there would be sufficient car parking spaces. He did not envisage that visitors to the facility would require long stay parking facilities. Most would be in the development for short periods of time and there were 174 spaces. He agreed that there may be a certain amount of overspill from

customers using Waitrose, but remained of the opinion that there was sufficient provision.

In response to questioning from **Dr Johnson** regarding the pharmacy's current working relationship with the nearby GP practice, the Applicant advised that there was a close working relationship between the two. The pharmacist in Harvie Avenue had conducted pharmacist prescribing clinics for the practice. He further advised that the GP within the practice was looking to move to the Greenlaw development. This was currently in negotiation.

In response to further questioning from Dr Johnson regarding service provision at the new premises, the Applicant advised that the company would undertake the same level of services and would be open to undertaken additional services, if required by the Health Board.

In response to final questioning from Dr Johnson regarding how much of an issue the neighbourhood was in this application, the Applicant advised that much of the business expected at the new premises would be static, coming from the same neighbourhood as was served from the current location. He agreed there would be a degree of transient population, but had deliberately not relied on this within his presentation as their only access to the development was from the southbound carriageway of the M77. Anyone accessing the development from the other side i.e. northbound M77 traffic would need to travel through Newton Mearns which was already adequately serviced.

In response to questioning from **Mrs Paton** as to whether the Applicant agreed that the move might leave the population surrounding the Harvie Avenue premises with inadequate pharmaceutical services, Mr Shearer agreed that Harvie Avenue was at the centre of the defined neighbourhood and some might argue that the new site was not located centrally within the neighbourhood. He felt, however, that travel to the new site would not be difficult given the distance, the regular bus service and the level of car ownership within the area. He did not feel it would cause a problem for the majority of the population. The company would continue to operate a collection and delivery service which would address the needs of patients who might have a travel issue. He advised that there may be an opportunity to use the premises at Harvie Avenue as a collection point if needed.

In response to questioning from **Mrs Lynch**, regarding whether Rowlands had canvassed public opinion surrounding the proposed move, the Applicant advised that no formal consultation had taken place. He was aware that news of the relocation would have filtered through to the neighbourhood population and no negative feedback had been put forward. Many of the residents had started to use the Tesco Metro facility within the new development.

In response to further questioning from Mrs Lynch regarding the potential relocation of the GP surgery and what implications Rowlands would experience if this relocation did not materialise, the Applicant advised that hopefully there would be no repercussions if the practice move did not take place. The patients who would be most affected would be those who presented at the surgery and were given an acute prescription, however he still felt there would be sufficient links and this wouldn't cause a problem.

In response to a question from Mrs Lynch regarding timescales, the Applicant advised that

the company were ready to enter into a lease agreement with the landlord of the new premises. Fit out of the unit would take approximately six to eight weeks. He was comfortable that the pharmacy would be open within three months of the formal entry to the Pharmaceutical List.

In response to questioning from **Mr Irvine**, the Applicant confirmed that the current premises in Harvie Avenue saw footfall from throughout the neighbourhood, although he conceded that residents living to the south of the defined neighbourhood might find it more convenient to access services at Glendenning's Pharmacy.

In response to further questioning from Mr Irvine regarding additional services, the Applicant advised that currently Rowlands did not provide needle exchange services from Harvie Avenue as there was not seen to be a need. They provided supervised methadone services and had no limits on numbers.

In response to a request from Mr Irvine to clarify comments made during a response to an earlier question, the Applicant confirmed that it would not be the company's intention to collect prescriptions in the premises at Harvie Avenue for onward transmission to the new premises. He clarified that the intention would be for Harvie Avenue to act as a collection point for repeat prescription requests, although this plan would require further discussion and clarification with both the company and the General Pharmaceutical Council.

In response to questioning from **Councillor Rebecchi**, the Applicant confirmed that the lease on Harvie Avenue had approximately ten years to run and he was not aware of any restrictions on use of the premises.

In response to further questioning from Councillor Rebecchi, the Applicant reiterated Rowland's intention to close the pharmacy at Harvie Avenue and relocate the service provision to the new premises within the Greenlaw development. He was aware that the Regulatory framework under which the application was being considered did not specifically require the closure of the original premises; however he was keen to assure the Committee that the application was for a relocation and not an additional contract. He suggested that the lack of Interested Parties objecting to the application could be taken as evidence of the company's intentions and the other contractors understanding that the application would not increase the number of contracts in the area.

In response to final questioning from Councillor Rebecchi, the Applicant confirmed that the company would continue to operate a collection and delivery service from the new premises.

In response to questioning from **the Chair**, the Applicant confirmed that a decision had not yet been taken on what would happen to the premises in Harvie Avenue.

In response to further questioning from the Chair, the Applicant advised that Rowlands had reduced their holdings of non medicine stock, which now accounted for approximately only 5% of their turnover. The company, like many other contractors, was unable to compete with the Supermarkets pricing strategy on such items.

In response to further questioning from the Chair regarding why he felt none of the

objectors had turned up to the hearing, the Applicant confirmed his feeling that this was due to there being an understanding that the application was for a relocation and not a new contract. Rowlands was already serving the population to the north of the defined neighbourhood; the relocation would simply result in their moving further north, but would continue to serve the same population. He believed that Boots UK Ltd had only made objection because they objected to every application.

### **Summing Up**

The Applicant was then given the opportunity to sum up.

**Mr Shearer** advised that he had shown that the application was to relocate the current premises situated in Harvie Avenue to new premises in the Greenlaw development. If granted, the premises in Harvie Avenue would close. He advised that the neighbourhood was not changing. Rowlands would continue to provide services to the population they already served from their current premises. These residents wouldn't have any difficulties in accessing the new premises given the public transport links and the level of car ownership in the area.

He further advised that the relocation was in response to the changing dynamics within the neighbourhood which was resulting in the focus of the neighbourhood moving from one area to another.

Mr Shearer asked the Committee to look favourably on the application.

Before the Applicant left the hearing, the Chair asked Mr Shearer to confirm that he had had a full and fair hearing. He confirmed individually that he had.

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

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

In addition to the oral submissions put before them, the PPC also took into account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

- a) Chemist contractors within the vicinity of the Applicant's premises, namely:
  - Boots UK Ltd – The Avenue at Mearns, Glasgow G77; and
  - Superdrug Stores Ltd – The Avenue at Mearns, Glasgow G77.
- b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee);
- c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-

Committee;

**The Committee noted that in accordance with the requirement to consult the public, notification of the application had been sent to:**

- d) - The Southside & Eastwood Extra run on Friday 7<sup>th</sup> January 2011 – no responses were received;
- e) - East Renfrewshire CH(C)P – no response was received;
- f) The following community councils:
  - Levern District Community Council – no response received.

The Committee also considered;-

- g) The location of the nearest existing pharmaceutical services;
- h) The location of the nearest existing medical services;
- j) Demographic information regarding post code sectors G77.5 and G78.1;
- k) Information from East Renfrewshire Council roads, Planning and Transportation Service regarding future plans for development within the area;
- l) NHS Greater Glasgow and Clyde plans for future development of services;
- m) Patterns of public transport in the area surrounding the Applicant's proposed premises;
- n) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone; and
- o) A tabled plan of the proposed premises.

### **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 to which the application related were located.

The Committee considered the various neighbourhoods 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:

**North:** the railway line;  
**East:** the A77 trunk road (Ayr Road);  
**South:** the A77 trunk road (Ayr Road) ; and  
**West:** the M77 motorway.

In the Committee's opinion the railway line and M77 motorway were significant physical barriers. The A77 was a major trunk road which was very difficult to cross and had very few pedestrian crossings.

**Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability**

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

The Committee noted the Applicant's comments regarding the issue of relocation from Harvie Avenue and the assertion that this would not increase the number of pharmacy contracts in the area. The Committee was however mindful that the statutory framework under which the application had to be considered required the Committee to consider the application the same as an application for a new contract.

The Committee noted that within the neighbourhood as defined by the PPC there were four pharmacies. These pharmacies provided all core pharmacy services, along with several supplementary services. The Committee considered that the level of existing services did ensure satisfactory access to pharmaceutical services for the population within the defined neighbourhood. The Committee therefore considered that the existing pharmaceutical services in the neighbourhood were adequate.

The Committee considered the Applicant's various reasons for granting the application and while they agreed they were commendable, did not feel they led to a conclusion that the current service in the area was inadequate.

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 were currently adequately served.

**In accordance with the statutory procedure the Chemist Contractor Members of the Committee, Gordon Dykes and Kenny Irvine left the room during the decision process:**

**DECIDED/-**

The PPC were satisfied that the provision of pharmaceutical services at the premises of the Applicant were not necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List and in the circumstances, it were the unanimous decision of the PPC that the application be refused.

**The Chemist Contractor Members of the Committee Gordon Dykes and Kenny Irvine**

**Contractor  
Services  
Supervisor**

rejoined the meeting at this stage.

## 5. CHANGE OF OWNERSHIP

The Committee having previously been circulated with Paper 2011/21 noted the contents which gave details of Changes of Ownership which had taken place in the following cases:

**Case No: PPC/CO03/2011 – Mr Danilo P Guidi, 139 Thurston Road, Glasgow G52 2AZ**

The Board had received an application from Guidi's Pharmacy Ltd for inclusion in the Board's Pharmaceutical List at a pharmacy previously listed as Mr Danilo P Guidi T/A Guidi's Pharmacy at the address given above.

The Committee noted that this was a change to a limited company rather than a full change of ownership and there was therefore no need for formal approval by the Committee.

**NOTED/-**

## 6. MODEL HOURS – REVIEW

**A A Hagan Ltd, 115 Grieve Road, Greenock PA16 7AW**

The Committee having previously been circulated with Paper 2011/22 noted the contents which gave details of the review undertaken regarding A A Hagan's authorization to operate below the minimum hours of service required under the Model Hours of Service Scheme.

