

## NOT YET ENDORSED AS A CORRECT RECORD

Pharmacy Practices Committee (01)  
Minutes of a Meeting held on  
Thursday 14<sup>th</sup> March 2013 at 9.30am in  
The Pond Hotel, Great Western Road  
Glasgow G12

PRESENT:	Mr Ross Finnie	Deputy Chairman
	Mr Stewart Daniels	Deputy Lay Member
	Mr Peter Hamilton	Deputy Lay Member
	Councillor Luciano Rebecchi	Deputy Lay Member
	Mr James Wallace	Non Contractor Pharmacist Member
	Mr Ewan Black	Contractor Pharmacist Member
	Mr Alasdair MacIntyre	Contractor Pharmacist Member
IN ATTENDANCE:	Mrs Gillian Forsyth	Administration Manager – Primary Care, NHS Lanarkshire
	Ms Lavinia Langan	Administration Team Leader – Primary Care, NHS Lanarkshire

**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.

### 2. MINUTES

The minutes of the meeting held on Wednesday 29<sup>th</sup> November 2011 [PPCM)2012/06] were deferred as there was only one member present who had attended the November meeting. The minutes of the meeting held on Tuesday 11<sup>th</sup> December 2012 [PPC(M)2012/07] was approved as an accurate record.

### 3. MATTERS ARISING NOT INCLUDED ON AGENDA

There were no matters arising from the minutes.

**Prior to the consideration of business, Mrs Forsyth asked the Chair to give consideration to several documents which the Applicant wished to table for inclusion in the oral hearing. The Chair considered:**

- New list of housing developments and Google map – the Chair considered the list of new housing developments to be an update to information already provided by the Applicants during the initial application phase. Many of the developments contained in the list were already known to the Committee from the Applicants' initial submission; however some were additional developments which had been granted planning permission during the time between the submission of the application and the oral hearing. The Chair, on behalf of the PPC agreed that this information should be allowed as it was not unknown to the Committee and did not represent entirely new evidence.

The Chair noted that within the list of developments there was a request from the Applicants that the PPC visit all of the developments listed during their site visit. The PPC had visited the developments which they felt most relevant to the consideration of the application.

- Letter from the Health Board's Reference Committee – the Chair, after careful deliberation declined to allow the tabling of this information. The Chair considered that the letter referred to an issue relating to four separate instances where a contractor had been found to be in breach of their terms of service with the Health Board all with regard to complaints handling. The Chair considered this to be materially different to previous issues raised regarding access to services.

The following items were not allowed by the PPC:

Information including photographs re: access to services;  
Text from motion presented to Scottish Parliament; and  
Letter from Boots Manager.

The Chair, on behalf of the Committee, advised the Applicants, that they had been afforded sufficient time prior to the date of hearing to submit additional supporting material which would have allowed officers of the Board to circulate it to members of the Committee and the Interested Parties. This would have given all parties an opportunity to appraise themselves of the content.

Section 1 – Applications Under Regulation 5 (10)

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

**Case No: PPC/INCL04/2013**

**Mr Arvind Salwan and Mr Neeraj Salwan – 65 Hillhead Street/Southpark Avenue, Glasgow G12 8QF**

The Committee was asked to consider an application submitted by Messrs Salwan to provide pharmaceutical services from premises situated at 65 Hillhead Street/Southpark Avenue, 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 Applicants' proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Messrs Salwan considered 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 were located by persons whose names were included in the Pharmaceutical List."

The Applicants were represented in person by Mr Arvind Salwan, assisted by Mr Neeraj Salwan. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Mr Charles Tait (Boots UK Ltd).

Prior to the hearing, the PPC had collectively visited the vicinity surrounding the Applicants' proposed premises, existing pharmacies, GP surgeries and a number of new and planned developments in the immediate area and surrounding areas including Dowanhill, Hyndland, Kelvin, Gilmorehill and Hillhead.

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

### **The Applicants' Case**

**Mr Salwan** introduced himself to the Committee and thanked them for providing the opportunity to present evidence in support of the application.

He advised that for the benefit of Interested Parties who would claim that this application was the same as the one submitted in 2010, some three years ago, he asked that the decision of the PPC to hear the application be respected.

Mr Salwan quoted from the current Pharmacy Regulations, citing:

*"The Board may, in accordance with this Schedule, determine any application in such manner as it thinks fit. The Committee having been circulated with Paper 2012/16 (noted the contents which gave details of applications received by the Board. The Committee) agreed this application should be considered by means of an oral hearing."*

The PPC decision to grant an oral hearing countered any views expressed that this

application was not different to any previous one. In line with the Regulations, each hearing should be looked upon afresh.

At this stage, he asked that three points be noted:

Any reference to the term “services” should be taken to mean “pharmaceutical services”.

Any reference to the term “services” in context to the non-NHS contract pharmacy at the proposed premises should be taken to mean “non-NHS services”; and any reference to the ‘handling’ of prescriptions at this facility related to the provision of this service by the NHS pharmacy, at 1094 Argyle Street, G3 8LY. No prescriptions were actually handled or processed at the non-NHS facility.

Mr Salwan advised that it was not his intention to be critical of service providers without foundation. However, the legal test required that inadequacies be presented and so he was obliged to provide evidence to the PPC. The Neighbourhood’s sole pharmacy contractor was Boots, who he would refer to as “the contractor”.

Mr Salwan hoped the Committee found this clarification helpful. He advised that the Chief Pharmaceutical Officer (Professor Bill Scott) in his note to NHS Boards and Directors of Pharmacy (31 March 2011 (NHS (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (SSI 2011/32)), stated that “*local needs would change over time and a pattern of service provision must adapt accordingly.*”

He hoped the Committee would agree that the local needs in this area had changed considerably yet the pattern of service provision had not adapted.

The Applicants had, where possible, referred the guidance in relation to the evidence. The guidance stated that a PPC should take consideration of future developments, including:

1. Known fixed/firm plans for the development and/or expansion of new centres of population, e.g. new or developing housing estates or for changes in the pattern of population;
2. Known fixed/firm plans for changes in the number and/or *source* of prescriptions, e.g. changes in the number and location of doctor’s surgeries or the development of health centres and/or the appointment of additional doctors in that neighbourhood; and
3. Known fixed/firm plans for developments which would change the pattern of local social traffic and therefore access to services.

All of these were *highly* relevant in this application and he hoped the PPC would be receptive to this.

In Audit Scotland’s ‘Prescribing in General Practice in Scotland’ report (Jan 2013) it stated that, on average, a GP practice in Scotland handed out 70 prescriptions a day. On average, the Barclay Medical Centre, adjacent to the non-contract pharmacy, prescribed slightly more

than this, through a team of seven GPs and two staff nurses; the non-NHS pharmacy at the premises saw more than 100 people a day from the local community for a variety of advice and medication collection. The service could do so much more in helping patients if it held an NHS pharmacy contract. It was ideally located close to many well established community services, such as a large church, two schools, three GP surgeries, and offered three public entrances, disabled parking, public toilets and a seating area.

This footfall showed that the Applicants' service model was in line with the national average; the uptake level showed that there was a demand and a desire for a pharmaceutical service and Mr Salwan hoped this was a helpful indicator for the PPC. An NHS pharmacy service would also be able to meet patients' demands for the provision of all core services.

For example, about 80 or so people a month enquired about smoking cessation at the non-contract pharmacy, yet it was not possible to register them for the NHS Stop Smoking scheme; if it was possible to provide a smoking cessation service, this would help contribute to the Board's HEAT target; these HEAT targets were set by the Scottish Government to help decrease smoking related diseases. Health inequalities had now arisen as the company was unable to provide NHS services, which was disheartening. It was an inadequate situation when the service was limited in helping people with chronic conditions such as asthma, diabetes and Crohn's Disease let alone those wishing to stop smoking.

The Auditor General for Scotland had said: *"The volume of drugs prescribed had continued to rise over recent years. Demand for prescriptions was likely to increase further."*

The report stated that a number of factors would affect prescribing, such as lifestyle issues such as obesity, smoking and alcohol misuse and associated illness - all of these were highly relevant to a West End demographic, plus the university's own staff and student population of 29,000 and also the growing residential population.

Given its location, the non-contract pharmacy worked very closely with the Barclay Medical Centre and other medical facilities. It was an encouraging sign that some departments of the Health Board had been supportive of working with the non-contract pharmacy, despite its limitations, on issues such as smoking cessation, for which this pharmacy would be ideally placed. The Applicants had recently received information from the Health Board to support their No Smoking Day activity, which came from the Smokefree team; the pharmacy team had also held a number of events in the Neighbourhood with NHS Inform, Action on Hearing Loss and Diabetes Scotland and RNIB and the non-contract pharmacy had been a catalyst for this. They had also been contacted by Paul Forsyth, heart failure pharmacist at the Board, to support the Minority Ethnic Long-term Medicines Service, or MELTS which was an open referral medication review service. They offered the consultation rooms to people on his request at the pharmacies at Hillhead Street and Argyle Street; Paul was keen to use both but opted to use just Argyle Street as the Hillhead service did not have an NHS contract; he acknowledged that it would have been a better site due to the proximity to the Bank Street surgery given its high Asian patient profile. In an email (28 February 2012) he said *"thanks for allowing us access to your branch in Argyle St... we potentially wouldn't have got these patients without this. We're pleased to have got these 'hard to reach' patients."*

If it was granted a contract, the Applicants believed this non-contract pharmacy could help in

the areas of sexual health, with the Sandyford Clinic, and plugging the gap caused by a decrease in the number of local outlets providing the Free Condom Service and also in the area of harm reduction, working with the Glasgow Addiction Services Partnership. The non-contract pharmacy had been working with Macmillan Cancer Scotland on its new drop-in service in the area and with the British Heart Foundation and NHS 24 on No Smoking Day and with the RNIB on an initiative around travel health and eye care. There had been a very positive community response to the Applicants' initiatives, including posts on Facebook and Twitter, in the Evening Times and from health partners and MSPs, including Nicola Sturgeon MSP then Health Minister. Work from the pharmacy was welcomed despite being a non contract facility at present. Some patients had even asked for informal advice via social media. The Applicants were actively engaged with thousands of people in the local community in this way, for example, they were running a quit smoking campaign.

The non-contract pharmacy had been fortunate enough to win four national awards over the past 18 months, including for health promotion and innovation in pharmacy practice. These awards were on display in the premises during the site visit this morning. The Applicants would continue to build on these efforts; just imagine what more the service could achieve for the local community and health partners if the application was granted. The non-contract pharmacy managed the majority of prescriptions from the Barclay and Ashton House Medical Practices, and from other surgeries; there was a specialist travel medicine nurse, there were over 300 flu vaccinations administered this winter, free hearing checks had been provided and advice was sought by the local community on weight loss, diabetes, smoking cessation, sexual health, depression and other conditions.

