

**IN CONFIDENCE – FOR MEMBERS’ INFORMATION ONLY**

**MINUTE: PPC/09/03**

Minute of Meeting of the Pharmacy Practices Committee held on Friday, 27<sup>th</sup> February 2009 in the Boardroom, NHS Lanarkshire Headquarters, Beckford Street, Hamilton, ML3 0TA.

Chairman: Mr B Sutherland

Present: Lay Members Appointed by the Board

Mrs M Caraher  
Mrs M Crawford  
Mr J Woods

Pharmacist Appointed by The Royal Pharmaceutical Society of Great Britain

Mr E J H Mallinson

Pharmacist Nominated by Area Pharmaceutical Committee

Mr I Allan  
Mrs J Park

In Attendance: Officers from NHS Lanarkshire - Primary Care

Mr G Lindsay, Chief Pharmacist – Primary Care  
Mrs G Forsyth, Administration Manager – Primary Care  
Ms K Beattie, Personal Secretary - Primary Care

Officer from NHS Central Legal Office

Mr Ranald Macdonald, Senior Legal Adviser

Officer from Ubiquis

Mr Mark Woffenden, Transcriber

**APPLICATION BY APPLE HEALTHCARE GROUP, APPLE PHARMACY,  
23 CROW ROAD, GLASGOW, G11 7RT**

**Application**

There was submitted application by Apple Pharmacy, received 5<sup>th</sup> March 2008, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new Pharmacy at 7 Severn Road, Gardenhall, East Kilbride, Glasgow, G74 8QD (“the premises”).

## **Submissions of Interested Parties**

The following documents were received during the period of consultation and submitted:

1. Letter received from Greenhills Pharmacy on 11<sup>th</sup> March 2008
2. Letter received from Alliance Pharmacy on 13<sup>th</sup> March 2008
3. Letter received from Frasers' Pharmacy on 14<sup>th</sup> March 2008
4. Letter received from Area Pharmaceutical Committee of Lanarkshire Health Board on 25<sup>th</sup> March 2008
5. Letter received from Lloyds Pharmacy Ltd on 28<sup>th</sup> March 2008
6. Letter received from Rowlands Pharmacy on 1<sup>st</sup> April 2008
7. Letter received from Munro Pharmacy on 1<sup>st</sup> April 2008 (contract now owned by Lloyds Pharmacy Ltd, t/a Lloydspharmacy)
8. Letter received from Area Pharmaceutical Committee of Greater Glasgow & Clyde Health Board on 2<sup>nd</sup> April 2008
9. Letter received from Area Medical Committee, GP Sub Committee of Greater Glasgow & Clyde Health Board on 2<sup>nd</sup> April 2008

## **Procedure**

At 13:10 on Friday, 27<sup>th</sup> February 2009, the Pharmacy Practices Committee (“the Committee”) convened to hear application by Apple Pharmacy (“the applicant”). The hearing was convened under paragraph 2 of Schedule 3 of The National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995, (S.I. 1995/414), as amended (“the Regulations”). In terms of paragraph 2(2) of Schedule 4 of the Regulations, the Committee, exercising the function on behalf of the Board, shall “determine any application in such manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the Committee is whether “the provision of Pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of Pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List”.

It was noted that Members of the Committee, together with Mr R Macdonald, Senior Legal Adviser – NHS Central Legal Office, Mr G Lindsay, Chief Pharmacist – Primary Care, NHS Lanarkshire, and Mrs G Forsyth, Administration Manager – Primary Care, NHS Lanarkshire had previously undertaken a site visit of East Kilbride on Monday, 16<sup>th</sup> February 2009, noting locations of the premises, existing Pharmacies, general medical practices, and other amenities within the town.

Prior to the arrival of parties the Chairman asked Members to confirm that they had received and considered the papers relevant to the meeting, including the additional information circulated by Mrs Forsyth in the form of communications received from residents, elected representatives, and local community groups of East Kilbride, and additional information submitted in support of their application by Apple Pharmacy. Having ascertained that no Members, or officers in attendance, had any personal interest in the application the Chairman confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within their papers. The Chairman then asked Mrs Forsyth to invite the applicant and interested parties who had chosen to attend to enter the hearing.

### **Attendance of Parties**

The applicant was represented by Mr Neeraj Salwan. The first interested party Greenhills Pharmacy, J P Fenton and Sons Ltd, 7 Greenhills Square, Greenhills, East Kilbride, Glasgow, G75 8TT was represented by Ms Felicity Fenton. The second interested party, Frasers' Pharmacy, Donald R Fraser, 16 Westwood Square, East Kilbride, Glasgow, G75 8JQ was represented by Mr Colin D Fraser. The third interested party Lloyds Pharmacy Ltd, Lloydspharmacy, Sapphire Court, Walsgrave Triangle, Coventry, CV2 2TX was represented by Mr Danny McNally who was assisted by Mr Mark Sim. The fourth interested party, Rowlands Pharmacy, Whitehouse Industrial Estate, Rivington Road, Preston Brook, Runcorn, WA7 3DJ was represented by Mr David Young who was assisted by Mr Alasdair Shearer.

The Chairman welcomed the applicant and interested parties to the meeting, and apologised for the delay in reconvening after concluding the first hearing of the day. He continued to explain that the delay was to ensure that, prior to coming into this hearing, all interested parties had written notification of the Committee's decision and thinking in relation to the first application.