The Committee noted the comments made by the contractor in response to the Board's request for an update on how the current hours of service were viewed by patients. The Committee was disappointed to note the contractor's comments regarding gauging the views of patients.

After comprehensive discussion, the Committee agreed that the contractor should be asked to undertake a formal consultation exercise involving patients to ascertain the level of satisfaction regarding the current opening hours of the pharmacy.

Results of the exercise were to be presented to the Committee after which they would determine whether the current authorization should be extended.

**Contracts  
Manager**

## 7. MATTERS CONSIDERED BY THE CHAIR SINCE THE DATE OF THE LAST MEETING

The Committee having previously been circulated with Paper 2011/23 noted the contents which gave details of matters considered by the Chair since the date of the last meeting:

### **Change of Ownership**

**Case No: PPC/CO02/2011 – Fittleworth Medical Ltd, 59-61 Queen Street, Glasgow G1 3EN**

The Board had received an application from Fittleworth Medical Ltd for inclusion in the

Board's Pharmaceutical List at an appliance supplier previously listed as Shuropody Ltd t the address given above. The change of ownership was effective from 1<sup>st</sup> April 2011.

The Committee was advised that the level of service was not reduced by the new contractor.

Given the above, the Committee agreed that the application could be granted in terms of Regulation 4 of the current Pharmaceutical Regulations.

**NOTED/-**

#### **8. CONTROL OF ENTRY TO THE PHARMACEUTICAL LIST AMENDMENT REGULATIONS**

The Committee having previously been circulated with Paper 2011/24 noted the contents which gave details of changes made to the Regulatory Framework by SSI 2011/32.

The Committee noted that the attachments provided with the papers did not match the Appendices appearing in the Paper. It was therefore agreed that an amended set of papers be sent to each Committee member.

**Contractor  
Services  
Supervisor**

**NOTED/-**

#### **9. ANY OTHER COMPETENT BUSINESS**

There was no other competent business.

#### **10. DATE OF NEXT MEETING**

The next meeting of the Committee would take place on 5<sup>th</sup> May 2011.

The meeting ended at 2.50pm

**NOT YET ENDORSED AS A CORRECT RECORD**

**Pharmacy Practices Committee (09)**

Minutes of a Meeting held on  
Thursday 5<sup>th</sup> May 2011 at 1.30 pm in  
The Seminar Room, Upper Courtyard, Reid McEwan Centre  
Erskine hospital, Bishopton PA7 5UP

<b>PRESENT:</b>	Dr Catherine Benton	Deputy Chair
	Mrs Catherine Anderton	Deputy Lay Member
	Mr Alex Imrie	Deputy Lay Member
	Professor Howard McNulty	Deputy Non Contractor Pharmacist Member
	Mr Alasdair MacIntyre	Contractor Pharmacist Member
	Mr Colin Fergusson	Deputy Contractor Pharmacist Member
 <b>IN ATTENDANCE:</b>	 Dale Cochran	 Contracts Supervisor – Community Pharmacy Development
	Richard Duke	Contracts Manager – Community Pharmacy Development
	Janine Glen	Contracts Manager – Community Pharmacy Development
	David Thomson	Deputy Lead - Community Pharmacy Development

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

**ACTION**

**No member declared an interest in the application to be considered.**

**1. APOLOGIES**

There were no apologies.

**Section 1 – Applications Under Regulation 5 (10)**

**2. MATTERS ARISING NOT INCLUDED ON AGENDA**

There were no matters arising from the minutes, which were not already included in the Agenda.

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

**Case No: PPC/INCL01/2011**

**Angela Mackie – 290 Faifley Road, Glasgow G81 5EY**

The Committee was asked to consider an application submitted by Angela Mackie to provide general pharmaceutical services from premises situated at 290 Faifley Road,

Glasgow G81 5EY under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee had to determine whether the granting of the application was necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant's proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Ms Mackie considered that the application should be considered by oral hearing.

The hearing were convened under paragraph 3 (2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended ("the Regulations"). In terms of this paragraph, the PPC "shall determine an application in such a manner as it thinks fit". In terms of Regulation 5(10) of the Regulations, the question for the PPC were whether "the provision of pharmaceutical services at the premises named in the application were necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List."

The Applicant was represented in person by Ms Angela Mackie. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Mr Michael McLaren (Clan Chemists), and Mr Michael Malone (Lloydspharmacy).

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant's proposed premises, existing pharmacies, GP surgeries and facilities in the immediate area and surrounding areas including Faifley, Duntocher and Kilbowie Road.

The Committee noted that the premises were constructed and were currently empty. The pharmacy area was not yet fitted out. The Committee had gained access to the premises and had viewed these in their entirety.

The procedure adopted by the Pharmacy Practices Committee ("the PPC") at the hearing was that the Chair asked the Applicant to make her submission. There followed the opportunity for the Interested Parties and the PPC to ask questions. The Interested Parties were then asked to make their submissions. After each submission, there followed the opportunity for the Applicant and the PPC to ask questions. The Interested Parties and the Applicant were then given the opportunity to sum up.

### **The Applicant's Case**

**The Applicant** thanked the Committee for giving her the opportunity to come along and present her case.

She advised the Committee her name and provided some background information around her previous experience. She advised that during this time she had witnessed how pharmacists could make a contribution to the wider public health

agenda. She had worked in many deprived areas and genuinely felt that she had been able to improve the health of people by enrolling them in smoking cessation programmes, providing advice on medication, providing MAS to save patients from trips to the GP and simply providing advice on healthier lifestyle choices. In areas she had worked in she had got to know the local needs of communities and she felt that pharmacists working in the heart of neighbourhoods could impact on lives.

Ms Mackie defined her neighbourhood as:

**North: Cochno Road;**

**East: Cochno Road, leading to Duntocher Road;**

**South: Galsgow Road; and**

**West: Cochno Road.**

The Applicant advised that the Faifley neighbourhood contained a number of amenities including two primary schools, three churches, four convenience stores; one of which was in a mini-supermarket which sold a wide range of groceries, a nursery, a hairdresser, a community centre housing a café, hairdresser and credit union, two housing associations, a dentist, playing fields and a bowling green. Faifley was a separate Council ward. It was a neighbourhood for all purposes.

The neighbourhood defined did not contain pharmaceutical services. The nearest pharmacy for the residents of Faifley was the pharmacy situated at the Hardgate roundabout (Clan Chemists). She advised that travel to this facility could be difficult for some residents as it meant negotiating a steep hill and having to cross a very busy junction. 53% of the residents of Faifley had no car and so were reliant on walking or public transport to access pharmaceutical services. The Applicant was aware that buses traveled through Faifley and were regular. She was aware however that this must pose difficulties for mothers with buggies, the disabled population and also for those reliant on the use of walking aids. Buses might be free for those aged over 60; however a single adult far from Faifley to Hardgate was £1.00 and 75p for children, after which an extremely busy junction must be crossed. Depending on the route bus fares to Clydebank were more and if pharmacies were not accessed there, people would then be expected to deviate on the return journey, stopping at Hardgate before heading back home to Faifley. The Health Board had received a letter from a member of the public who was in support of the application, and although the letter was not signed it had made reference to bus fares being an issue for those on a low income.

The Applicant advised that during the winter months, buses were disrupted. She had spoken to various bus drivers at the bus dept who had all confirmed that the inclement winter weather could disrupt bus timetables for days at a time. Buses were unable to enter Faifley and one driver had advised that it was even more dangerous to get out the area. The Applicant had contacted First Bus to clarify these claims. There was indeed no bus services into Faifley during the first week in December for four days and these disruptions lasted several days. She

accepted that last year's winter was particularly severe, however looking back to the year before the snow was even worse and lasted for several weeks. The Applicant questioned whether those living in Faifley should have to accept that they are not able to access pharmaceutical services. In her opinion, buses should not have to be relied on to access services. Every neighbourhood should have its own pharmacy.

The Applicant estimated the population of Faifley/Hardgate/Duntocher to be in the region of 13,000. Broken down to 4,700 for Faifley, 3,300 for Hardgate and around 5,000 for Duntocher.

The Applicant believed that an area of 13,000 people served by two pharmacies was not sufficient and it was the residents of Faifley who were suffering. Having studied the neighbourhood of Faifley on foot, the Applicant believed that those residing in the lower areas of Faifley such as Craigs Avenue, Collins Street and parts of Abbeylands Road would be quicker accessing pharmaceutical services located at Hardgate and she believed the residents would continue to do so. This would increase the capture population of Hardgate to around 4,000 and reduce the population of Faifley to around the same. She did not believe that those residing in Faifley would access pharmaceutical services in the Duntocher neighbourhood.

She advised that Faifley was an extremely deprived area. The Scottish Index of Multiple Deprivation showed areas of Faifley to be the most deprived in Scotland. Using postcodes in the neighbourhood she had found a number of streets to be as low as 5-10% of the most deprived in Scotland and some to be 10-15%.

30% of the population of Faifley was income deprived as opposed to 16% for the whole of Scotland. Faifley had almost twice the number of people claiming benefits in percentage terms as the national average. The income deprived figures for Duntocher were 12% and for Hardgate were 16%.

Smoking statistics of women at first booking were 42% which was two and a half times the Glasgow average which lay at 16.5%. The Applicant believed easier access to smoking cessation programmes could significantly improve this statistic. She advised that working in communities she had seen at first hand the benefits of knowing patients, informing them about the programme, enrolling them and supporting them throughout the 12 weeks.

She advised that effective delivery of CMS and MAS would reduce the need for the population to travel to their GP reducing their workload.

For optimal delivery of these services, as well as EHC and smoking cessation programmes pharmacies at the heart of a community which were easily accessible were essential.