The Applicants thought it would be helpful if they explained that this non-NHS contract pharmacy model was developed with advice from the General Pharmaceutical Council (GPhC), including their on-site visits and guidance on the layout and procedure at these (GPhC) registered premises; the service subsequently passed a random inspection by the GPhC last April. The service did not provide any NHS services although the local community asked for these currently ; they used it for services such as travel medicine, as it was a registered Yellow Fever centre, for winter flu vaccines, for free hearing checks, complementary therapies and general sales list over-the-counter medicine. In short, these were all private services. The GPhC confirmed that these premises could serve as a collection point for prescribed medication that had been prepared at an NHS-contract pharmacy and this was the service model that was in place; the service was clearly explained on the pharmacy's website, the wording of which was passed by the Health Board.

Mr Salwan advised that he would now like to define the proposed Neighbourhood, as follows and reference to maps may be helpful:

**North – Great Western Road to Kelvinbridge/ River Kelvin**  
**East – Kelvinbridge following the River Kelvin Southwards**  
**South – River Kelvin travelling West-wards, following Dumbarton Road to Byres Road, taking in Dunaskin Street**  
**West – Byres Road to its meeting point back with Great Western Road**

This area was commonly known as Hillhead.

The Applicants had conformed to the guidelines and proposed that major roads and a major river served as natural or physical boundaries; the River Kelvin boundary was also in line with a Data Zone boundary. The area beyond Great Western Road was of a different topography and the residential element to the north of Great Western Road was more affluent flatted accommodation as opposed to student accommodation. Byres Road was a very busy retail thoroughfare and the campus sat on one side of this road with the other bounding area being of flatted accommodation. One side of the area was a lot less affluent than the other, housing migrant workers, students or families.

In the Board's own consultation, some service providers from outside the Neighbourhood claimed that their location should be considered as a factor. However, the advice in an email from the Head of PPSU (15 March 2012) stated:

*"The PPC was required to consider applications for contracts using criteria which are defined in the Regulations and relate to the adequacy of pharmaceutical services within a defined neighbourhood."*

So, the Applicants asked the PPC to note that *within this defined Neighbourhood*, there were two pharmacies, one on Byres Road and one on Great Western Road, and the focus of the application and inadequacy related to these. It was also important to recognise that, although there were services outside the Neighbourhood, these were not necessarily available for the population to access during the day if their work or education means they travel to and remain within the Neighbourhood during the day. For example, a family living outside the Neighbourhood, say on Oban Drive, or someone on Montague Street, could not access their closest services until 9am – given such a high proportion of them work or study in the Neighbourhood, or elsewhere, they would leave their residence before 9am – so could not access the service in the morning or during the day or possibly even when they returned at the end of the day, as both of these services closed at 6pm on weekdays.

This was also the case for people who commuted into the Neighbourhood from other areas, for example, Hyndland, as the local service there again didn't open until 9am and closed at 5.30pm. So, many people were unable to access their locality's service at these times because they come into this neighbourhood.

It was reasonable to assume that the daytime population within the Neighbourhood was unlikely to venture outside the area to use services, particularly as they may not be able to leave the area due to work commitments or may not be aware of other services. For a substantial amount of the community – 29,000 people linked to the university *plus* anyone from the wider community - the new opportunities to register with one of the two new medical practices now meant they were more likely to visit their GP during the day and to have a need for pharmacy services in the close vicinity; this was the unique nature of this area now.

**Mr Salwan advised that in line with the application, the PPC would note there were four main points in support of the application and he would now expand on these.**

## 1. General public responses and opinion

Mr Salwan contended that we should never forget that ordinary, everyday people were at the heart of what the NHS represented. League tables, efficiency targets and fancy language were all good and well but we would be foolish to lose sight of the patient, patient needs and patient experience.

Mr Salwan urged the PPC to look at the high levels of public concern and support for this application. Surely it would be unwise to ignore this if we valued the public consultation process otherwise it served no meaningful purpose. Responses from health professionals and informed members of the community, other local people, councilors, representatives of the whole community and cross party representation and MSPs all showed that they understand the difference between convenience and inadequacy. Their comments were meaningful and worthy if we were to understand the level of concern. Experiences mention incidents of people being denied access to services and public complaints and they provide specific examples of inadequacy. He asked the PPC to take these views into account as they were from people with responsibility who interact with the community regularly. Mr Salwan then quoted from documentation included in the Application.

*“There have been ongoing problems with the two pharmacies in terms of guaranteeing patients access to the service. It was unacceptable...”* (Dr. A. Bruce, dentist, Glasgow Smile Gallery)

*“I’ve had a triple heart bypass and both my wife and we have recovered from cancer. The pharmacy on Byres Road has been closed when the times say it should be open. My wife could not hand in her prescription early one morning recently as the doors were locked so she had to travel to another pharmacy for her medicine. This was hard for her. I also was unable to hand in my prescription to Boots on Great Western Road (Oct/ Nov) as the automatic doors did not work so I found it very hard to enter... I had to go to Anniesland. A close family friend of mine who uses a wheelchair pressed the button continuously... he had to turn away because nobody could see him trying to get inside with his prescription. I’ve complained before but no one has replied.”* (N L’Khurand)

*“Hillhead Primary has a much larger population and reach than it had at its previous location... which means a greater influx of parents and pupils and staff from the wider area. They have been unable to access a local pharmacy given the nature of commuting at the start and end of the day. Neither the pharmacy on Woodlands Road nor the Boots on Great Western Road opens until 9am; given their route, these are the two pharmacies that parents would rely on. A pharmacy at Hillhead Street/Southpark Avenue that opens at 8.45am would be an invaluable service to the enlarged population now based on this side of the area. It was vitally important that the needs of this new footprint of staff, parents and pupils were recognised in terms of pharmacy.”* (W. Wight, Head Teacher, Hillhead High School).

*“These incidents have not only denied individuals medication on time but it has caused distress and anxiety for them, particularly for those that strive to make one or two weekly trip outside.”* (Sheena Glass, Chief Executive, Glasgow Old People’s Welfare Association). A very active Group in this area.

*“The non-NHS pharmacy receives numerous requests for the NHS smoking cessation*

*scheme, minor ailments and sexual health. Our patient list continues to grow and we expect continued growth for 2013/14. There have been issues with local pharmacies...*  
(Dr. D. Spence, Barclay Medical Centre).

*"We have a large cohort who could access timeous care through the proposed pharmacy. The provision of an NHS contract would lead to more robust competition."*  
(Dr. A. Khan, GP Principal, Bank Street Surgery).

*"I would support the application. The Ashton House branch of the practice has more than quadrupled the number of its locally registered patients since opening in 2010; our patient list would grow and this growth would continue throughout next year and beyond. We have increased our GP cover in relation to year on year growth and expected future growth due to high demand for new registrations. The Boots on Byres Road often do not have a number of standard prescribed items; I am aware from our patients that they do not hold various medication stock."* (Dr. I. Kennedy, Lead GP, Ashton House Medical Practice).

*"... the doors have been locked in the morning and evening, even though the pharmacy was meant to be open. I've been forced to then find another pharmacy in town to get medicines."*  
(D. Castrataro).

*"When local people are denied access to a pharmacy during advertised opening times... this has a real consequence on people. The area was much more populated in addition to the development of the two schools. An additional pharmacy in the area would greatly help to meet the health needs of staff, parents and children, as this service was currently unavailable to them particularly following the relocation of the primary school. I would urge the board to support this application as it would help to counter existing inadequacies and provide a much needed service."* (W. Wight, Head Teacher, Hillhead High School).

*"A number of medical/ healthcare services have been established in Hillhead in recent times and there would be a much greater prescribing volume; I do not think the two existing pharmacies would be able to support such an increase in addition to their existing load and they often do not have standard medication."* (Mr. J. Sadiq, dentist, Hillhead Dental Care).

*"I have consistently found the service from existing pharmacies to be inadequate. I have a monthly prescription for several asthma-related drugs and the pharmacy on Byres Road very often does not have standard drugs in stock. I was promised that the pharmacy would continue to pick up my prescriptions from my GP practice in Anniesland but several years later this has still not been put in place."* (Prof. I. Docherty, University of Glasgow & G12 resident).

*"... there have been many times when the pharmacy has been closed in the morning, as the doors have been locked, even though it was meant to be open. It's ridiculous that a pharmacy was closed when it advertises that it was open, meaning you are unable to get your medicine or speak to a chemist. My mother has also had serious difficulties accessing the two services as the doors are often locked, stuck or not working and we've seen people turn away from the shop with prescriptions in their hands. I've written to Boots to complain but did not hear anything back."* (V. Lakhanpal, G12).

*"we feel that services have definitely become worse... doors being locked at odd times*

*means there was no access to pharmacy. My wife was diabetic – an okay service was not good enough.” (Mr. Downie).*

*“I’ve had issues with my medication not being available and that of my family. I’ve had bad experiences in not being able to get into the pharmacy on Byres Road early in the day and sometimes in the evening too. I don’t know why the doors have been locked as these have denied me access to the pharmacy when I’ve needed my medicines.” (Rajans Kaura).*

Given that an Applicants’ public consultation and the Board’s consultation were important aspects of the process, the Applicants would ask that the PPC take consideration of the level of public concern and support for this application and the inadequacies that the public had raised. There was little point in the Board upholding the merits of two separate public consultations if the views of the local community were not taken into account.

Previously, the North West Sector CHP’s own response stated “... *members had no objections... on the contrary it was felt that the service and the location would be advantageous to the population.*” (PPC(M)2011/07)

In his letter in support of the application, the chairman of the CHP at the time stated: “A *pharmacy would support the growing needs of the community and policies of the CHP.*”

Mr Salwan inferred from this evidence that it showed a community in need of a reliable, adequate service and it showed a series of incidents recorded and a number of complaints over the past few years – the ones that were known about - which had let patients down or, more seriously, denied patients access to the service and their medication.

At an NHS Greater Glasgow PPC in November 2010 (PPC(M)2010/09 (NHS GGC; Howwood, Nov 2010)), the PPC agreed that the level of expectation from patients regarding the new services offered by pharmacies would have increased...(and) this point should be applied to this application too.

In the national guidance note from the Chief Pharmaceutical Officer (Professor Bill Scott) he stated that “*The NHS needs of the local community are to be the main determinant of whether an additional pharmacy (or relocation) was to be approved.*”

Mr Salwan asked the PPC to note the views of the local community public consultation and ask if they believed whether their NHS needs were being met to an adequate level. If not, this showed that existing service provision was inadequate and that an additional pharmacy was necessary in line with the guidance note from the Chief Pharmacists Office.

## **2. Denial of access to pharmaceutical services**

The guidance stated that “... *a PPC should consider evidence of a local deficiency in the service, e.g. complaints that have been upheld by the Health Board.*”

In support of the application, you would want to know that there were complaints which had been upheld by the Board, and so, it must be that there was evidence of local deficiency in the service.

There was evidence and recorded public complaints that prove that patients have routinely been denied access to services. As a result, they have been forced to turn away from the service, believing it to be closed - during contract hours - and to seek an alternative service outside the area in order to get their medication; this had been verified by the contractor and the Board and some of the responses to the consultation.

Not being able to access services during contract hours was a clear inadequacy and deficiency and demonstrated a failure to provide a service that a contractor was legally tasked to provide.