Breast feeding among women was just 23% compared to 33% for the rest of the Health Board and 36% nationally. While it was arguably more difficult to make an impact on this figure, the Applicant believed that specific information and availability of advice at a

pharmacy could only help.

The percentage of women smoking at booking in Hardgate had decreased from 30% in 2004 to 22% in 2007 and 25% in 2008. This suggested that current smoking cessation schemes were working. The percentage of women smoking at booking in Duntocher from 2003-2006 was 31.5%. This figure decreased to 27% from 2005-2007 and reduced further to 25% from 2006-2008. This may have been due to the new pharmacy implementing smoking cessation.

She advised that Faifley on the other hand had figures of 36% from 2003-2005 rising to 40% from 2004-2006 and this had further increased to 42.5% from 2006-2008.

Surely as displayed by the impact of the Duntocher pharmacy on the numbers in that area a pharmacy in Faifley which provided easier access to these essential services would do the same. Patients would be more likely to adhere to the programme if it was on their doorstep and they didn't have to spend time or money on buses. The total % of smokers as of 2003 - 2004 for smokers was 27% for Duntocher, 30% for Hardgate and 40% for Faifley. The high percentages in Faifley had to be addressed.

The Applicant further advised that the % of first time mothers under the age of 19 years old for Faifley in 2003-2005 was 28.6% which reduced to 25.4% in 2005-2007. For Duntocher in 2003-2005 it was 12.5%, which reduced to 7.9% in 2005-2007. For Hardgate in 2003-2005 it was 22% which reduced to 8% in 2004-2006.

Although the Applicant couldn't say that the two pharmacies in these neighbourhoods were directly having an effect on these statistics by providing EHC and smoking cessation programmes it certainly appeared that way. These statistics showed that neither pharmacy had had a positive impact on key statistical health indicators for Faifley. Faifley was one neighbourhood with worsening or stagnant figures and it seemed that giving the deprived neighbourhood access to these core pharmaceutical services was both necessary and desirable to maximize these services.

Currently there were no pharmacies open on a Sunday in the area. Patients from Hardgate, Duntocher and Faifley would have to travel into the Clydebank area to access pharmaceutical services. The Applicant felt that opening for two hours would be beneficial to residents of the area who may require a pharmacy on a Sunday. She had visited West Community Addiction Team and had spoke with Jan Simpson, Senior Nurse who had reported that Sunday methadone supervision was often beneficial for those patients at high risk of suicide. She was also told that there were methadone clients residing in the neighbourhood who would benefit from a pharmacy in Faifley. This would save them travelling every day to other pharmacies. The Applicant had also been advised that Jennifer Munro, alcohol nurse from the Addiction Team might have mentioned that the supervision of Antabuse had been an issue and this was a service that the Applicant would be happy to offer as she had participated in this service in her last job. She did however realize that funding may be an issue.

The Applicant advised that since submitting this application she had made several trips to the neighbourhood and spoke to numerous residents who would all welcome a pharmacy in Faifley. She visited the local Councillor for the area Jim Finn who also supported the

application. Jim was born and bred in the neighbourhood and felt that residents could only gain from a pharmacy at their doorstep. He also pointed out the deviation in the area and felt that bus fares could have an impact to residents with families. Jim now resided in the Duntocher neighbourhood and accessed pharmaceutical services there. He commented that if this application was granted he would continue to access services in his own neighbourhood as he would be unlikely to travel into Faifley for them when they were available on his doorstep unless it was necessary on a Sunday.

She advised that three pharmacies in the surrounding areas of Hardgate, Duntocher and Clydebank submitted letters of objection to the granting of the application.

Mr McLaren from Clan Chemists stated that his pharmacy offered a wide range of pharmaceutical services. The Application did not dispute this, but felt that a population of 13,000 accessing services from two pharmacies was insufficient. Three pharmacies serving the combined areas would be more suitable. Collection and delivery services were vital for some patients; however, this service did not fulfill the needs of a deprived population. Clan Chemists would also benefit from a transient population because of other services located in the area. There was ample parking however this could be chaotic at times. Mr McLaren operated a two pharmacist system but the Applicant felt a pharmacy and pharmacist closer to hand was more able to deliver the new services than two pharmacists together further away. Smoking cessation compliance would be better if there was no need for patients to catch a bus and women were more likely to seek EHC if the pharmacy was just around the corner. The Applicant was further aware of the waiting times that could sometimes occur in Clan Chemists and questioned whether the residents of Faifley and Hardgate would be satisfied with these.

She advised that Mr Semple from Duntocher Pharmacy stated that it was not necessary or desirable to grant this application, yet in his own application for Duntocher he stated that the population was around 12,300 in the combined neighbourhoods. He also stated that the Scottish Average per head of population was 4,500. With 13,000 people residing in the neighbourhoods and with only two pharmacies serving this, this would give an average of 6,500 people per pharmacy which was much higher than the national average Mr Semple stated.

She advised that Mr Cox from Lloydspharmacy stated that the area was well served by existing pharmacies. The Applicant felt however that a population of 13,000 was too large for two pharmacies and residents from the three neighbourhoods should not have to travel outwith their areas to access pharmaceutical services provided by Lloydspharmacy. Mr Cox was also concerned that no premises were secured. The Applicant assured the Committee that premises were secured and shop plan had been drawn up.

The Applicant asserted that on granting this application, she aimed to work hard within the neighborhood of Faifley. She would reach out to patients and provide a wide range of pharmaceutical services. She intended to carry out a widespread pamphlet drop within the neighbourhood promoting services such as free blood pressure monitoring, body mass index, weight management and smoking cessation programmes in an attempt to tackle these problematic statistics. By simply getting people on board in smoking cessation programmes would improve the life expectancy in this deprived area.

Having CMS on the doorstep of this community would reduce the workload of local doctors and allow her to interact with the residents in providing healthcare in the area.

Supervision of methadone/subutex/Antabuse would be available from the pharmacy and the shop had been designed to provide this in privacy.

Finally, the Applicant posed this question to the Committee; was there a more distinct geographical area in the whole of Glasgow or Dunbartonshire, with a population as large and as economically deprived without a pharmacy, than Faifley?

The Applicant genuinely believed that the residents of Faifley were paying the price as they were not receiving adequate healthcare in their extremely deprived neighbourhood. She believed that additional pharmaceutical services were both necessary and desirable in the neighbourhood of Faifley to cope with the problematic healthcare issues in the area.

### **The Interested Parties Question the Applicant**

In response to questioning from **Mr Malone**, the Applicant confirmed the location of the unit within the parade of shops. She confirmed the unit was approximately 3m x 12m and that the space was suitable to hold all items she wished to stock. She had commissioned plans which allowed for a consultation room, the sale of GSL medicines and a dispensary. She further confirmed that the Health Board had already received documentary evidence showing that she was in active negotiations for the lease of the premises.

### **The PPC Question the Applicant**

In response to questioning from **Professor McNulty** regarding neighbourhood, the Applicant advised that she had included the housing to the north of Glasgow Road, to the south of Cochno burn. She conceded however that this row of housing was of a different type and more affluent than the majority of the housing in Faifley. She agreed that the Cochno burn could be used as a boundary.

In response to further questioning from Professor McNulty, the Applicant confirmed that she had obtained her health needs statistics from the Scottish Neighbourhood Statistics website.

In response to further questioning from Professor McNulty, the Applicant confirmed that in her opinion the area of Faifley was a discrete neighbourhood.

In response to further questioning from Professor McNulty regarding Sunday opening, the Applicant advised that many of the residents of Duntocher and Hardgate would travel to a pharmacy in Faifley, if they were aware that it offered Sunday opening. Her intention was to commence the provision of services on a Sunday and monitor demand.

In response to further questioning from Professor McNulty, the Applicant confirmed her view that it was not necessary to have a GP practice in close proximity to a community pharmacy for the pharmacy to be viable. She asserted that not all patients needed to visit a GP to require access to pharmacy services. She was aware of several pharmacists who had opened pharmacies where there was no GP practice and all had good businesses.

In response to final questioning from Professor McNulty, the Applicant confirmed that she would provide the Minor Ailment Service.

In response to questioning from **Mr Thomson** regarding her comments relating to suicides amongst methadone users, the Applicant confirmed that she did not have any figures to substantiate her claims. This information had been obtained through a conversation with a member of the Community Addictions Team.

In response to further questioning from Mr Thomson regarding the location of the proposed premises, the Applicant confirmed that the premises were situated to the east of the neighbourhood and that much of the population could be considered to reside in the west of the area. She further confirmed that there were no other appropriate units in other areas of the neighbourhood. She accepted that many people would find it quicker to access services from the pharmacy in Hardgate. She reminded the Committee, however that Faifley had many lanes that linked areas together.

In response to questioning from **Mr Imrie**, the Applicant reiterated her commitment to offering services on a Sunday. She explained her belief that this would be of benefit to many patients who might require access to MAS.

In response to questioning from **Mr Macintyre**, the Applicant confirmed that she did not consider Hardgate to be part of her defined neighbourhood. Her boundary had been drawn north of Galsgow Road. She confirmed that those living in Abbeylands Road and Lenox Drive were residents of Faifley and were included in her neighbourhood.

In response to further questioning from Mr MacIntyre, the Applicant confirmed that Boots in Clydebank Shopping Centre opened on a Sunday. She further confirmed her agreement that having to travel from Faifley to Clydebank town centre to access services on a Sunday would be a barrier for the residents of Faifley. She did not agree that anyone would travel into Faifley to access services unless it was specifically to access services on a Sunday. Similarly most residents in Faifley wouldn't travel into Clydebank town centre to access services. They would tend to use the facility closes to their homes.

In response to final questioning from Mr MacIntyre, the Applicant confirmed that she would provide a supervised Antabuse service only if funding was available from the Health Board.

In response to questioning from **the Chair**, the Applicant confirmed that her boundary had been the north side of Glasgow Road, however she felt the houses situated at Cameron Square and Thomson Place to be essentially different to those further north. As such she was content to use Cochno Burn as her boundary.

In response to further questioning from the Chair, the Applicant confirmed that she had a contingency arrangement in place in the event that her application was not successful.

**There were no questions to the Applicant from Mrs Anderton or Mr Fergusson.**

**The Interested Parties' Case – (Mr Michael McLaren – Clan Chemists)**

**Mr McLaren** contended that it was the original position of Clan Chemists that the neighbourhood served by their pharmacy comprised Duntocher, Faifley and Hardgate. Clan Chemists had a central location within this neighbourhood and this view was upheld by two National Appeal Panels in 2004 and 2005.

Later in 2005, however there was change of opinion in relation to an application from Mr James Semple for a pharmacy contract in Duntocher. In this situation, the NAP decided that there was a separate neighbourhood to the west of the Hardgate Roundabout being defined as Duntocher.

Mr McLaren advised that Clan Chemists had accepted this argument but could not accept that the remaining neighbourhood should be further subdivided.

The relatively small area of housing between Duntocher and Faifley, known as Hardgate was surely in one neighbourhood or the other. He pointed out that a sizeable area of Hardgate lay to the west of Cochno Road within the boundaries of the area defined as Duntocher. Mr McLaren then went on to give background information regarding recent changes in Council wards, which had seen changes in the area. What had previously been three separate council wards was now a multi member ward named Kilpatrick.

He would therefore define his neighbourhood as:

**North:** open ground to the north of Faifley;

**East:** open ground to the east of Faifley following the line of the postcode boundary for G81.5;

**South:** following the line of Braidfield Road then across open ground following the general line of the Antonine Wall until the east boundary is reached; and

**West:** From Kilbowie Roundabout north along Kilbowie Road through Hardgate roundabout then continuing north along Cochno Road.

He advised that this neighbourhood could be described as Faifley and Hardgate. Mr McLaren believed that the population of Hardgate was insufficient to distinguish it as a neighbourhood in its own right. The Hardgate portion of the neighbourhood was that area south of Hardgate Roundabout and accessible from Kilbowie Road which placed Clan Chemists in the Faifley part. There was very little housing to the south and east of Clan Chemists, the area being mostly taken up by a golf course. It was therefore clear that Clan Chemists relied heavily on Faifley for their business.

Mr McLaren understood the issue of neighbourhood could be critical in determining the adequacy of pharmaceutical services to patients. This would be important when there was an area where one part could be deemed to have an adequate service and another part did not. In other words, if you had a large area with a pharmacy at one end, and a considerable distance from the other end to the pharmacy, an applicant could argue that there were two neighbourhoods, and the residents of the area with no pharmacy had an inadequate service. An Interested Party may, in contrast, claim that the whole area was a

single neighbourhood and that the existing pharmacy provided an adequate service to the neighbourhood in general. In Mr McLaren's opinion the settlements of Faifley and Hardgate weren't like this.

It made no difference in respect of the legal test, if this was a single neighbourhood or two distinct neighbourhoods. If they constituted a single neighbourhood the question was; did Clan Chemists provide an adequate service to the neighbourhood? Mr McLaren contended that it did.

If however, the PPC decided that Hardgate and Faifley were two distinct neighbourhoods the question became: Did Clan Chemists provide an adequate service to Faifley? Again Mr McLaren contended that it did.

This having been said, Mr McLaren reiterated his belief that Hardgate and Faifley were not distinct neighbourhoods. They made up a single neighbourhood with its centre being the shops and services at Hardgate Cross.

Mr McLaren asserted that Clan Chemists was the main provider of pharmacy services to Faifley. Some services would be obtained from other pharmacies in Clydebank and Duntocher but the majority of prescriptions for Faifley were dispensed at Clan Chemists.

The pharmacy offered a comprehensive range of services including: domiciliary oxygen, stoma equipment, Palliative Care, 24hr Emergency Dispensing Service, Smoke Free Services, Methadone and Suboxone ® supervision, Heart Failure service, EHC, compliance aids and were involved in the CHP project on anticoagulant therapy. He further advised that the pharmacy fully engaged with the public health service such as Unscheduled Care and the Minor Ailment Service and were now beginning to work on the Chronic Medication Service.

Mr McLaren advised that the parade of shops at Rockbank Place had in addition to the pharmacy, a bank, post office, optician, butcher, baker and supermarket and others. The shops were used freely every day by residents of Faifley. Much of Faifley was within easy walking distance to the shops.

He advised that Faifley was extremely well served by public transport, with several bus routes running through the estate. First in Glasgow operated the No 62 service which left Faifley terminus approximately every 6-7 minutes through the day taking only a few minutes to reach Hardgate. Citybus No 17 service operated from Duntocher to the city centre every 20 minutes passing Hardgate and going through Faifley. Citybus No 62 service operated from Faifley to Asda in Clydebank every 10 minutes. In practice this meant residents rarely waited more than a few minutes for a bus in Faifley and all buses passed through Hardgate. The buses were modern and by any standard this was an excellent bus service.

Mr McLaren accepted that not all shopping was undertaken at Hardgate and at some time most residents would travel to Clydebank to access the shopping centre. There were also no medical practices within the area and visits to the GPs also required travel to Clydebank. In the wider area of Clydebank there was a large choice of pharmacies.

People might choose to use the pharmacy in the shopping centre while doing their weekly shop, and when coming out from the Health Centre a large number of particularly the acute prescriptions would be dispensed by the two pharmacies close to the Health Centre. The wider Clydebank area had some nine pharmacies which gave the public a good level of choice. Several pharmacies had delivery services and delivered to the Faifley area.

He advised that Clan Chemists had no monopoly in their service and had to work hard to keep their customers. They had invested heavily in their premises to make them of a high standard and fit for purpose. Last year the pharmacy was fully refitted. They considerably reduced their retail area to include proper consulting facilities to extended privacy to customers. The pharmacy had full disabled access.

The pharmacy operated with two pharmacists meaning that one pharmacist could maintain the running of the pharmacy while the other was consulting or even having to leave the pharmacy to visit patients at home if this was required.

For those unable to call at the pharmacy, a full time collection and delivery service was available and the pharmacy was able to respond quickly if a prescription was urgently needed. They had an excellent working relationship with the Health Centre.

Mr McLaren knew that residents of Faifley had a choice in where they obtained pharmacy services and so had developed and would continue to develop a service which he felt was more than adequate.

He averred that the key part of the legal test was the question of adequacy of the pharmaceutical service within the neighbourhood in which the premises were located. As he stated earlier if the PPC considered the proposed premises to be in the same neighbourhood as Clan Chemists then he hoped that the Committee would also accept that Clan Chemists provided an adequate service to Faifley and Hardgate. Further he hoped and aimed for Clan's service to be exemplary in this neighbourhood. Should a patient choose not to use Clan Chemists they had a wide choice of other providers in the wider area. Even without public transport the pharmacy in Duntocher was a very short walk away.

Mr McLaren didn't feel there should be a difference if the Committee accepted the argument that Faifley was a distinct neighbourhood with no pharmacy located in it. Clan Chemists was easily accessible to all residents in Faifley. Even if someone had difficulty walking there was an excellent bus service every few minutes.

He also added that given normal patterns of travel and daily activity it would be easier to access the pharmacy at Hardgate than a pharmacy at the proposed location. Convenience wasn't a reason to grant an application although in this case the location would be less convenient for the majority of residents.

In conclusion, Mr McLaren advised that the neighbourhood was the villages of Hardgate and Faifley, with the shops at Hardgate Cross being the commercial centre of the neighbourhood. He reiterated however that he did not believe that a division of this neighbourhood into two separate neighbourhoods had any bearing on the matter since Clan Chemists was situated in the centre.

Clan Chemists and also the pharmacies in the shopping centre, near the health centre and to a lesser extent the pharmacy in Duntocher provided adequate services.

All residents of Faifley and Hardgate enjoyed an excellent pharmaceutical service. There was a fantastic bus service, and the majority of residents were within easy walking distance. This was in contrast to the proposed premises which were at the far periphery of Faifley and were, in fact, less convenient to access for residents of Faifley than Clan Chemists.

In recent years there had been other applications for new contracts in this neighbourhood which had been rejected and Mr McLaren suggested that there had been no substantial changes which would warrant a different conclusion today.

He was not aware of any plans for major building work which would alter the population to a significant extent. On the contrary there had been a great deal of work carried out by the two main housing associations in Faifley which had done much to improve the quality of housing and would continue to do so, but this new housing was, if anything, less dense than before. Knowes Housing for example had since 1998, demolished 148 tenement flats and replaced them with 119 modern cottages.

He advised if there was a widespread concern about levels of service than this would have been seen in the public consultation exercise.

Services were adequate. The application failed the legal test and should be rejected.

Mr McLaren then went on to read a statement provided to him by Mr Semple.