Throughout 2011 and 2012, evidence existed to show that public complaints on patients - of *all abilities* - being denied access to services were lost, ignored, mishandled or disregarded by the contractor and this consequently led to an investigation by the Board.

On 25 July 2011, the doors at Boots on Byres Road were locked half-an-hour before closing and denied patients access to services; on 27 July 2011, the store manager stated in an email:

*"I am writing to apologise... (for when) you found the store doors locked once again. (We) failed on assurances that this would never happen again and the staff would be disciplined. ... customer care would have addressed the complaint but they clearly have not and I am really disappointed with this."* From the store manager of the service.

The other incidents confirmed by the contractor were in April and on 22 June - again, patients were denied access to the service. Despite these three incidents, another incident occurred at the other store in October. The consultation showed the impact that this had on local people which may support the type of responses received and it was clear to see that numerous other incidents have occurred too. The failing on the complaints process would never allow us to know the extent of this problem or just how many people were denied access to services. Not everyone complains, even those who do get no response. The Health Board had no powers to address issues of access. They could not address the specific issue of the doors being locked or closed and have admitted this. All correspondence was available to the PPC as the Board was aware of these incidents; however, the Board has confirmed that it was not in a position to address this very serious matter.

In March 2012, the head of PPSU, Dr. McKean stated in an email:

*"Re. Contractual performance - we would consider the case for contacting Boots with regard to their performance against the standards contained in the Terms of Service for Pharmacy Contractors. The specific issue was whether they have complied with the requirements... it was important to note that the details of the complaint(s) would not be part of this process."*  
(15 March 2012)

She initially entered into correspondence with the contractor (Sept 11) and, following repeated requests by the Board to Boots for a response to its correspondence, over what became a six month period, a factually misleading and incomplete response was eventually received by Dr McKean. Following extended delays by Boots to provide a response and,

despite the Board's effort and intervention, Dr McKean then determined that the matter was serious enough to be referred to the Board's Reference Committee and stated in October 2012:

PPSU (15 October 2012): *"We have now concluded our initial findings and consider that a referral to the Board's Reference Committee was appropriate. Boots UK Ltd has been advised of the Board's intentions."*

Mr Salwan reminded the PPC that the Reference Committee was independent of PPSU and operated under delegated authority from the Health Board to consider information in respect of potential or actual breaches of a contractor's Terms of Service.

Dr McKean, PPSU added: *"Our next actions would be determined by the Reference Committee's decision ... we take these matters seriously."*

The Reference Committee met on 19 Dec 2012 and considered the referral from the Board.

The Chair of the committee, Dr. Paul Ryan, Clinical Director NE Sector CHCP stated in a letter:

*"The Reference Committee considered the case against Boots UK Limited on 19<sup>th</sup> December 2012 and agreed that the company had been found in breach of the NHS regulations governing NHS Terms of Service on four counts."*

The Committee directed that the Chair write to the Pharmacy Superintendent of Boots UK Ltd formally reminding him of the requirement to comply with NHS Terms of Service and also seeking reassurances that the appropriate action would be taken to minimise the risk of a similar event occurring in the future.

*"The Committee felt this sanction was proportionate to the scale of the misdemeanour and would serve as a potent reminder to the company to fully comply with these Regulations in the future."*

**At this point the Chair interjected. Whilst the PPC had declined to allow the letter to be tabled, as part of his fulsome consideration of its content to deem appropriateness the PPC Chair was aware of the full content of the letter and the issues to which it related. The Chair wished to make sure that all parties present including Mr Tait, knew the full contents of the letter referred to and asked Mr Salwan to expand on the Reference Committee's reasons for censure. It was agreed to deal with this point at questions.**

The Board's initial investigation was referenced in the application as the matter was ongoing at that time; Mr Salwan hoped it has been helpful to update the PPC on the Board's actions and the Reference Committee's ruling, an independent verdict by a panel of experts in community pharmacy.

Mr Salwan reminded the PPC that the guidance stated *"... a PPC should consider evidence of a local deficiency in the service, e.g. complaints which have been upheld by the Health Board."*

The contractor had been found in breach of the NHS regulations governing NHS Terms of Service on *four* counts. The Reference Committee's decision was based on patient complaints made in the store to the pharmacist not being conveyed to the store manager; complaints made in the store not receiving a response or being followed up by any of the staff and written complaints not receiving a response. Issues included confusion between the two services and Boots HQ on which issue related to which store and the nature of the complaint; complaints were also ignored or left unanswered and this was also the Board's own experience in pursuing responses.

The incidents that denied patients access to the service were acknowledged by the store staff and there was evidence through the consultation response to show that more patients than we knew about had been denied access to pharmaceutical services on a frequent basis. It was inadequate that the Board was unable to monitor how many patients were being denied access to the service as complaints were lost or not responded to. It was more than likely that there was a higher level of patient complaints but that these could not be determined due to the contractor's process or the Health Board's inability to become involved; it was inadequate that such practices restricted a Health Board to fully assess the adequacy of services in relation to contractual performance.

It was important, in Mr Salwan's opinion that patients did not lose trust in the service as a result of such failings in provision. A Health Board should not have to chase a contractor for a response so many times; the referral to the Reference Committee and its decision encapsulated the problem – but unfortunately at the cost of the community (real people) being denied access to their medication and to services. The public emails and some of the correspondence lodged with the application highlighted these inadequacies e.g. Glasgow Old People Group who didn't have e-mail or much confidence to pick up the phone to complain; working in community pharmacy, it was sad and disappointing to read about the community's experiences.

The report of an OFT market investigation, *'The control of entry regulations and retail pharmacy services in the UK'* said this of local monopolies:

*"High local concentrations of certain chains might, in some cases, lead to local market power for some firms, which could in some cases reduce competition and lead to higher prices for consumers, lower quality of service, and almost certainly more limited choice."*

The two Boots stores in the Neighbourhood were surrounded by a Boots at Queen Margaret Drive, one on Argyle Street at end of Kelvin Way and one on Dumbarton Road, and next closest also on Sauchiehall Street and Crow Road.

The report added, in section 4.71:

*"... the effect on the quality of service offered was likely to be either neutral or potentially negative. If the effect on quality were negative, freeing up the control of entry system could potentially reduce this detriment."*

The operative words in the Board's ruling were 'breach' and 'service' and this ruling proved, without any doubt, that inadequacy existed by the very fact that there had been a *breach* in

the terms of contractual *service*.

Mr Salwan contended that the contractor had failed in its contractual obligation to the Board and to patients; it had failed patients by denying them access to the service and then not complying with the due process on complaints; it had failed the local community and created serious concern amongst service users, local councilors and MSPs, medical professionals and those involved with care in the community. In light of some of these access issues, Ann McKechin MP, Glasgow North, emailed me in a personal capacity (1 October 2012) and stated “*I agree that the layout of the Byres Road shop was far from ideal for disabled access.*”

### **3. Adverse impact on local services due to closure of a pharmacy, a situation compounded by the subsequent establishment of two new medical practices, and a growth in population due to substantial new housing developments**

Since the closure of a pharmacy on Byres Road (in 2008) there had been a progressive, detrimental effect on the quality of services and patient care which we've touched upon. This could be evidenced by ongoing complaints about barriers to access and incidents which had led to members of the local community being denied access to services. It was a serious matter to breach the NHS Terms of Service, which was the decision of the Board's Reference Committee at the end of 2012. In Mr Salwan's opinion, this decision proved inadequacy and this outcome was in itself a matter of concern. It was a shocking indictment that members of the community had faced barriers to access and had been denied access to medication – a fact that that the PPC would have noted by many of the public consultation responses, letters of complaint from patients, letters to and from the contractor and correspondence with the Board.

From a recent statement in the public domain ((PPC(M)2012/04)) the contractor stated “*that if there were indeed barriers in a pharmacy setting where a patient could not access a service because of the barrier then this would be the equivalent of an inadequacy in the provision of that service.*”

The impact of the closure of a pharmacy on Byres Road had been made worse by an increase in the number of registered patients due to the subsequent establishment of *two new medical centres within* the Neighbourhood, the Ashton House Medical Practice and the Barclay Medical Practice. There also remained additional pressures on the reduced pharmacy services due to population growth as a result of significant development and regeneration in the immediate and wider area, including a multitude of new student accommodation, which had led to the release of previously student occupied accommodation, new rental property, new residential sites, major new schools, major social housing and retail and so increase of a different type of occupants.

The Health Board allowed the GP at the Ashton House Medical Practice to relocate (summer 2010) from the far end of Hyndland Road - *outside* the Neighbourhood - and to establish this practice *inside* the Neighbourhood. This involved the transfer of an existing patient list of 500; since it opened two-and-a-half years ago; the patient list had grown to 2,500 – and the practice was confident that it would exceed 3,000 patients within the coming months and could have 4,000 patients by the end of this year, due to the new academic term in the autumn.

The Health Board allowed the GP partners at the Barclay Medical Practice to relocate (summer 2009) from Murano Street – *outside* the Neighbourhood – and to establish this practice *inside* the Neighbourhood. This again involved the transfer of an existing patient list plus new patient registrations. In just three-and-a-half years, the Barclay now had 14,000 registered patients.

It had been accepted elsewhere that the establishment of a new medical centre in an area could, in itself, create an inadequacy to arise for the community if was not close to a pharmacy service.

In the guidance, it stated that, in formulating its decision as to the need for services, a PPC should consider factors such as:

*“The numbers of prescriptions dispensed and, as far as this can be ascertained, their usual sources. To a very considerable extent, this would be the number and location of GP surgeries and the size of the practice prescribing lists but it was common for prescriptions to be dispensed at a pharmacy, convenient to the patient's place of work and this should be borne in mind.”*

It was interesting to note the use of the word “convenient” in this context of national guidance.

The guidance also mentioned CMS (Chronic Medication Service) and the potential for removing the need to always see a GP or visit a GP practice. Mr Salwan believed this was a highly relevant point given the relocation of these two GP services and this application.

The Barclay's own projections showed that 2,000 new patients would continue to register each year for the next few years, and so, the overall year-on-year net increase would continue. As a result, the practice had to increase the number of GPs and nurses and create an additional consultation room, in summer 2012; the Health Board had the foresight to recognise the potential uptake for this service some years ago and had supported its development and relocation. The Applicants worked very closely with the area's GPs and agreed with their view in the consultation response that the pharmacy could help their workload and patient care even more.

Another important point was the PPC consideration of prescription load figures which Mr Salwan knew was a matter the Committee looked at for this area. Given the positive response to the non-contract pharmacy, the PPC must now also consider the impact of the prescriptions being presented at the proposed premises but which were dispensed outside of this area, at the pharmacy on Argyle Street. So the true figures when the PPC considered the prescription load figures would be hidden and inaccurate if *only* the prescription load figures for this area were considered.

It should be noted that Boots established a collection delivery service when the Barclay opened – and before the non-NHS service - and it continued to provide this service; Boots regularly collected scripts from the Barclay reception. By doing this, the contractor had proven a need for a service at the premises, as a result of changes in provision of GP services. The collection delivery service by Boots at these premises showed that its

argument was flawed. The fact that Boots had provided this service at the Barclay for almost four years – double the life of the non-contract pharmacy - proved that it recognised the potential demand for a pharmacy service; Mr Salwan hoped the PPC would agree that it was a contradiction in terms when, on one hand Boots operated a collection and delivery service from these premises, yet they say there was no demand for it!