*“Mr McLaren has kindly agreed to read this statement to the panel and I have also had a conversation with him about various relevant aspects of our pharmacy. If you have any questions relating to Duntocher Pharmacy, Mr McLaren will do his best to answer them, with my full permission.*

*I don't want to add too much to what Mr McLaren has said other to reiterate that the neighbourhood in which the proposed premises are located is the village of Faifley.*

*The existing services are primarily provided by Clan chemist at Hardgate Roundabout, the pharmacies in the centre of Clydebank (which are close to the Clydebank Health Centre), with a very small number of prescriptions – mainly MDS deliveries – being provided from Duntocher Pharmacy.*

*Of course, you may ask why I would therefore be bothered if a pharmacy opens in Faifley. The answer is simple: a pharmacy at the proposed premises is in the wrong place, and would not – in my opinion – be an attractive location to visit for any more than a small number of Faifley residents living very close to the premises. As part of their ‘everyday lives’ no-one is going to get a bus to the furthest end of Faifley when they do the rest of their shopping at Hardgate roundabout (where there is a large modern pharmacy) or at Clydebank town centre – where they have a number of options.*

*So what would the operators of a new pharmacy do? Well, they would cast their net as widely as possible – including Duntocher – and drive their business by doing home deliveries and MDS. That would be their only home of financial survival.*

*This would impact on the services offered at Duntocher Pharmacy (which already offers these services) and may eventually affect the continued viability of Duntocher Pharmacy – which is a relatively new pharmacy and has only recently become profitable. An aggressive ‘delivery war’ would be a disaster for the existing network, driving up costs with no real benefit to patients, since anyone requiring a home delivery can already get one from all the existing contractors.*

*The key question is that of the adequacy of the existing pharmaceutical service to the neighbourhood of Faifley – however one exactly defined it. (To be perfectly honest, it doesn’t really matter. Faifley either has a pharmacy just inside the periphery of the neighborhood or just outside the periphery of the neighbourhood. In both cases it’s still easily accessible to the entire population of the neighbourhood).*

*In our opinion, Faifley is more than adequately served by the pharmacy at Hardgate roundabout, which is in fact easier to access for the majority of residents of the neighbourhood than the proposed premises.*

*Some patients may choose to use the pharmacies in Clydebank, and indeed a very small number may use my pharmacy in Duntocher.*

*The pharmacy at Hardgate roundabout has excellent disabled access. Duntocher Pharmacy has poor disabled access, but this is not relevant to this application since few residents of Faifley use the pharmacy in Duntocher.*

*Those residents of Duntocher who have difficulty accessing our pharmacy – and we appreciate there may be a small number – can easily travel a short additional distance to the pharmacy at Hardgate.*

*Further, we do everything we can to mitigate against this problem – with home visits, home deliveries and various other work-arounds.*

*Ultimately we intend to solve the problem with a ramp, but problems with the BT phonebox have thwarted our attempts so far – but we are not defeated. If, at the end of the day, we cannot put a ramp outside the pharmacy then we will seek to relocate to better premises in Duntocher. But I would reiterate – this is a problem for the residents of Duntocher, not the residents of Faifley. The residents of Faifley have excellent disabled access at easily accessible local pharmacies.*

*To conclude; services provided to the neighbourhood in which the proposed premises are located however you define it – are quite clearly adequate.*

*The applicants have fallen for the old myth that applications should be granted in every neighbourhood in which there is no pharmacy located. As the panel will appreciate, this is absolutely not the case. Even if the village of Faifley is defined in such a way that the pharmacy in Hardgate falls just outside the boundary, it nevertheless provides adequate*

*NHS services to every resident of Faifley, and is – ironically – more conveniently located than a pharmacy at the proposed premises would be.*

*This application fails the legal test by a country mile, and I would ask the PPC to reject it.”*

**There were no questions to Mr McLaren from the Applicant or Mr Malone.**

### **The PPC Question Mr McLaren**

In response to questioning from **Mr Fergusson**, Mr McLaren confirmed his western boundary to be the A8014, missing out Stewart Drive.

In response to further questioning from Mr Fergusson, Mr McLaren confirmed that he had not considered Sunday opening in the past as there had been little evident demand for such a service. Clan Chemists branch in Kilbowie Road previously offered such a service, however when Boots the Chemist commenced this service at Clydebank Shopping Centre, it became financially unviable for Clan to continue with the service and it was withdrawn. He further advised that out of hours services was available in Drumchapel adjacent to the nearest Out of Hours Centre for the neighbourhood population.

In response to questioning from **Mr MacIntyre**, Mr McLaren advised that approximately 50% of patients accessing the smoking cessation service at his pharmacy would come from the Faifley area and 50% from other areas. In response to a follow up question from Mr MacIntyre regarding smoking cessation, Mr McLaren conceded that the proposed pharmacy would be convenient for a small number of people resident in the eastern corner of Faifley. Most other residents would continue to travel to Hardgate or Clydebank where they were travelling to access other services anyway.

In response to further questioning from Mr MacIntyre regarding the supervision of Antabuse, Mr McLaren confirmed that he hadn't mentioned this service in his presentation. He confirmed that at present Clan Chemists did not provide this service. He further confirmed that he had not been approached by Glasgow Addiction Services to undertake such a service, but was willing to do so if required.

In response to questioning from **Mr Imrie**, Mr McLaren confirmed that if a patient required a prescription in an emergent situation they would be able to access pharmaceutical services either in Clydebank Shopping Centre, or on Alderman Road which was convenient for the Out of Hours Service in Drumchapel, where most of the residents in Faifley would access medical services in an out of hours situation.

In response to questioning from **Mr Thomson**, Mr McLaren advised that the collection and delivery service operated by Clan Chemists had been established at a time when many repeat prescriptions were directed to community pharmacies instead of patients needing to travel to the Health Centre. Clan Chemists provided this service for many patients in the Faifley area.

In response to questioning from **Professor McNulty**, Mr McLaren confirmed the existence of several footpaths which connected the area of Faifley to Glasgow Road. The area known as The Knowes had several footpaths crossing it. The area of Craigs Avenue also

had footpaths and there was no need to walk all the way round the area.

In response to further questioning from Professor McNulty regarding the bus service, Mr McLaren confirmed that most of the bus services operating in the area traveled along Faifley Road.

In response to further questioning from Professor McNulty, Mr McLaren confirmed that residents living on Faifley Road would in all probability consider themselves residents of Faifley. He further confirmed that residents living in Hardgate would not consider themselves as being from Faifley.

In response to further questioning from Professor McNulty regarding the impact of any potential new pharmacy, Mr McLaren advised that he did not know what the impact was likely to be. He advised that a relatively new contract had been established in Duntocher, the net effect of which was not yet fully known. A further contract in Faifley would have a combined effect over time. He confirmed that a new contract would be unlikely to lead to the closure of Clan Chemists, however it may impact on service provision

In response to a question from Professor McNulty regarding the pharmacy in Duntocher, Mr McLaren did not agree that if a pharmacy was needed in Duntocher it should automatically follow that one should be established in Faifley. He advised that the area of Duntocher had been established longer than Faifley. There was more of a sense of community in this area and it was more distinct. He further confirmed that Duntocher was a more affluent area than Faifley.

In response to a series of questions from Professor McNulty regarding the apparent lack of progress that had occurred in the Faifley area in terms of health statistics when compared with that in Duntocher, Mr McLaren averred that the reasoning might be because Faifley was more deprived. He did not feel the lack of progress reflect an inadequacy in the provision of pharmaceutical services, nor was it due to a lack of service availability.

In response to questioning from **the Chair** regarding how successful Clan Chemists was at targeting Public Health initiatives, Mr McLaren advised that the smoking cessation service run by the pharmacy had a reasonable success rate. They also put on a lot of public health displays and employed a second pharmacist. A further contract in the area might impact on this level of service provision.

In response to further questioning from the Chair regarding the NAP decision in 2007, Mr McLaren confirmed that he disagreed with the definition of neighbourhood put forward by the Panel on the basis that in his definition he would include the housing to the south of Bellfield Drive.

**There were no questions to Mr McLaren from the Mrs Anderton.**

#### **The Interested Parties' Case (Mr Mark Malone – Lloydspharmacy)**

**Mr Malone** advised the Committee that Lloydspharmacy saw the neighbourhood as being that of Faifley, following boundaries of: open farmland to the North; to the West, from the Hardgate Roundabout up following the boundary of residential development along Faifley

Road; open farmland to the East of Faifley Road in the East, and; Glasgow Road to the south encompassing retail and residential development around Colbreggan Gardens and St Helena Crescent.

He advised that the neighbourhood included the Clan Chemist pharmacy at 3 Rockbank Place. Therefore there was a pharmacy available within the defined neighbourhood. To this end Lloydspharmacy would submit that the residents of Faifley already had adequate access to pharmaceutical services.

Mr Malone felt that it must be taken into account that where the population access services and in particular medical services was important. Patients were able to find pharmacy services close to the main Health Centres in the area at Clydebank and Drumchapel, and this was the point at which most people needed to access prescriptions. The neighbourhood appeared well served by public transport linking the residents to these areas and the further services they required.

The location of the Applicant's premises was also fairly poor in terms of supporting retail, having only a small newsagents/grocer and two hot food take aways in the parade. Mr Malone considered it reasonable to suggest that most people would travel further afield to access services they required. Certainly in the first instance within the neighbourhood to the large retail parade accommodating Clan Chemists, banking facilities, grocery services and the like and then also further afield within the wider community. This latter point was even more apparent when considering the convenient and frequent service 62 operated by First Bus and Glasgow City Bus, running throughout the day at intervals of no more than 10 minutes.

Moving on from consideration of the neighbourhood and to whether the application was necessary or desirable, all the pharmacies provided the services that the Health Board required and this included the two Lloydspharmacy branches on Kilbowie Road and the three within Drumchapel and Lloydspharmacy submitted that these pharmacies were easily accessible to the residents of Faifley, at a point which they were most required. Lloydspharmacy also provided a prescription collection and delivery service to the neighbourhood.

In conclusion, Mr Malone advised that the pharmaceutical services for the residents of Faifley were already provided by the existing pharmacy in the neighbourhood and those pharmacies outside the neighbourhood. Lloydspharmacy submitted these were accessible and adequate. For the above reasons Lloydspharmacy would submit that the application be refused on the basis that it is neither necessary nor desirable to secure in the neighbourhood the adequate provision of pharmaceutical services.

**There were no questions to Mr Malone from the Applicant or Mr McLaren.**

#### **The PPC Question Mr Malone**

In response to questioning from **Professor McNulty**, Mr Malone advised that Lloydspharmacy had branches in Kilbowie Road, Achamore Road and Kinfauns Drive and these were the most relevant to this particular application.

In response to further questioning from Professor McNulty, Mr Malone confirmed that he was not able to quantify the impact a new contract would have on Lloydspharmacy, but consider there would be an effect especially on the pharmacies situated near the Health Centres.

In response to further questioning from Professor McNulty as to whether he agreed that the health statistics provided by the Applicant would seem to demonstrate an inadequacy in service, Mr Malone advised that it might be convenient to have a pharmacy nearby, but adequate services were provided by the existing network.

In response to final questioning from Professor McNulty as to whether Mr Malone considered Cochno Burn to be a barrier to access services below it, Mr Malone advised that when travelling in the area he had not noticed the burn. He had used this as a boundary as he considered it marked a difference in housing, with the housing below this being large villas rather than social housing.

**There was no questioning to Mr Malone from Mr Fergusson, Mr MacIntyre, Mr Imrie, Mr Thomson, Mrs Anderton or the Chair.**

### **Summing Up**

The Applicant was then given the opportunity to sum up.

**Mr Malone** thanked the Committee for providing Lloydspharmacy the opportunity to speak and asked them to take heed of the points raised.

**Mr McLaren** advised that he had covered all points and asked the Committee to look at the points raised.

**The Applicant** advised that she would sum up by saying that she felt that an area with a population of 13,000 served by two pharmacies was insufficient. She was aware that the pharmacy contract had changed over the last few years and pharmacist were more involved with patient healthcare. She did not feel that a pharmacy serving a whole population of around 8,000 was sufficient. An extremely busy pharmacy requiring two pharmacies would no doubt deliver an excellent service to some people however she genuinely felt that they were unable to have the time to resolve healthcare issues that the residents of Faifley may have.

She advised that Faifley was an extremely deprived area with health statistics to prove this. She advised that by granting this application, the deprived neighbourhood of Faifley would have access to core pharmaceutical services which was both necessary and desirable to have a positive impact on the healthcare issues of the residents.

Before the Applicant left the hearing, the Chair asked Mr Shearer to confirm that he had had a full and fair hearing. He confirmed individually that he had.

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

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

In addition to the oral submissions put before them, the PPC also took into account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

- a) Chemist contractors within the vicinity of the Applicant's premises, namely:
  - Clan Chemists, 3 Rockbank Place, Clydebank G81; and
  - Lloydspharmacy – various addresses.
- b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee);
- c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee;
- d) TLC Duntocher Pharmacy, who had taken the opportunity of submitting written representation, although outwith the consultation zone used for this particular application.

**The Committee noted that in accordance with the requirement to consult the public, notification of the application had been sent to:**

- e) - The Clydebank Post run on 2<sup>nd</sup> February 2011 – one response was received;
- f) - West Dunbartonshire CH(C)P – no response was received during the consultation period;
- g) The following community councils:
  - Clydebank East – no response received.
  - Parkhall, North Kilbowie and Centre – no response received.

The Committee also considered;-

- h) The location of the nearest existing pharmaceutical services;
- j) The location of the nearest existing medical services;
- k) Demographic information regarding post code sectors G81.5 and G81.6;
- l) Information from West Dunbartonshire Council Roads, Planning and Transportation Service regarding future plans for development within the area;
- m) NHS Greater Glasgow and Clyde plans for future development of services;

- n) Patterns of public transport in the area surrounding the Applicant's proposed premises;
- o) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone;
- p) A tabled response received from Glasgow City Council and East Dunbartonshire Council regarding future plans for development within the area; and
- q) A tabled letter of support received from Councillor Jim Finn, Ward 4 Kilpatrick.

### **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 to which the application related were located.

The Committee considered the various neighbourhoods 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:

**North:** the open fields along the northern line of the housing;

**East:** the open fields along the eastern line of the housing;

**South:** Glasgow Road, with the housing and shops on both sides including Fairways Drive, Colbreggan Gardens and Hardgate Cross; and

**West:** Cochno Road from its junction with Dumbarton Road to its meeting with Cochno Burn and along Cochno Burn until it reached the northern boundary at the open fields on the north side of Auchnacriag Road.

In the Committee's opinion the northern and eastern boundaries were natural boundaries adjacent to open land; the southern boundary was a natural boundary adjacent to a golf course. The western boundary was marked by a line of open land at its northern end with distinct housing changes along its southern portion.

### **Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability**

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

The Committee noted that within the neighbourhood as defined by the PPC there was one pharmacy. This pharmacy provided all core pharmacy services, along with several supplementary services. The Committee considered that the level of existing services did ensure satisfactory access to pharmaceutical services for the population within the defined neighbourhood. The Committee noted that Clan Chemists had committed itself to providing an exemplary service and had invested significantly in infrastructure

improvement which had resulted in a modern, spacious pharmacy fully equipped to meet the demands placed upon it by the residents choosing to access services there. The Committee therefore considered that the existing pharmaceutical services in the neighbourhood were adequate.

The Committee considered the Applicant's various reasons for granting the application and while they agreed they were commendable, did not feel they led to a conclusion that the current service in the area was inadequate.

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 were currently adequately served.

**In accordance with the statutory procedure the Chemist Contractor Members of the Committee, Colin Fergusson and Alasdair MacIntyre left the room during the decision process:**

**DECIDED/-**

The PPC were satisfied that the provision of pharmaceutical services at the premises of the Applicant were not necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List and in the circumstances, it were the majority decision of the PPC that the application be refused.

**The Chemist Contractor Members of the Committee Colin Fergusson and Alasdair MacIntyre rejoined the meeting at this stage.**

**Contractor  
Services  
Supervisor**

**4. ANY OTHER COMPETENT BUSINESS**

There was no other competent business.

**5. DATE OF NEXT MEETING**

The next meeting of the Committee would take place on 5<sup>th</sup> May 2011.

The meeting ended at 3.30pm

## NOT YET ENDORSED AS A CORRECT RECORD

Pharmacy Practices Committee (10)  
 Minutes of a Meeting held on  
 Thursday 2<sup>nd</sup> June 2011 at 11.15am in  
 The Glynhill Hotel, Junction 27 M8, Paisley Road  
 Renfrew PA4 8XB

PRESENT:	Mr Peter Daniels	Chairman
	Mr Stewart Daniels	Deputy Lay Member
	Councillor William O'Rourke	Deputy Lay Member
	Dr James Johnson	Non Contractor Pharmacist Member
	Mr Kenneth Irvine	Deputy Contractor Pharmacist Member
IN ATTENDANCE:	Dale Cochran	Contracts Supervisor – Community Pharmacy Development
	Richard Duke	Contracts Manager – Community Pharmacy Development
	Janine Glen	Contracts Manager – Community Pharmacy Development
	Elaine Paton	Development Pharmacist - Community Pharmacy Development

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

ACTION

No member declared an interest in the application to be considered.

**1. APOLOGIES**

There were no apologies.

Section 1 – Applications Under Regulation 5 (10)

**2. MINUTES**

The minutes of the meeting held on Thursday 7<sup>th</sup> April 2011 PPC[M]2011/06 were approved as an accurate record.

**3. MATTERS ARISING NOT INCLUDED ON AGENDA**

There were no matters arising from the minutes, which were not already included in the Agenda.

**4. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST**

**Case No: PPC/INCL02/2011****Boots UK Ltd – 51/53 Hairst Street, Renfrew PA4 8QP**

The Committee was asked to consider an application submitted by Boots UK Ltd to provide general pharmaceutical services from premises situated at 51/53 Hairst Street, Renfrew PA4 8QP under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee had to determine whether the granting of the application was necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant's proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Boots UK Ltd considered that the application should be considered by oral hearing.

The hearing were convened under paragraph 3 (2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended ("the Regulations"). In terms of this paragraph, the PPC "shall determine an application in such a manner as it thinks fit". In terms of Regulation 5(10) of the Regulations, the question for the PPC were whether "the provision of pharmaceutical services at the premises named in the application were necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List."

The Applicant was represented in person by Mr Charles Tait, assisted by Ms Lesley Elrick. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Ms Emma Griffiths (The Co-operative Pharmacy), assisted by Mr Alan Harrison. Mr Ian Critchley observed the proceedings but took no part.

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant's proposed premises, existing pharmacies, GP surgeries and facilities in the immediate area and surrounding areas including: Paisley Road, Inchinnan Road, Swigg Bridge, Hairst Street, Canal Street, Ferry Road, King's Inch Road, Mayo Avenue, Old Govan Road, Glasgow Road, Dean Park Road and Cockels Loan.

The Committee noted that the premises were constructed and were currently empty. The pharmacy area was not yet fitted out. The Committee had not gained access to the premises and had only viewed these from the outside.

The procedure adopted by the Pharmacy Practices Committee ("the PPC") at the hearing was that the Chair asked the Applicant to make his submission. There followed the opportunity for the Interested Parties and the PPC to ask questions. The Interested Parties were then asked to make their submissions. After each submission, there followed the opportunity for the Applicant and the PPC to ask questions. The Interested Parties and the Applicant were then given the opportunity to sum up.

### **The Applicant's Case**

The Applicant advised that the neighbourhood should be that defined by the PPC and NAP on previous occasions as the town of Renfrew, as it was bordered by the rivers Cart to the West, the motorway to the South, the commercial area known as Braehead to the East and the river to the north. This neighbourhood was diverse.

He advised that the population of the area was 20,240 in 2001, which had shown a small growth over time to a population of some 20,600 by mid 2009 and ranges in SIMD ranking from 214 to 5698 with the principle low ranked areas clustered round the town centre. There were only three or four small areas of serious deprivation and typically these areas ranked highly in the geographical access to services ranking of the deprivation rankings.

This application was not for a new contract in Renfrew but for a relocation of an existing contract just less than half a mile away. Boots UK Ltd undertook to close the current premises if the application were granted. The new premises would serve the same population as the current contract within the defined neighbourhood of Renfrew.