Boots had undermined its own case – providing this service proved that the contractor accepted that there was both a demand and a desire for a service. It showed that its two local services were inadequate to meet the needs of this community. Why close a pharmacy in the neighbourhood if there was no demand then set up collection delivery services at the two new GP clinics? Mr Salwan hoped the PPC would agree that a collection delivery service was a poor substitute for a pharmacy service, especially given the scale of new patients and the community demands for the service.

Boots also collected scripts from Ashton House Medical Practice, as did other contractors, to take them outwith to presumably deliver to patients' homes, again showing that there was new, additional demand for a service in this area.

Mr Salwan inferred from this piece of evidence that it showed that the contractors recognised there had been a significant change; there was an unmet need due to relocation of new GP services and increased patient-led demand and there were capacity issues in the existing service and this had led to inadequacy.

The relocation and establishment of two medical clinics into the Neighbourhood within such a short space of time was a significant change and their registration numbers demonstrated patient demand; it would not be long before there were 20,000 new registered patients in the area. This was in addition to the many patients already registered at the established practices at Buckingham Terrace and on Bank Street; it was important to consider the informed comments made during the consultation by the area's GP practices, and their insights to, and concerns about, the existing pharmaceutical service. GPs at Bank Street, Ashton House and the Barclay all stated that there were inadequacies and that an additional pharmacy was necessary and desirable; the pharmacy would provide all NHS core and public health services and would alleviate a lot of the pressures on GPs.

A point was raised this morning during the site visit regarding counseling services. Access to speak to a pharmacist was available via a roving telephone. This could be face to face if the contract were granted. Until six years ago, this Neighbourhood supported the community through a network of three pharmacies. There were two on Byres Road, a Boots and an Alliance, plus a Boots on Great Western Road. Since the closure of the Alliance Pharmacy on Byres Road due to merger and to avoid a monopoly situation, the area had lacked adequate services as a result of significant changes, such as the relocation of two new medical centres, new schooling, new residential developments and population increase. The Alliance Pharmacy was closed at the time of a merger between the two companies which required the disposal of pharmacies to avoid a monopoly. A pharmacist who worked at the Alliance Pharmacy had verified that it was a busy service and that its closure was out of commercial interest rather than patient interest. Mr Salwan appreciated that it was not the remit of the PPC to consider matters of commerciality but it was worth noting that, around this time, these premises were facing a high rent

increase.

Statements in the public domain showed that (at PPC(M)2008/15) the contractor (Mr. Tait) had stated:

*"... the Alliance Pharmacy on Byres Road closed because of lack of business" – please note, a "lack of business" was not the same as a lack of patient need.*

Also in the public domain (April 2011 (PPC(M)2011/07), the contractor had stated:

*"... the reason for the closure of the third pharmacy was that it was not independently financially viable."*

Mr Salwan concluded that the closure of this pharmacy was clearly on grounds of "lack of business" and because the contractor thought "it was not independently viable"; the word "independently" suggests that it may have been viable had there been another GP clinic and more patients; well, there were now two new clinics, and one was located right across the road from the site of the former Alliance Pharmacy.

The net effect of this was that the local community lost a vital service despite their dependency on it. That dependency had increased due to changes such as new healthcare services and community growth. The area was busier, more developed and more populated now than it was when the pharmacy was shut down; more importantly, since then, two new medical practices and two new dental practices, all of whom prescribed medicine, have been established on this side of the area.

As far back as 2010, the Board received complaints in (2010) about the Neighbourhood's two services, verified by an FOI request. Complaints stated:

*"My contraceptive pill was rarely in stock... which was a big problem."*

Another stated: *"The pharmacy had not had my contraceptive pill on three occasions despite me taking the most common type."*

And another stated: *"The pharmacy had, as they put it, 'supply difficulties', and we had no way to get special medicated bandages for three months."* (2010)

There was evidently more pressure on the remaining two services. ISD figures showed that items dispensed at pharmacies where waiting times were high affected the quality of all core services. The busier the pharmacy, the less time it could devote to MAS, CMS, NRT and long term services.

Inadequacy in the existing service had arisen due to two main factors:

1. The negative impact of a reduction in service and staffing, and so, service levels. This had led to lengthy waiting times, stock shortages and lack of access, which had denied patients from being able to access services.

2. The significant changes in the area and surrounding area, including new services and an increase in the number of registered patients, an increase in accommodation and related population growth and a major shift in the direction of travel for a large group of the community linked to a major new school. The pace and scale of development and regeneration had added to the already substantial influx of people due to the Kelvingrove Art Gallery & Museum, the Hunterian Art Gallery & Museum, the Western Infirmary, the university and other recreation and tourist facilities. All these served as a catalyst to draw visitors from all over the city and country, and the area remained a major pull for accommodation, employment, education and leisure.

Someone who travels into this Neighbourhood for their job, from say St. George's Cross or Govan would find it more desirable, and probably necessary, to access services in the Neighbourhood in which they spend their entire day. Someone who works or studies in this area may find it more desirable to use a local service before their end of day commute, and as services in their residential area may not be open by the time they get back.

Mr Salwan hoped the PPC would agree that it was not enough to simply look at the number of pharmacies outside the Neighbourhood without consideration of the service user's routine and direction of travel and likely use of GP services. The non-NHS pharmacy received scripts from people living right across the city essentially as they were registered at the Barclay or the Ashton House Medical Practice. It also received scripts from surgeries at Queen's Crescent (St George's Cross), Bank Street and Buckingham Terrace. More than 40,000 people live, study or work in this Neighbourhood and they were all now able to register at new modern, spacious GP services within it.

In this particular Neighbourhood, more than most, there were a lot more people who commute into the area and it was a large transient population. The non-contract service illustrated this, with patients as far away as Ayrshire and Stirlingshire. It would be unreasonable to expect anyone from outside the area, and who didn't know the surrounding area well, to know about services outside the Neighbourhood, so the main focus had to be on the service provision within it.

The services within 1 km outside the Neighbourhood were, for this Neighbourhood's core population, rendered inadequate due to their location and the time to get to and from these. Accessing services outside the Neighbourhood was not practical for the day-time population within the Neighbourhood. If you traveled into the city centre, to your office on George Square, you would be more likely to use the pharmacy in Queen Street station rather than one in Central Station or one on Sauchiehall Street.

We also need to accept that high volumes of patients at GP clinics were more likely to use the services closest to them rather than up to 1 km away.

In this regard, the Chief Pharmaceutical Officer (Professor Bill Scott) had issued guidance that stated: *"A fully mechanistic approach to such a decision by a PPC was not appropriate and the use of simple measures of distance in determining*

*adequacy was limited.”*

Mr Salwan would hope this supported his point about the 1 km spread, particularly given the concentration of people who commute into and remained within the area. The Applicants also thought that, as well as services, consideration must be given to the location of GP services and patient lists; both services were equally relevant. If existing GPs had nearby services, then the PPC should consider this to also be the case for the location of the two new GP surgeries and local people on this side of the area who were more likely to use them.

It was interesting that the report of an OFT market investigation ('The control of entry regulations and retail pharmacy services in the UK') stated in section 5.12:

*“Easy local access to a pharmacy was important to consumers. The OFT Consumer Survey found that 57 per cent of people wishing to have a prescription made up choose their pharmacy because of its location and that the most common point of departure when taking a prescription to a pharmacy was the doctor's surgery – around half of consumers come from there.”*

Mr Salwan hoped this was another helpful point in the context of the number of patients registered at the two new GP clinics and the surgery on Bank Street, as the proposed premises were closer to all three GP services than any existing pharmacy.

At a recent PPC (PPC(M)2012/04 (NHS GGC) (Mr Greer)) Boots said that they were *“in support of an application that offered any improved access to those (pharmaceutical) services.”* They have stated that they would support an application that improved access. Mr Salwan thought this point was equally valid in this application.

In terms of population, there had been a clear increase over recent years and this was likely to escalate due to the scale of new developments. A significant feature was the number of new purpose-built student accommodation, meaning that more young professionals and families were now able to rent in the area, in the properties that would historically have been occupied by the students that now reside in the new student accommodation. So there was a clear increase in the residential population.

**At this point Mr Tait interjected to suggest that the Applicant was becoming repetitive in his presentation and that many of the recent points made, had already been made previously in the presentation.**

**Mr Finnie advised the hearing that he was not inclined to interfere in any way with the presentation. He recognised that the Applicant was repeating points and many were already contained in the written paperwork, however the Applicants' presentation was a critical part of the process and as such he must be allowed to continue.**

**Mr Salwan advised the hearing that he would endeavour to move on.**

Statistics from Alan MacGregor, Planning Technician, Glasgow City Council, showed an increase in population aligned to a significant level of development and new building. The

latest being the 15 acres of land that would be developed at the Western Infirmary site; there were also plans to develop the former BBC Scotland site on Queen Margaret Drive which he hoped the PPC had the chance to see this morning and the former Hillhead Primary site.

From the supporting information, he was sure the PPC would agree that the extent of ongoing regeneration was significant and he was sure the Committee's tour of the area would have reaffirmed this. He admitted it had been a challenge to keep up-to-date with the sheer number of new developments in this area hence the submission of more up to date information recently.

He advised that the numbers of new NHS medical and dental services that had been established in this area had increased the demand on pharmacy services and, given growing patient lists and new accommodation, this demand would continue.

The university had 17,000 undergraduate and 6,000 post-graduate students, from 120 countries; not all of them knew what the NHS was (a few hundred spend some of their time off main campus i.e. at the dentist school or the vet school). In addition, there was 6,000 staff. This means a population of 29,000 linked to the university alone; overall student numbers have increased by 1,630 over the past two academic terms. Add to this a workforce of 2,000 at the hospital, the increased staff and pupil numbers at the two schools, around 2,000, and the residential population of 7,500. That was 40,500 people *not* including the other local workforce or the number of people that are soon to occupy newly released housing or to take up former student flats; realistically, the total population was in excess of 41,000 people and more than this by 2014.

The Applicant advised that he would speed this part of the presentation up and apologized for the length of time taken.

Referring to the updated material presented to the PPC at the outset of the hearing Mr Salwan advised that there were seven datazones covering the Neighbourhood and it was clear to see that there had been an increase in the population, particularly since 2006:

The population across the seven datazones in 2001 was 5,400.

In 2006 – 5,660

In 2010 – 6,100

In 2011 – 6,500

Since 2006, the population had increased by almost 1,000; these figures did not show the impact of new developments released since 2011 and, given the scale of these, the overall population in the area in the last two years now was upward of 7,500 – a considerable increase in population just in the past two years and which was set to continue with the release of new developments. According to Scottish Neighbourhood Statistics, more than three quarters of the population increase in the G12 postcode had been within this Neighbourhood.