The current location was near another pharmacy, was fairly small and limited due to the physical layout of the building with a main support wall separating the dispensing area from the customer area. There was very limited room for alteration or change due to the existence of pillars in the pharmacy which supported the building above.

The current location, due to its restrictions, provided a consultation area which was not easily accessible while working in the pharmacy. It provided limited privacy for addiction services patients who used the pharmacy and limited the availability of space for storage for medicines including controlled drugs.

The restrictions of the currently location also limited space available for the production of Daily Dose Systems ( DDS) trays, of which Boots were frequently asked to take on more. The company had continuing requests for provision and was unable to increase their capacity due to the lack of available space which prohibited the company from safely increasing their activity in this area.

The current location did not allow for ease of access or communication with patients in terms of the pharmacist interaction with the patient, which was difficult due to the construction of the dispensary and the hatch connection to the customer area. This had been further exacerbated by the increase in Pharmaceutical Public Health interactions and would only get worse as the Chronic Medication Service (CMS) developed where there was increased interaction expected.

The application for relocation was an attempt to resolve the issues providing an improvement to the layout which could accommodate all services offered under the pharmacy contract, where currently the layout restricted the pharmacy from providing those services frequently requested of it. It would also allow a suitable location for new pharmacy contract services to develop.

The Applicant had submitted a detailed plan of the proposed layout of the new location

which the company believed would provide a pharmacy capable of fulfilling the total requirements both of customers and patients along with the demands of the new contract, including CMS, as it developed over the next year.

The pharmacy would open from 8.30am – 6.30pm during the week and would open public holidays excluding Christmas and New Year. This would be an improvement on the current situation and would allow patients to visit the pharmacy before work, after work and when visiting their GP practice.

The Applicant advised that the relocation would provide improved access to the pharmacist for patients by removing physical barriers, both for general interventions and all Pharmaceutical Public Health engagements. It would give greatly improved access to privacy in a consultation room adjacent to the working area where the pharmacist was located.

A dedicated methadone supervision area and increased storage space for addiction service clients would receive a greatly enhanced service and enhanced privacy and security for needle exchange. It would also provide the company with storage capacity to hold more stock and subsequently to take on additional patients to these services.

The enlarged dispensary area and improved shelving would improve stock and prescription storage and would improve the functionality of the dispensary. The current space in the existing premises was not conducive to best practice and in some cases could be dangerous i.e. provision of DDS and could be said to hinder an effective operation. An enlarged DDS preparation area connected to the dispensary would allow the pharmacy to accede to any requests for its service.

The Applicant reminded the Committee that applications considered under the 2009 Regulations were tested against the criteria of necessity or desirability based on the given situation. He advised that this test had to be tempered by the concept developed by Lord Drummond Young in his judgment which suggested that elements of change needed to be considered when looking at whether an application was necessary or desirable to secure the adequate provision of services in a neighbourhood and that PPCs should be aware of and take recognition of changing circumstances when determining such applications

Mr Tait advised that the Committee would be well aware of the new arrangements which had been introduced under the 2011 amendment Regulations which contained, amongst other things, significant changes to how a PPC should view applications to relocate a pharmacy and especially, the need to remove the Applicant's current premises from its consideration of the application.

He advised that the amendments made by the 2011 Regulations had been designed to be less limiting in terms of relocations changing the concept of effect from "appreciable" to "significant" for minor relocations and changing how relocations (not deemed minor) were considered. He advised that the current application had been submitted prior to the change in arrangements and was, therefore, to be considered under the 2009 Regulations. This would mean the PPC looking at the question of adequacy and determining this question before moving on to the issues of necessity or desirability. Mr Tait however, suggested that the PPC should take into consideration the direction of travel

that would result from the new arrangements when considering the current application. He believed that this application was desirable if not necessary to secure the provision of adequate services under the 2009 Regulations and even more so under the 2011 Regulations.

### **The Interested Parties Question the Applicant**

In response to questioning from **Ms Griffiths**, Mr Tait advised that the current premises had no further capacity to take on compliance aid patients. He further confirmed that the other branch on Paisley Road was also at near capacity for this service. He did not consider the Braehead branch to be in the same neighbourhood and advised that the contract for Braehead had been granted on the basis that the premises were outwith Renfrew.

In response to questioning from Ms Griffiths regarding statements made by the Applicant in his presentation alluding to “physical barriers” within the current premises, Mr Tait advised that DDA related to staff members as well as patients using the premises. There were several aspects of the current premises which would not comply with DDA legislation including the width of the door in the connecting wall. He did not agree with Ms Griffiths assertion that the DDA legislation was framed to ensure adequate access to services for those less able bodied. He did, however, confirm that there were no physical barriers to patients accessing the customer area.

In response to questioning from Ms Griffiths regarding the consultation room, Mr Tait advised that the room was not ideal due to its location away from the dispensary. He could not confirm whether the room had been accredited by the Health Board.

In response to further questioning from Ms Griffiths regarding the potential refit of the existing premises and how far the company had explored this proposal, Mr Tait advised that Boots had explored the issue of refitting the premises fully both prior to and subsequent to the relocation of the Health Centre.

In response to questioning from Ms Griffiths regarding whether the company had sought to relocate to premises in the other direction, Mr Tait confirmed that this had been considered, however no suitable premises had been found in this direction.

In response to final questioning from Ms Griffith, Mr Tait advised that the “change in circumstances” he had mentioned in his presentation related to the 400 person increase in population that had occurred in the neighbourhood in recent years.

### **The PPC Question the Applicant**

In response to questioning from **Mr Irvine** regarding the Applicant’s assertion that pharmaceutical services were inadequate in the neighbourhood with Boots in its current location, Mr Tait believed this to be the case explaining that although improvements had been made to other community pharmacies in the neighbourhood, the current location of the Boots pharmacy would maintain the current inadequacy in the neighbourhood.

In response to further questioning from Mr Irvine regarding potential adaptation of the

current premises, Mr Tait advised that the only way to improve the current premises would be to move the customer area to where the dispensary area and vice versa. This would mean knocking through the supporting wall. With no access to the area from the other end, such a plan would be inadequate for customers and would not improve communication as the consultation room would not be relocated.

In response to further questioning from Mr Irvine in terms of the pharmacy contract and the move to pharmacies being seen as centres of health care excellence, Mr Tait advised that if the non-health care products were taken away there would remain insufficient space in terms of layout for customers. In addition, this would not provide any additional room for methadone users.

In response to further questioning from Mr Irvine, Mr Tait advised that the size of the new premises was as per the plan submitted. He further advised that the usable space within the current premises was only  $\frac{3}{4}$  of the new premises.

In response to further questioning from Mr Irvine regarding compliance aid patients, Mr Tait advised that Boots operated a hub system for Monitored Dosage System (MDS) patients which tended to be Care Home patients. DDS patients continued to be looked after in the individual branches.

In response to final questioning from Mr Irvine, Mr Tait confirmed that there had been a change in the type of prescriptions being dispensed from the current premises subsequent to the relocation of the Health Centre. Previously the focus had been on walk in patients; however this was not the case now where the business centered mostly on collections. There had not necessarily been a change in the volume of prescriptions.

In response to questioning from **Councillor O'Rourke**, Mr Tait confirmed that the company had discounted alternative premises in the opposite direction from the town centre because none of the available units had been suitable for Boots requirements.

In response to questioning from **Mr Daniels**, Mr Tait confirmed that Boots had been trying to relocate this particular branch for approximately three years.

In response to questioning from **Dr Johnson**, whether the population around the current premises would be deprived of services if the application were to be granted and the pharmacy moved, Mr Tait suggested that the population would be deprived of services if the pharmacy did not move. He did not consider the distance from the new premises to be significant at around 400 meters and suggested that patients visiting the current premises were actually coming from around the area of the new premises. He felt that the relocation would improve patient choice.

In response to further questioning from Dr Johnson asking whether three pharmacies were needed towards the town centre when two could be considered adequate, Mr Tait advised that the neighbourhood defined as Renfrew required four community pharmacies.

In response to further questioning from Dr Johnson regarding whether it would be cheaper to improve the current premises rather than fit the new premises to comply with DDA legislation, Mr Tait advised that the proposed relocation wasn't solely to fulfill DDA

requirements. It was needed so that the pharmacist could interact with the patients and be involved with that interaction. At the moment the consultation room was separate from the dispensary and the pharmacist was unable to provide appropriate contact for many services.

In response to final questioning from Dr Johnson regarding whether the layout could be better if the company's retail planning policy did not have to be followed, Mr Tait advised that to make the current space functional, the 2ft sand stone supporting wall would need to be removed. In doing this, there would be no space for customers and the available space would be unusable.

In response to questioning from the **Chair**, the Applicant confirmed that there was available space between the counter and door of the pharmacy for patient access.

In response to further questioning from the Chair, the Applicant advised that if the non-health care products were removed from the premises, the space made available would not be sufficient to hold a consultation room, a dispensary and an area for methadone users. The only way to obtain space for all these things was to utilize the space on the other side of the supporting wall.

There were no questions to the Applicant from **Mrs Paton**.

#### **The Interested Parties' Case – (Ms Emma Griffiths – The Co-operative Pharmacy)**

**Ms Griffiths** thanked the Committee for providing her with the opportunity for making her case.

She advised that she was not going to labour the point of neighbourhood given that this had been defined several times in the past and she could see no significant change since 2009 that would lead to a change in this consideration.

She advised that this application should be considered as a new contract given that it was received prior to the new arrangements coming in and so must be determined under the previous arrangements and should satisfy the Regulations prior to the 2011 amendments.

Ms Griffiths suggested that the current level of service provision within the neighbourhood was adequate. There was sufficient capacity in the network to deal with any overspill from any of the other pharmacies.