#### 4. Impact on reduced services due to development and regeneration

In the guidance, it stated that, in formulating its decision as to the need for additional services, a PPC should consider factors such as:

*“The pattern of natural communities and the normal patterns of travel. Primary care services should be provided as part of the normal fabric of people’s lives and the PPC should consider where, how often and how easily people travel about the neighbourhood of the premises in order to consult a GP, to go to work, shops, and school, to visit other health care premises...”*

We now have all five of these services on this side of the Neighbourhood... plus a campus.

There were new parking conditions on the near side of Kelvin Way to help accommodate the additional footfall into this side of the area. The new location of the school had noticeably increased how busy the area was and this was likely to increase even further when a major new sports and recreation facility was created this year at the junction of Gibson Street and Bank Street, given The Hive building was to be demolished. The sheer influx of additional new staff, parents and pupils at this new site had changed the footprint. In the morning, these individuals no longer walked along Great Western Road to get to Cecil Street, near where one of the existing pharmacies was based; they now walked or drove up University Avenue, along Kelvin Way, down Wilton Street, down Belmont Street, along Bank Street, down Glasgow Street, along Hillhead Street, up Gibson Street, down Woodlands Road, down Park Road and down Montague Street or down West Prince’s Street and on to Gibson Street, rather than along Great Western Road – and all to reach the new site of Hillhead Primary; it was the reverse route at the end of the day. This had led to a considerable decrease in the volume of people who were now able to pass the existing two services although their dependency on the service had not diminished, their route had redirected from the service they had used before, a particularly important issue for staff, parents of unwell children or for elderly grand-parents.

The pharmacy at the proposed premises presented a real opportunity to overcome this inadequacy as it would be the closest service to the school and as it was now the service on the commuter route of this school community. There was approximately 700 pupils, 100 staff and at least one parent per pupil – so over 1,500 people that were additional than before to this side of the area.

Another enlarged “super school” would open later this year, at Lawrence Street, off Highburgh Road, very close to the junction of Byres Road and University Avenue. The site of what was Dowanhill Primary would now form the new Notre Dame & St. Peter’s pre-12 campus, amalgamating three schools (Notre Dame Primary, St. Peter’s Primary and the Anderson Nursery) to form a 14-classroom school with 500 child places (444 primary and 63 FTE nursery places) plus a large staff complement.

A number of new, large student accommodation sites had also been built in the area, meaning an overall increase in population, as other residents were now occupying the residences that students would previously have used; in turn, there was and there would continue to be additional demand on services in the Neighbourhood.

The fact that substantial new developments can be noted on the North, East, South and the West of the Neighbourhood, as well as within the area, was an indicator of how significant this change was its impact on services. An additional pharmacy would be able to tackle capacity issues and ensure that the needs of the growing community were fully met.

He advised that the PPC would have seen a list of all new developments that had been identified at the time of our application; since then, this had increased to over 30 new developments, as numerous planning applications had been granted full planning permission. These constituted a significant change in the Neighbourhood and the direction of travel for the community.

In terms of commercial residential developments, there was the new housing at Saltoun Street and the Ruthven Mews running parallel to Byres Road; a few minutes from here was the new Havelock development, comprising 11 new three bedroom houses. There was also the Dowanhill Collection, at the site of the former training college, which comprises five major buildings, resulting in 81 two and three bedroom apartments. There was also the nearby Devonshire Row, which comprises new housing at a former playing field site and there's the major new Red Eye housing development on Highburgh Road, Observatory Dowanhill, which would offer more than 20 apartments and penthouses with multiple bedrooms. There are also nearby developments such as Netherton Green and Gainsborough Court. The increased population would have a significant impact on existing service capacity. We do not think a formula exists to accurately test existing capacity at the risk of further inadequacy and in the Pharmaceutical Care Plan it states that "The Board acknowledges that further work was required to agree a methodology for the assessment of the population's pharmaceutical care needs". (<http://www.nhsggc.org.uk/content/default.asp?page=s1935>).

On the Botanic Gardens side of the Neighbourhood, there was the substantial new Queen's Cross Housing Association development of 128 flats, houses and shared equity properties, at Oban Drive, where the foundation stone was laid by Keith Brown MSP, Minister for Housing and Transport in late 2011; first completions were a few months ago and final completions are due by Easter – the site was sold out. This major affordable housing development received grants of £8.96 million from the Scottish Government through Glasgow City Council. The association's nearby Murano Court site contains 140 new flats, near the Murano Street Student Village, from where over 1,000 students commute into the Neighbourhood on a daily basis; overall, the Association would have completed 330 new homes for rent or shared equity in the area – the likely healthcare needs of up to 1,000 new residents would have an impact on the capacity of existing services. Their natural commuter route for services and retail would be into the Neighbourhood as there was no similar footprint near this new housing.

Adjacent to this site, there are two new commercial developments – 33 two and three bedroom QM Apartments and also the major new NK Apartments, by Laurel Homes, which comprise three separate blocks, ranging from 72 apartments across six levels in one block to 48 apartments in another block. Combined, this was around 200 new multi-occupant apartments, so anything up to another 300 residents, who would commute into the Neighbourhood and place more pressure on the load capacity of services.

Nearby, planning permission had also been granted to New City Vision for a new residential development at Kelbourne Street/Sanda Street/ Clouston Street:

(12/00924/DC Community Cnl: North Kelvin

Address: Site At Kelbourne Street/Sanda Street/ Clouston Street Glasgow

Proposal: Erection of residential development with associated parking, landscaping and vehicular access and demolition of existing structures. Date Received: 08.05.2012 Date Valid: 28.11.2012 Applicant Details: New City Vision Agent Details: Ward: Canal Representation Expiry Date: 04.02.2013 Type: Full Planning Permission Level: Major Development

Nearby, at the former BBC site, planning permission had been granted to change what was a non-residential site to a residential development:

(12/02120/DC Community Cnl: Hillhead

Address: Site Formerly Known As Broadcasting House 30 Queen Margaret Drive Glasgow

Proposal: Erection of residential development with associated access, landscaping and parking. Date Received: 23.10.2012 Date Valid: 05.11.2012 Applicant Details: West Register (Realisations) Ltd Agent Details: CDA Per Nicholas Saunders 16 Moray Place EDINBURGH

Ward: Hillhead Representation Expiry Date: 07.12.2012 Type: Full Planning Permission Level: Major Development

Nearby, at the former non-residential site of Hillhead Primary School, a large site at 15 Cecil Street, the go ahead had been given to Spectrum Developments for residential development:

(12/02542/DC Community Cnl: Hillhead Address: Hillhead Primary School 15 Cecil Street Glasgow Proposal: Conversion of school to form 35 flats with external alterations including roof top extension and lift block, formation of vehicular access and parking Date Received: 21.12.2012 Date Valid: 21.12.2012 Applicant Details: Spectrum Developments Scotland LLP

Agent Details: Jewitt and Wilkie Architects 38 New City Road GLASGOW G4 9JT Ward: Hillhead Representation Expiry Date: 08.02.2013 Type: Full Planning Permission Level:

On the River Kelvin side of the boundary, there was the sizeable new £4 million Collen Redpath development at 341 Great Western Road/ Montague Street, where 49 apartments would be completed by this summer. This site had lay barren for 20 years and was previously a petrol station.

Across from here, the Pewter Pot site on North Woodside Road would be developed into a 114 bedroom accommodation facility.

Nearby, the former Scottish Ballet offices on West Prince's Street are to be developed to create 103 studio flats. Last autumn, the go ahead was given to Otago Street Developments Ltd to build 50 homes in three blocks at 65-77 Otago Street/ Otago Lane, off Gibson Street.

All of these are new residential developments at sites that were previously not for residential use, and so, they would further increase the population.

On the South-West side, along from the end of Byres Road into Partick, there was the Alumno Development at the former Comet Store, on Dumbarton Road; this had been

approved to be developed into around 200 new student flats at a site that had been non-residential.

Heading from Partick towards Kelvingrove, the new Unite student accommodation on Thurso Street provides over 400 bedrooms; this opened in late 2011, a year after the new Unite accommodation site opened on Gibson Street; in autumn 2012, the group also launched a new 500 bedroom facility called Kelvin Court, at the site of the former Kelvin special school near Yorkhill Hospital.

Near to this, there was also a new student accommodation site, The Globe, at 200 Old Dumbarton Road, completed in September 2012, and which offers over 200 apartments over nine levels. A new student accommodation block also opened in autumn 2012, Franklin Point, at 1175 Argyle Street, near Kelvin Way, offering around 100 bedrooms.

There was another key development of 231 bedrooms at 107 Kelvinhaugh Street (by Macdonald Estates), for which a detailed planning consent had been granted and where work would commence within the next few weeks; there are also two 600 student bedroom apartments on either side of this.

A new student residence had also been approved in the ward of Hillhead at the site between Sawmillfield Street and Farnell Street (12/01800/DC).

In terms of local community leisure, the bandstand and amphitheatre on Kelvin Way was to be refurbished, with new seating to terraces and improved access. There was also refurbishment of other facilities on Kelvin Way, linked to the Commonwealth Games legacy, and which would all draw more people into the Neighbourhood (12/01832/DC).

All of these developments have increased the population that works, studies, lives or shops in the Neighbourhood and this had placed a great demand on existing services; as a number of these have still to be completed, the impact of change would continue well into the future and this would cause further inadequacy – an additional pharmacy was necessary and desirable.

Mr Salwan referred to the Opinion of Lord Drummond Young in a Judicial Review of a pharmacy application where he had suggested that consideration should be given to future changes that might render the current provision of services inadequate. He said that 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. Mr Salwan sincerely asked that the PPC consider this with regard to the granting of this application. Mr Salwan apologised for the length of the presentation.

**At this point, the Chair suggested that a 5 minute break should be taken. The Applicant and Interested Party agreed to this.**

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

**Mr Tait** asked the Applicant to clarify the details of the collection and delivery service operated from the Hillhead Pharmacy. The Applicant advised that the service was no different to that operated by Boots. The service was managed through a box mounted on

the wall at the pharmacy. Patients deposited prescriptions into the collection box in the common area outside the non-contract pharmacy which was adjacent to the medical centre. These were taken to the NHS pharmacy in Argyll Street and were then held at the Hillhead pharmacy until collected.

Mr Tait asked the Applicant if he was aware of the role of the General Pharmaceutical Council (GPhC). The Applicant advised that he was and that he accepted that the GPhC had no role in the application of the NHS regulations. He was aware that this was the responsibility of the Health Board but advised that the GPhC had recently undertaken an unannounced visit to the non-contract pharmacy and that the services advertised on the pharmacy's website were endorsed by Richard Duke, Contracts Manager, NHS GG&C therefore in his opinion the Health Board had given its approval.

Mr Tait asked the Applicant to confirm that these arrangements were informal as this was a non-contract pharmacy. The Applicant so confirmed, but advised that the Health Board had contacted the pharmacy to help with services such as smoking cessation.