She reminded the Committee that one of the pharmacies in the neighbourhood (Rowlands) had recently won the Community Pharmacy of the Year award. The Co-operative Pharmacy offered all services and was DDA compliant.

Ms Griffiths advised that the Applicant's DDA argument was inappropriate and reminded the Committee that the purpose of the DDA legislation was to remove barriers for people to access services. In terms of the neighbourhood, she did not consider there to be any physical barrier to stop less able patient accessing services. She further suggested that if there was such an issue in the Applicant's branch the current premises could be refitted. She suggested that The Co-operative Pharmacy had undertaken such a refit to remove

OTC products to allow them to meet the demand caused by the relocation of the Health Centre.

She advised that Mr Tait had alluded to the level of business at the current premises changing and this, in Miss Griffith's opinion, was the basis for the application. Boots needed to retain their business regardless of the offering in the premises. If, as Mr Tait had suggested, the matrix of the business had changed and more focus was placed on repeat prescriptions then this should allow them to open up the pharmacy to make the adjustments to take the pharmacist closer to the consultation area.

She advised that there was no guarantee that Boots UK Ltd would close the existing premises if the application were granted and this could result in a situation where the number of pharmacies would increase to 5 when 4 was sufficient.

Ms Griffiths advised that the other pharmacies in the area had made profitable businesses which were DDA compliant and had been refitted prior to the relocation of the Health Centre. She did not see why Boots UK Ltd couldn't do the same following the Health Centre's move

Ms Griffiths averred that this application was not necessary or desirable. She further stated that the application should be determined under the 2009 Regulations as amended and if granted would have an appreciable effect on other contractors. She respectively requested that the application be refused.

### **The Applicant Questions Ms Griffiths**

In response to questioning from **Mr Tait**, Ms Griffiths reiterated her interpretation that the DDA legislation was primarily drafted to address access to goods and services. She agreed with the Applicant that the framework contained provisions for less able employees, but stipulated that the essence of the legislation was around access. She further advised that Boots could undertake a refit which would allow the premises to comply with DDA.

In response to final questioning from Mr Tait, Ms Griffiths advised that The Co-operative Pharmacy had reduced the levels of the OTC offerings.

### **The PPC Question Ms Griffiths**

In response to questioning from **Dr Johnson**, Ms Griffiths agreed that Boots UK Ltd's application to relocate the pharmacy was more to do with the ease of which they delivered services, rather than the actual delivery of the services. She did not believe the issues with the premises were insurmountable and could indeed be worked around.

In response to final questioning from Dr Johnson, Ms Griffiths advised that there was no service at which The Co-operative Pharmacy was at capacity.

In response to questioning from **Mr Irvine** regarding how Ms Griffiths knew the services provided by Boots UK Ltd were adequate, Ms Griffiths advised that The Co-operative Pharmacy had not had any complaints from customers saying the service at Boots was

not adequate, nor had they had any MDS patient moving from Boots to The Co-operative Pharmacy.

In response to further questioning from Mr Irvine, Ms Griffiths advised that there had been a marginal increase in the number of walk-in prescriptions since the relocation of the Health Centre.

In response to further questioning from Mr Irvine, Ms Griffiths advised that The Co-operative Pharmacy had been refitted in October 2010 and that it was approximately 909 square feet.

**There were no questions to Ms Griffiths from Councillor O'Rourke, Mr Daniels, Mrs Paton or the Chair.**

### **Summing Up**

**Ms Griffiths** advised that the application was not necessary or desirable under the 2009 Regulations and should be refused.

**Mr Tait** advised that the question had been asked of staff this morning "Are you an architect?" The answer had been "No". This was the case with Ms Griffiths as well. The best architectural advice had been that it would be difficult to alter the current premises.

He advised that the application was for a relocation of premises and not for a new contract. There was no suggestion that Boots UK Ltd would remain open in the current premises. He believed that the PPC needed to bear in mind legislative changes including those relating to the non minor relocation of premises, which stated that the premises currently listed on the Pharmaceutical List should be disregarded from the consideration of the application.

He questioned whether the situation in Renfrew would be adequate if there were three pharmacies and suggested that four were needed. He advised that in order to survive and continue to provide services envisaged under the contract, the pharmacist needed to be able to have more face to face contact with patients, which was not possible within the current premises. The pharmacy needed to move.

If the application was not necessary, it was certainly desirable for the maintenance of adequate pharmaceutical provision in Renfrew and should be granted.

Before the Applicant and Interested Party left the hearing, the Chair asked both Mr Tait and Ms Griffiths to confirm that they had had a full and fair hearing. Both confirmed individually that they had.

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

- a) Neighbourhood;
- b) Adequacy of existing pharmaceutical services in the neighbourhood and, in particular,

whether the provision of pharmaceutical services at the premises named in the application were necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located.

In addition to the oral submissions put before them, the PPC also took into account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

- a) Chemist contractors within the vicinity of the Applicant's premises, namely:
  - The Co-operative Pharmacy, 4 High Street, Renfrew PA4; and
  - Rowlands Pharmacy – 9 Hairst Street, Renfrew PA4.
- b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee);
- c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee;

The Committee noted that in accordance with the requirement to consult the public, notification of the application had been sent to:

- d) - The Paisley Daily Express run on 21<sup>st</sup> January 2011 – no responses were received;
- e) - Renfrewshire CHIP – no response was received during the consultation period;
- f) The following community councils:
  - Renfrew – no response received.

The Committee also considered;-

- g) The location of the nearest existing pharmaceutical services;
- h) The location of the nearest existing medical services;
- i) Demographic information regarding post code sectors PA4.8 and PA4.0;
- j) Information from Renfrewshire Council Housing Land Supply regarding future plans for development within the area;
- k) NHS Greater Glasgow and Clyde plans for future development of services;
- l) Patterns of public transport in the area surrounding the Applicant's proposed premises;
- m) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone;
- n) Applications considered previously by the PPC for premises within the vicinity; and

- o) A tabled plan of the premises provided by Boots UK Ltd.

## **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 to which the application related were located.

The Committee considered the various neighbourhoods 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:

North: the River Clyde;

East: from Junction 26 of the M8 motorway north along the A736, Mayo Avenue and across open land to the River Clyde;

South: M8 motorway – where it crossed the White Cart Water and west along the line of the motorway to Junction 26; and

West: Black and White Cart Waters.

In the Committee's opinion the River, Waters and the M8 motorway formed significant physical boundaries. The A736 was a significant trunk road marking a differentiation between residential and industrial/retail areas. Mayo Avenue also formed a boundary.

## **Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability**

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

The Committee noted that within the neighbourhood as defined by the PPC there were currently four pharmacies, including the premises from which Boots wished to relocate from at 118/120 Paisley Road.

The Committee considered the Applicant's various reasons for granting the application and while they agreed they were commendable, did not feel they led to a conclusion that the current service in the area was inadequate.

The Committee noted the Applicant's comments regarding the recent amendment Regulations and how this would impact on applications of this type; however they were mindful of the specific instruction from the Scottish Government that any application received prior to 1<sup>st</sup> April 2011 must be considered under the framework in place at the time.

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 were currently adequately

served.

**In accordance with the statutory procedure the Chemist Contractor Member of the Committee, Kenneth Irvine left the room during the decision process:**

**DECIDED/-**

The PPC were satisfied that the provision of pharmaceutical services at the premises of the Applicant were not necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List and in the circumstances, it was the unanimous decision of the PPC that the application be refused.

**Contractor  
Services  
Supervisor**

**The Chemist Contractor Member of the Committee Kenneth Irvine rejoined the meeting at this stage.**

**5. MATTERS CONSIDERED BY THE CHAIR SINCE THE DATE OF THE LAST MEETING**

The Committee having previously been circulated with **Paper 2011/27** noted the contents which gave details of matters considered by the Chair since the date of the last meeting:

**Minor Relocation of Existing Pharmaceutical Services**

**Case No: PPC/MRELOC02/2011 – Lloydspharmacy Ltd, 18/20 Burnbrae Avenue, Linwood PA3**

The Committee considered the action taken by the Chairman on an application for a minor relocation of a NHS Dispensing contract currently held by Lloydspharmacy Ltd, at the above address.

The Committee noted that the application fulfilled the criteria for a minor relocation under Regulation 5 (4) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 as amended.

The Committee noted that the Chairman had granted the application, having been satisfied that the application fulfilled the requirements laid down in the Pharmaceutical Regulations.

**Case No: PPC/MRELOC03/2011 – Lloydspharmacy Ltd, 2/4 Dubbs Road, Port Glasgow PA14**

The Committee considered the action taken by the Chairman on an application for a minor relocation of a NHS Dispensing contract currently held by Lloydspharmacy Ltd, at the above address.

The Committee noted that the application fulfilled the criteria for a minor relocation under Regulation 5 (4) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 as amended.

The Committee noted that the Chairman had granted the application, having been satisfied

that the application fulfilled the requirements laid down in the Pharmaceutical Regulations.

**NOTED/-**

**6. NATIONAL APPEALS PANEL DETERMINATION**

The Committee having previously been circulated with **Paper 2011/28** noted the contents which gave details of the National Appeals Panel's determination of appeals lodged against the Committee's decision in the following cases:

**Farhat & Ramzan Ali, 1371 Barrhead Road, Glasgow G53 7DA (Case No: PPC/INCL08/2010)**

The Committee noted that the National Appeals Panel had dismissed the Appeal submitted against the PPC's decision to refuse Mr & Mrs Ali's application to establish a pharmacy at the above address. As such their names were not included in the Board's Provisional Pharmaceutical List, and the file on the application had been closed.

**7. ANY OTHER COMPETENT BUSINESS**

There was no other competent business.

**8. DATE OF NEXT MEETING**

The next meeting of the Committee would take place on 16<sup>th</sup> June 2011.

The meeting ended at 1.40pm