Mr Tait quoted Paragraphs 12 and 13 from the current Terms of Service at Schedule 1 of the Pharmacy Regulations and asked if the Applicant was aware of the provisions contained in these paragraphs. Mr Salwan confirmed that he was aware of the provisions and confirmed that he had proactively stated throughout his presentation that the model of service provided from the Hillhead pharmacy was based on advice and intervention with the GPhC inspector. He reiterated that the processing of NHS prescriptions from the box situated in the common area was no different to Boots going into the medical centre

**At this point the Chair interjected to remind those present that the PPC would determine whether the application fulfilled the statutory test. He considered the Interested Party's line of questioning related to the conduct of current services from a private non-contract pharmacy NHS facility and suggested that such issues were for another audience.**

In response to a suggestion from Mr Tait that the service provided in its current form generated a demand for services which in other circumstances would not exist, the Applicant reiterated that the service was no different from the current Boots collection and delivery service. The creation of two new medical practices had generated the demand. The non contract pharmacy was established in response to patient demand due to all the evidence contained in the application and presentation.

Mr Tait asked the Applicant to explain if it was his contention that the population had increased from 2011 and the neighbourhood had developed, why he suggested that the PPC shouldn't take into account pharmaceutical services provided to the neighbourhood by existing pharmacies located outwith. The Applicant advised that the PPC might not be aware of the exact need because prescription volume was hidden within the dispensing figures of the pharmacies located outwith given that patients had no opportunity to avail themselves of such services due to the inadequacy within the neighbourhood.

In response to questioning from Mr Tait regarding population statistics, the Applicant advised that he had wished to quote exact population figures but to his regret he had chosen this part of his representation to truncate due to his acceptance of the length of it.

The specific data zones were provided by Glasgow City Council and the most up to date information had been submitted to the PPC today. The head count was 7,500. In addition Glasgow University students and staff increased the population to around 29,000. Adding in those working in the hospital and the school along with the 19,500 registered patients in the medical practice and the population could be as high as 40,500.

Mr Tait asked the Applicant if he would agree that the majority of these people would live outwith the neighborhood described. Mr Salwan advised that the residential population of the neighbourhood was 7,500, however the day time population was in the region of 40,500. He contended that many of the population would live within the neighbourhood as there was no definitive evidence to suggest otherwise.

In response to questioning from Mr Tait regarding the source of the student population figures, the Applicant confirmed that these related to the main University campus as shown in documentation provided. Mr Tait asked what year the figures pertained to highlighting that recent reports identified that the university had the highest stay at home student population. The Applicant advised that the figures related to 2012.

Mr Tait asked the Applicant whether he was aware that the Reference Committee found Boots UK Ltd in breach of their Terms of Service in relation to their complaints procedure and not in relation to the complaints themselves. The Applicant advised that he did not know.

Mr Tait asked the Applicant if he knew how many pharmacists sat on the Reference Committee. The Applicant advised that he did not know who sat on the Committee, only the outcome.

In response to a series of questions from Mr Tait regarding the closure of automatic doors at the Byres Road branch of Boots, the Applicant confirmed that whilst the complaints lodged had been about the closure of the doors the result was that patients were unable to access services which was a more serious matter. When Mr Tait asked him to advise if he was aware that the Byres Road branch had two sets of doors he confirmed that he was aware that patients were able to access the pharmacy through the manual set.

Mr Tait asked the Applicant if he was aware of the number of complaints regarding access to local branches made to Boots UK. When the applicant advised that he did not have access to that information Mr Tait reported that only one complaint had been received and it was that lodged by the Applicant personally. Mr Salwan contended that the Reference Committee had found Boots UK Ltd to be in breach on four counts so questions existed as to how they could be aware of the number of complaints received given their poor performance in this area, suggesting that many more could have been overlooked or gone missing.

Mr Tait asked the Applicant if he was aware that the Patient Rights Act 2011 required contractors to submit regular data on the number of complaints received. The Applicant confirmed he was aware of the requirement.

Mr Tait asked the Applicant to clarify which of the letters of support submitted were new and related to the current application being heard today as opposed to previous applications. Mr

Salwan advised that he had made clear in his presentation that this should be a fresh hearing and that the PPC had given permission on what papers could be included for this hearing. In response to Mr Tait's question regarding why some of the letters were dated 2010, the Applicant reiterated that the Health Board considered this to be a fresh hearing and the Health Board had chosen to allow the letters to be circulated.

**At this point the Chair interjected to clarify that his interpretation of Mr Tait's questioning was to establish whether there were any new comments/submissions received as part of the consultation processes associated with this new application or whether it was recirculation of comments received in respect of previous applications.**

The Applicant advised that there had been new papers in November 2012 from Glasgow Old People's Welfare Association, so a number of new views had been received through the consultation process for the fresh application. In addition this was a repeated process due to the Applicants' earlier error in consultation exercise. He had clarified with Health Board staff that it was appropriate to include the letters in the application.

In response to final questioning from Mr Tait, the Applicant confirmed that he was not aware of the Office of Fair Trading investigation which included details regarding consultations or that the investigation had led to restrictions which were now rescinded because they didn't work. The Applicant questioned the relevance to this application.

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

**Mr MacIntyre** asked the Applicant to confirm his neighbourhood as there appeared to be a difference between that contained in his presentation and that illustrated on the map accompanying his application. The Applicant advised that he had used conventional roads and natural features to define his neighbourhood. The neighbourhood was contained by the River on the south, coming close to Old Dumbarton Road with more population; the natural boundary was therefore the River as it followed Dumbarton Road. Glasgow City Council's datazone map was relatively accurate. Mr MacIntyre reiterated that the Applicants' description of the neighbourhood within his presentation was not consistent with that illustrated on the tabled map. The south west corner of his neighbourhood on the map followed roads which cut off a corner while his verbal description appeared to include slightly more area. The Applicant confirmed that the neighbourhood described in the presentation was accurate.

In response to questioning from Mr MacIntyre regarding the lack of access for patients due to the door closure at the Byres Road branch of Boots, the Applicant advised that access had been denied on four occasions from 2011 although these were the only occasions that the Applicant was aware of. Mr MacIntyre asked why the Applicant had stated that patients were "regularly denied access". Mr Salwan advised that this was an opinion he had formed based on what he knew and what he had heard.

Mr MacIntyre asked the Applicant about his patient list statistics for the Barclay Medical Centre and sought clarification if the figure of 14,000 included the patients registered at the main surgery at Maryhill Health Centre. The Applicant advised that the figures were relevant only to the branch surgery at the Barclay. He further confirmed that the figures had

been provided by the GP practice themselves.

In response to questioning from Mr MacIntyre regarding the dispensary within the proposed premises, Mr Salwan advised that if the contract were granted the Applicants would have a period of six months to refurbish the premises. The counter would be moved toward the front end of the premises in order to maximise storage facilities which would be kept at optimum levels given that they had knowledge on the anticipated demands for medication due to their current collection service.

Mr MacIntyre asked the Applicant if he agreed that the population within the neighbourhood was predominantly young, healthy and below pensionable age. Mr Salwan advised that if you walked on to Byres Road you would see both elements of the population. He further contended that both elements of the population suffered from illness.

When Mr MacIntyre asserted that pharmacies outwith the defined neighbourhood would currently be providing services to patients close to the border of the Applicants' defined neighbourhood so some residents within the neighbourhood would routinely be accessing existing pharmaceutical services outwith the neighbourhood, the Applicant agreed, adding that the issues within the neighbourhood were significant and that pharmacies outwith may not suit a patient's commute time or pattern of travel. Indeed he added that patients were being excluded from accessing services outwith as evidenced by the numbers leaving prescriptions in the Hillhead Pharmacy's collection box.

In response to questioning from **Mr Wallace**, the Applicant confirmed that he had mentioned in his presentation that there appeared to be a nationwide issue regarding supplies, however he felt that the problems were more frequent in this particular area.

In response to questioning from **Councillor Rebecchi**, the Applicant confirmed that they did not provide home deliveries from Hillhead Pharmacy.

In response to further questioning from Councillor Rebecchi, the Applicant confirmed the number of prescription items handled by Hillhead Pharmacy per month.

Councillor Rebecchi asked the Applicant whether the pharmacy staff of the Boots branch had been made aware of patients attempting to access the premises via the closed doors or if they had sight of them from within. The Applicant advised that he didn't know. He knew that subsequent to the incident a member of the patient's family had gone back to the branch to highlight the issue and the staff remarked that they were unaware of the problem.

In response to further questioning from Councillor Rebecchi, the Applicant confirmed that Hillhead Pharmacy didn't uplift prescriptions from the GP reception area. He further confirmed that Hillhead Pharmacy didn't collect prescriptions from any other GP practice, however the Reach Pharmacy in Argyll Street did.

**Mr Hamilton** asked the Applicant whether his west boundary of Byres Road, included both sides of the street. The Applicant advised that he had provided the PPC with an outline, but that they would ultimately decide on their own definition. He further contended that he would be happy to agree boundaries with the Committee.

**At this point, the Chair interjected to remind the Applicant that it was a requirement of the Regulations that he define the boundaries of his neighbourhood.**

In response to further questioning from Mr Hamilton, the Applicant advised that if the application were granted, the pharmacy would mainly be a prescribing pharmacy with consultation areas but accepted that they would need to find a good compromise and to do so limited front shop shelves.

Mr Hamilton suggested that of the 30% response to the Health Board's consultation, most were from competitors. The Applicant advised that he was not unduly surprised however noted that one Community Council had responded albeit outwith the timescales. What he did consider surprising though was that responders declined to attend the hearing which may suggest a lack of strong objection, and that he noted that one pharmacy actually responded in support of the application.

**Mr Daniels** asked the Applicant why the letters of support didn't contain addresses which meant that they were unable to identify whether the respondents actually lived in the neighbourhood. The Applicant advised that the informality of e-mails could lead to omission of addresses.

In response to further questioning from Mr Daniels regarding submission of complaints, the Applicant confirmed that there had been extensive correspondence between Boots UK Ltd and himself, however on one occasion the complaint had been made to assist elderly family friends.

Mr Daniels asked the Applicant why he had included the footfall from places such as the Western Infirmary when the majority of people registered with GPs near their home address. The Applicant advised that he lived in G1, but was still registered with a GP practice near his previous address.

**Mr Black** asked the Applicant why had had highlighted new developments which were not automatically seen as being near to the proposed premises. The Applicant advised that a percentage of the student population might choose to reside within these areas and avail themselves of services within the facility. He advised that gaps in provision of services forced people to obtain services elsewhere leading to an impact on services in close proximity.

In response to questioning from Mr Black regarding his neighbourhood, Mr Salwan accepted that there were differences in his definitions of neighbourhood, but reiterated that he had made his definition in good faith.

In response to further questioning from Mr Black regarding the Barclay Medical Practice, the Applicant advised that the practice's previous site in Murano Street saw a lot of patients and the University recognised this and offered premises in closer proximity. The other GP practice moved due to the inadequate state of their previous premises.

**The Chair** referred to the Applicants' reliance on the content of the letter from the Reference Committee which appeared to suggest inadequacies in the current service provision by Boots UK Ltd. He wished clarification as to whether the Applicant knew the nature of the

complaints which had been submitted. The Applicant advised that he could only read the Committee's letter as it stood which related to non-compliance with the complaints procedure. The Chair asked Mr Salwan if he would read out the letter from the Reference Committee in full to the PPC. Consequently the Chair noted that the Applicant had omitted the sentence which confirmed that the breach related solely to the operation of Boots UK Ltd's complaints process.

### **The Interested Party's Case – Mr Charles Tait (Boots UK Ltd)**

**Mr Tait** thanked the Committee and advised that he would keep his representation brief. He continued to state that he believed the neighbourhood to be Hillhead. The boundaries had been described numerous times previously. The population of the area indicated by the Applicant was in the region of 6,900 persons according to the mid year point estimates and from November 2011 this represented an increase of only 900 persons.

The population was mainly employed; the number of children within the area was 23% below the national average, while the elderly population was 30% below the national average; the population was not deprived and was actually really healthy and wealthy. He advised that while the new Hillhead School roll had a lot of children, only 200 lived within the neighbourhood. When explaining that the remainder resided outwith he cited as evidence the high level of parents arriving by car to drop off and collect their children.

He advised that the image of people accessing a pharmacy situated on a hill with limited parking was erroneous.

He asserted that the application and claims of inadequacy of existing service was supported mainly by Boots UK Ltd's failure to reply to complaints made by the Applicant. He believed that the Reference Committee was correct to find the company in breach however in relation to this application it should be noted that the issue related to the handling of the complaints and not to the services provided. The company had received no other complaints since 2010.

Mr Tait advised that the Applicant had quoted figures for the visiting population and static population, however chose not to highlight that the neighbourhood was surrounded by pharmacies referring to the number of students from Murano Village who walked to the University campus and passed two pharmacies on the way as an example.

He reported that both branches of Boots within the neighbourhood were not busy so there was ample capacity both for existing prescription volume as well as any increase resulting from future planned developments. Indeed with regards to access the branch on Byres Road had benefited from a major refit to DDA levels given the previous Capability Scotland report instigated by the Applicant in relation to previous applications.

Mr Tait advised that the company took the report very seriously and acted upon the findings. Indeed the results of modifications and improvements had led to complementary feedback and comments being shared on social media sites in relation to service and accessibility. Mr Tait wished to reiterate that he now believed that a more than adequate service was being provided which could easily absorb more prescriptions. He advised that whilst GP practices generated prescriptions, people travelled outwith the area due to their daily

patterns of life and thus access services throughout the wider area so they didn't necessarily require a pharmacy co-located with a GP practice.

He advised that there appeared to be nothing new in this application and that no new services were to be offered. The population was healthy, wealthy and young and did not generate or necessitate a new pharmacy. The application was neither necessary nor desirable to secure adequate pharmaceutical services.

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

In response to questioning from **Mr Salwan**, Mr Tait advised that if the Applicants' suggested population used the proposed premises then three parking spaces would not be sufficient regardless of two of them being dedicated disabled spaces.

Mr Salwan asked what Mr Tait's view was on patients being denied access to pharmacy services due to the closure of a set of doors at the Byres Road branch. Mr Tait averred that access had not been denied to patients reaffirming that only one set of doors had been faulty and that the adjacent doors had been operational.

In response to further questioning from Mr Salwan regarding the doors, Mr Tait denied that the issue with the doors had been highlighted some two years ago. Mr Tait advised that the doors had been replaced after the Capability Scotland report which had given major insights into the Boots UK Ltd branches in the area.

Mr Tait disagreed with Mr Salwan's assertion that Boots UK Ltd should have identified the deficiencies in the service and not relied on the Capability Scotland report. Mr Tait advised that Boots considered their premises to be adequate, but took the opportunity to make them significantly better.

In response to further questioning from the Applicant, Mr Tait reiterated that patients were not denied access to services due to faults with one set of doors intimating his frustration that Mr Salwan failed to acknowledge the presence and functionality of alternative doors. He added that historic access difficulties due to faulty call button performance had been addressed by changing the supply to mains power rather than battery, and that the step at the Great Western Road branch entrance had been addressed by the availability of a portable ramp.

Mr Salwan asked Mr Tait if he found it adequate that on four occasions patients couldn't access the store. Mr Tait reiterated that he had covered the interruption in access and considered that the matter had been addressed and that there was no benefit in continuing to refer to historic issues.

In response to further questioning from Mr Salwan, Mr Tait advised that no matter how many times the Applicant asked the same question, he could only provide the same answers which addressed the inaccuracies in claims of lack of access and steps taken to remedy historic shortcomings in the layout of both branches.

Mr Salwan asked Mr Tait to remind the PPC of the complaints that had been made regarding access.

**At this point the Chair interjected advising Mr Salwan that his point had been well made and noted by the PPC. He advised that the PPC would ask for clarification on any points they were unsure of and invited Mr Salwan to continue his questioning of Mr Tait.**

Mr Salwan asked Mr Tait if he would accept that the doors had been locked in one of the branches, as accepted in an e-mail from Laura Anderson, Boots Customer Care in March 2012. Mr Tait advised that the company's Customer Care section would always apologise for any issue brought to its attention. It would not investigate.

Mr Salwan asked Mr Tait if he agreed that the access issue demonstrated inadequacy. Mr Tait responded that he didn't.

Mr Salwan asked Mr Tait to quantify the number of complaints received regarding services that the Applicants were not aware of. Mr Tait advised that there were none.

Mr Salwan asked Mr Tait if he agreed that denying access to services was inadequate. Mr Tait advised that the company couldn't give a cast iron guarantee that all patients would have access at all times alluding that no-one could, however he was satisfied that they took steps to minimise disruptions in service as far as possible.

**There followed a question from Mr Salwan regarding the levels of prescriptions dispensed from the Boots branches, which Mr Tait declined to answer. The Applicant sought intervention from the Chair to obtain the answer. The Applicant was informed that he was entitled to ask the question, and that Mr Tait was similarly entitled to decline to answer.**

**Mr Salwan attempted to produce a photograph purporting to show locked doors at one of the Boots branches. The Chair interjected to ask him to keep to questioning of Mr Tait and reminded Mr Salwan of the decision reached with regards to submission of fresh evidence prior to the commencement of proceedings.**

Mr Salwan asked Mr Tait if healthy, wealthy people didn't need pharmaceutical services. Mr Tait advised that their need was less than the poorer, less healthy elements of society who were in the minority in this neighbourhood and who already had services to access.

In response to further questioning from Mr Salwan, Mr Tait confirmed that the internal survey carried out by Boots UK Ltd with regards to customer satisfaction was credible as it was collated and reported by an external, neutral company.

Mr Salwan asked Mr Tait if he agreed that the problems in the area which involved Health Board intervention were indicative of significant problems. Mr Tait advised that he did not agree.

**Mr Tait requested that the Chair agree a further break. There were no objections to this.**

#### **The PPC Question the Interested Party**

**Mr MacIntyre** asked Mr Tait if the branches were commonly out of stock of regular medication as Mr Salwan maintained. Mr Tait advised that this was not true that branches held inadequate stock and the historic problems had been experienced by all contractors due to supply issues. He was therefore satisfied that this was not an issue.

In response to further questioning from Mr MacIntyre regarding the Patients Rights Act, Mr Tait confirmed that Boots UK Ltd would comply with the requirements of the Act.

In response to further questioning from Mr MacIntyre regarding his comments on historic correspondence regarding the closure of Boots branches, Mr Tait advised that he had taken this information from the record of a previous PPC hearing.

**Councillor Rebecchi** asked Mr Tait if the call button which now operated through the mains could be easily switched off. Mr Tait advised that the disconnect facility was not easily accessed.

In response to questioning from **Mr Hamilton**, Mr Tait advised that work undertaken around the disability access issues was completed over a year ago.

In response to questioning from **Mr Daniels**, Mr Tait advised that the two Boots UK Ltd branches in the neighbourhood had capacity to take on additional work. The branches did very little methadone and very little compliance aids, They had a small collection and delivery service and had significant spare capacity. Mr Tait further confirmed that he was confident that both branches could cope with significant increases in activity.

In response to questioning from **Mr Black**, Mr Tait confirmed that the Boots branches had not seen any significant increase in the number of prescriptions dispensed since the relocation of the two GP practices.

**There were no questions to Mr Tait from Mr Wallace or the Chair.**

### Summing Up

**Mr Tait** advised that the neighbourhood was Hillhead. There were two existing pharmacies in the neighbourhood which were providing a more than adequate service. There was no need to address any inadequacy as there were no existing inadequacies to address, therefore the application failed.

**Mr Salwan** thanked the PPC for the patience it had shown in listening to the case There was a lot of information to take in and he knew the Committee would give it their careful consideration.

He reminded the Committee that they were required to consider inadequacy, necessity and desirability, and he posed a series of questions to the Committee:

Was a service where elderly people had been left waiting outside in the cold, adequate? Was a service that had denied patients access to a pharmacist, adequate? Or one that had routinely denied patients access to the pharmacy? Was a service that caused patients to

miss their prescribed daily medicine, adequate? Was a service that routinely locked its doors during opening hours, adequate? Or one that was warned about this issue three years ago, but continued to do it, adequate? Was a service where patients had been forced to turn away, believing that it was closed, adequate? Was a service that told a deaf patient to come back again just to hand in their prescription because the hearing loop at the service had not been connected, adequate? Was a service that lost or ignored patients' complaints adequate? Or one where staff did not alert the pharmacist to patients' complaints? Was a service that took a year to handle patient complaints adequate?

Was a service where a Health Board had had to intervene and investigate so many times adequate? Was a service that breached the NHS Terms of Service adequate?

Was it necessary or desirable for services to remain open and accessible at all contracted times? Or for services to ensure patients could access services at all contracted times? Was it desirable to respond to the concerns of a community that responded to a public consultation? Was it desirable for services to have the capacity to support the work of new GP services in the area, with year on year growth in patient numbers? Or for services to meet the needs of new school communities in relation to its new direction of travel?

The Applicants had referred to national guidance that related to what matters the PPC must give consideration to and what level of standard was required by contractors.

Mr Salwan advised that the Applicants were concerned if the inadequacy in service provision had arisen due to the lack of powers that the Board had over contractors to ensure that patients could be assured of full access at all times; it was inadequate that the Board's many, ongoing, direct interventions with the contractor, over several years now, had not improved the situation for patients. It was inadequate that a contractor could not be held to account by a Board on ensuring that all patients had a right to access services, especially when this was such a fundamental right. It could not be right that a Board was limited in its powers and that a contractor was not legally obliged to ensure access to services; if you could not physically access a service, then the service was inadequate to you as a patient. The Applicants were concerned that the Board had no powers to address incidents that had denied patients access to services.

Everyone that had supported the application was aware of what was available at existing services. But the tone and content of the letters showed that they did not see this as matter of convenience but, rather, that they knew the service was inadequate, and that an additional pharmacy was necessary.

The Reference Committee had found the contractor in breach of NHS Regulations; this was after the Board's investigation and its interventions over the past few years.

Mr Salwan asked the PPC if they would want to have this service in their locality? It was unacceptable and inadequate.

No patient should ever have to turn away from a pharmacy and be denied their medication. Responses to the consultations and public complaints showed the extent of this problem and it was of some concern that hundreds of patients may have been denied access to services over recent years. The poor customer complaint process meant we could not be

sure if patients even complained any more or, if they did, if their complaint was disregarded; it was disappointing to learn that the contractor had no policy to safeguard patients' rights of access to services.

This application should be granted as it was necessary and desirable. There was evidence of systematic failure in existing provision. There were genuine community concerns about the pressures on services due to the scale of development, which would continue for the foreseeable future.

There was evidence of significant change, importantly in the expansion of new GP services in high-density locations on the same side of the Neighbourhood. There had been a significant change on the same side of the Neighbourhood due to a major "super school" which had caused the local community to change their direction of travel, in the vicinity of the proposed premises. There was major change due to the unprecedented scale of purpose-built accommodation, freeing up flats for young professionals and families who wanted to live in the area.

Significant change and the impact of that change were also evident by the continued deterioration in the service and by the scale of new registered patients and the pace of development and a fast expanding population.

The Applicants hoped the PPC would agree that an additional pharmacy really was necessary and desirable to meet local needs. They respectfully asked that the PPC help improve and secure the health and well-being of the present and future generations of the community, as a health legacy, in the same vein as Glasgow's Commonwealth Games.

**Before the Applicant and Interested Parties left the hearing, the Chair asked the Applicant and Mr Tait to confirm that they had had a full and fair hearing. Both parties 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 Applicants' premises, namely:
  - Boots UK Ltd – various addresses;
  - Andrew Hand Pharmacy – 510 Dumbarton Road, Glasgow G11.6;
  - Lloydspharmacy Ltd – various addresses;
  - Maryhill Pharmacy – 1129 Maryhill Road, Glasgow G20.9;

LG Pharmacy – 476 St Vincent Street, Glasgow G3.8; and  
Park Road Pharmacy – 405 Great Western Road, Glasgow G4.9

All had recorded their objections to the application.

The Committee noted that:

Gilbride Chemists – 37 Hyndland Street, Glasgow G11.5;  
Buchanan & Campbell – 364a Dumbarton Road, Glasgow G11.6;  
Houlihan Pharmacy Ltd – 312 Dumbarton Road, Glasgow G11.7;  
Kelvin Pharmacy – 151 Hyndland Road, Glasgow G12.9;  
Woodside H C Pharmacy – 20 Barr Street, Glasgow G20.7; and  
Maryhill Dispensary Ltd – 41 Shawpark Street, Glasgow G20.9.

Were consulted as part of the statutory process, but had not taken the opportunity to respond within the consultation time period.

- b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee) – took no exception to the Applicants' proposals;
- c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee – did not recommend approval of the application;

The Committee noted that in accordance with the requirement (Paragraph 2, Schedule 3) to consult those who might use the pharmaceutical services provided (if the application were granted), notification of the application had been sent to:

- d) - Glasgow City CHP – North West Sector Public Involvement Group – no response was received.
- e) The following community councils:
  - Dowanhill, Hyndland & Kelvinside - no response was received;
  - North Kelvin – no response was received;
  - Partick – no response was received;
  - Woodlands & Park – no response was received;
  - Woodside – no response was received;
  - Yorkhill & Kelvingrove – no response was received; and
  - Hillhead – the response from Hillhead Community Council was received outwith the statutory consultation period and as such could not be included in the PPCs information pack.
- f) The following elected representatives;
  - Councillor Ken Andrew – no response was received;
  - Councillor Martin McElroy – no response was received;
  - Councillor Pauline McKeever – no response was received;
  - Councillor Martha Wardrop – in support of the application;
  - Ms Sandra White MSP – in support of the application; and

Ms Ann McKechin MP– no response was 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 G3.8, G4.9 and G12.8.
- j) Information from Glasgow City Council's Development & Regeneration Services advising of the known developments within a one mile radius of the proposed premises. Glasgow City Council's Department of Roads and Transportation had also been consulted, but no response had been received;
- k) NHS Greater Glasgow and Clyde plans for future development of services;
- l) Patterns of public transport in the area surrounding the Applicants' proposed premises;
- m) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone;
- n) Complaints received by the Health Board regarding services in the area.
- o) Applications considered previously by the PPC for premises within the vicinity;
- p) The Pharmaceutical Care Services Plan; and
- q) Unsolicited letters received from:
  - Glasgow Old People's Welfare Association;
  - Mr J Sadiq – dentist;
  - Dr A Bruce – dentist;
  - Dr Des Spence;
  - Clare Henderson – travel nurse;
  - Dr Asif Khan;
  - Mr Hanzala Malik – MSP;
  - Dr Ian Kennedy; and
  - Mr Wright – Headteacher.

A letter from Baillie Mohammed Ruzaq was received outwith the statutory consultation period and as such could not be included in the PPCs information pack.

## 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 noted that the Applicants' neighbourhood contained in his presentation differed from that illustrated on the datazone map tabled at the hearing. The Committee further noted that Mr Tait had taken no exception to the neighbourhood defined by the Applicant

The Committee considered that the neighbourhood should be defined as follows:

**North: Great Western Road following East to Kelvinbridge/River Kelvin;  
East: Kelvin Bridge following the River Kelvin southwards;  
South: River Kelvin travelling westwards, following Dumbarton Road to Byres Road,  
West: Byres Road to its meeting point back 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 significantly 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 thoroughfare. 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. The area within these boundaries contained the majority of amenities you would expect to find within a neighbourhood. There were a significant number of retail opportunities, restaurants, offices, educational establishments, public transport and many other resources. The PPC felt they would be hard pushed to think of a service/facility that was not included in the neighbourhood. This residential population had easy access to all the facilities contained in the neighbourhood being able to move freely through the area.

### **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 PPC noted that the Applicant had delivered his presentation under four main headings. The PPC addressed their deliberations by reference to each of these headings.

#### **1. General public responses and opinion**

The PPC noted that there had been limited response to the consultation carried out by the Health Board in accordance with Schedule 3, Para 2 of the current regulations which required them to take into consideration the views of those who would use pharmaceutical services.

The PPC further noted that the Applicant had received no responses to the consultation which they were required to undertake by the current Regulations. The Applicant had provided letters of support; however these appeared to have been received during a

previous consultation. Very little new information had been provided by the Applicant relating to this fresh application.

## **2. Denial of access to pharmaceutical services**

The PPC noted that the Applicant had highlighted four instances where access had been affected to the Boots branches in the area. The PPC however considered such as mechanical failures and battery issues which could occur without notice at any time. The PPC was satisfied with Mr Tait's explanation, confirmed by the site visit, that Boots had addressed these issues as far as possible for example amending the operation of the call button in the Great Western Road branch so that it operated from the mains and did not rely on battery operation, refitting the Byres Road branch with narrower shelving, providing a more spacious unit to move around and a second set of electric doors.

The PPC noted that their attention had been drawn to the letter provided to the Applicant by the Board's Reference Committee. They were however satisfied that the breach related solely to Boots failure to discharge their complaints procedure in accordance with the requirements of their Terms of Service i.e. response times. The breach did not relate to the provision of pharmaceutical services.

The Committee noted that Mr Tait's evidence pointed out that the OFT report referenced by Mr Salwan had no application in Scotland. The PPC therefore gave no consideration to this during its deliberations.

## **3. Adverse impact on local services due to closure of a pharmacy, a situation compounded by the subsequent establishment of two new medical practices, and a growth in population due to substantial new housing developments**

The PPC noted the significant variations in population statistics that had been offered during the discussions including students, transient population, and the "super school". In the PPCs opinion not all of these elements would utilise services in the university setting.

The PPC further considered the significant list of new developments tabled by the Applicant at the hearing. The PPC noted both from the list and from its site visit conducted earlier in the day that a proportion of the developments were in fact outwith the defined neighbourhood.

The PPC considered population statistics put forward by the Applicant and the Interested Party. The Committee considered that the transient population would be travelling to the area on a daily basis entering the neighbourhood from other areas where they would also be served by existing pharmacies.

## **4. Impact on reduced services due to development and regeneration**

The Committee noted that previously a pharmacy in the area had closed. They also considered the new developments in the neighbourhood and the impact of the two GP practices that had relocated into the area. They were satisfied however that no evidence had been presented by the Applicant or any other person to show that the existing network would be unable to cope with any additional demand generated. Figures available to the

PPC showed that the rate of prescriptions remained steady with no fluctuations. The PPC considered figures for the pharmacies within the neighbourhood and also for those immediately outwith the area and concluded that there was capacity within the system to cope with current demand and also for any further growth.

The PPC noted that the second pharmacy previously located on Byres Road and which had closed was a historical situation which had existed prior to the introduction of the control of entry arrangements and did not, therefore, constitute a precedent in terms of the adequacy of provision.

The PPC considered the Applicants' claims that the non-contract pharmacy had been asked to take part in a number of services including smoking cessation and sexual health services and was satisfied that capacity existed within the existing network to undertake any activity required.

The PPC noted that extended opening hours were available from the two existing pharmacies which were adequate to meet the current demand for services. Indeed it was noted that the Boots branch at Byres Road operated from 8.00am – 8.00pm. ?

The PPC considered the Applicants comments regarding out of stock or absence of stock of medication. The PPC considered these issues had arisen in the context of the national supply problems rather than a failing by the existing contractor.

The Committee noted that within the neighbourhood as defined there were two existing pharmacies namely Boots UK Ltd – 277 Byres Road and Boots UK Ltd, 693 Great Western Road and that evidence presented during the hearing indicated that spare capacity was available.

In addition there were 12 further pharmacies situated within one mile of the Applicants' proposed premises. All pharmacies met the needs of the different elements of the neighbourhood including the transient population and the resident population. The PPC also recognised that a proportion of the transient population would chose to access services at pharmacies located closer to where they lived. There was also a significant proportion of the student population who remained resident at home and did not live on campus or in the neighbourhood.

The PPC considered that the population within the neighbourhood could access services both within the neighbourhood and outwith the neighbourhood, including their own local area.

The Committee considered this existing network provided comprehensive service provision to the neighbourhood with extended opening hours and all services required by the pharmacy contract, along with additional services. The Committee considered that access to services was readily achievable in a variety of ways either by foot, public transport or by car. A collection and delivery service was available for any resident finding access to services problematic.

**In accordance with the statutory procedure the Pharmacist Members of the Committee, Alasdair MacIntyre, Ewan Black and James Wallace left the room during**

**the decision process:**

**DECIDED/-**

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.

The PPC was satisfied that the provision of pharmaceutical services at the premises of the Applicants were neither necessary nor desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names were included in the Pharmaceutical List and in the circumstances it was the unanimous decision of the PPC that the application be refused.

**The Pharmacist Members of the Committee, Alasdair MacIntyre, Ewan Black and James Wallace, rejoined the meeting at this stage.**

**Contractor  
Services  
Supervisor**

**5. ANY OTHER COMPETENT BUSINESS**

The PPC voiced their concern over the situation described during the consideration of the above application regarding the management of the collection service from the Hillhead pharmacy. They requested that the PPC write to the Community Pharmacy Development Team to investigate the issue and report back to the PPC at a later date.

**Contracts  
Manager**

**6. DATE OF NEXT MEETING**

To be arranged.

The meeting ended at 5.00pm