The Chairman then suggested that as there were no changes to those in attendance at the earlier hearing, apart from Miss Karen Beattie, Personal Secretary – Primary Care replacing Mrs Elaine Wylie, Personal Secretary – Primary Care, and that since the formal introductions were done at the earlier hearing, that time could be saved by dispensing with duplicating them. Furthermore that other than the applicant and the proposed site of the application changing, as the protocol and procedure said and applied as a preliminary earlier in the morning is the same, he proposed that we can take them as read and go straight into hearing the application by Apple Pharmacy. All parties present were in agreement to this proposal.

The Chairman then started proceedings and confirmed that the meeting was being convened to determine the application submitted by Apple Pharmacy, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new Pharmacy at 7 Severn Road, Gardenhall, East Kilbride, Glasgow, G74 8QD according to the Statutory Test set out in Regulation 5(10) of the Regulations. The Chairman then confirmed that all Members of the Committee had conducted a site visit and were familiar with the proposed site, and that no members of the Committee, nor officers or representatives in attendance, had any interest in the application.

### **Evidence Led**

**The Chairman then invited Mr Salwan, Apple Pharmacy to speak first in support of his application.**

Mr Salwan stated that he would like to thank the Committee for taking the time to hear his presentation regarding the application by Apple Pharmacy, however before he made a start he would like confirmation as to whether everyone had received the additional supporting information which had been submitted in respect of the application and took the opportunity to list them. It was at this point that Mr Fraser interjected to ask the Chairman that his objections to the lateness of the information being submitted be noted, as he felt that it did not

give sufficient time for it to be circulated, digested, and checked for accuracy. The Chairman confirmed that the Committee would certainly register his objection however sought clarification from Mr Fraser if he was asking that the hearing did not proceed. Mr Fraser confirmed that he was happy for the applicant to put his case forward however that Members of the Committee bear his objection in mind in relation to questions being asked in support of Mr Salwan's application or to counter his application. The Chairman accepted and noted his objections before asking Mr Salwan to begin his submission.

Prior to starting Mr Salwan asked for clarification as to whether or not the Chairman had agreed that the additional information would be accepted and taken into consideration by the Committee, as he considered it fundamental to his presentation. The Chairman confirmed that the information had been accepted however that it would be alongside Mr Fraser's objections as to the impact the timing of receipt had upon his preparedness to counter Mr Salwan's arguments in support of his application.

It was at this point that Mr Salwan then remarked that whilst he did not wish to appear to be telling the Committee what their role was, he wanted to highlight that they should "look at my application as a standalone application for this neighbourhood and, as such, make a decision on it". He then went on to give an overview of the statutory test and advised "From what my interpretation is, it does not mention in the regs where in the defined neighbourhood the services have to be provided from; i.e. location and, once you've decided the neighbourhood, what premises. That's not the consideration here. It's a consideration here about securing adequate services to a neighbourhood." Mr Salwan then commented that the Committee were obviously aware of the fact there was another application submitted and that whilst he had many points to make in respect of that application he would keep them for that hearing, although at this juncture he wished to make a few observations about comments relating to "traffic-calming measures or speed bumps or getting lollipop men in the area" which he feels is not a consideration for the Committee, and that their consideration "is alone on adequacy, according to the regulations, is what I interpret it to be." Mr Salwan then gave his opinion and stated that "all the contentions made by the Cliff Smith/St James Avenue application regarding our application should be discounted. Cliff Smith/Michael Docherty/Michael McCann, whoever you want to call is doing that application, have not got a contract in the area. They are not in the area and, as such, they're not in the catchment area to comment on the application, so they should not be commenting on anything that I've said in my application. Respectfully, I'd like to ask you not to take those views in consideration when listening to my presentation, because I just thought of that this morning, because he's put a lot of additional supporting evidence in regarding my contract application, which I feel is unfair." Having informed the Committee of his views he then began his submission.

Mr Salwan began by drawing attention to the additional information submitted by him outlining his change of neighbourhood boundaries from that originally submitted at the time of application. He advised that originally Apple Pharmacy had used Google Maps, but since driving around the area, they felt it necessary to change it because "the boundaries we provisionally used just did not make sense". Mr Salwan then offered the following definition of the boundary:

"To the North you have the railway track; to the West, you've got the open countryside bordering with Jackton Road; to the South, you have, running in a South-Easterly direction, the open land which is running parallel to Newlandsmuir Road, which runs up heading

towards Dunedin Drive. Dunedin Drive is another one of our boundaries – the Eastern boundary. This then just joins back up to the railway track.”

Mr Salwan asked if his definition was clear or whether the Committee would like him to explain it again. Mr Woods asked for clarification as to the map Mr Salwan was referring, and was advised that he was using the Google Map. The Chairman asked if everyone present had followed Mr Salwan’s definition. Mr Fraser stated that he was unclear as to whether Mr Salwan was describing travelling down Dunedin Drive, heading onto the open land, which then travels in a Southerly fashion down to Greenhills Road, discounting Newlandsmuir Road, and the Newlandsmuir development scheme that’s there. The Chairman then asked for clarification as to whether the boundary comes to the West of Newlandsmuir Road and was advised that it did. Mr Fraser asked if it continued Southwards from there and was advised that it did - towards the open countryside again with Jackton Road being his outer boundary. Mr Salwan advised that his revised boundaries felt more natural for the neighbourhood, and helped form a separate and distinct neighbourhood from others in East Kilbride, and served to encapsulate the areas their proposed Pharmacy aims to provide services to.

Mr Salwan stated that the area has undergone considerable growth over the last five to 10 years, and that as the population has grown, he felt there is additional added pressure now on the current Pharmaceutical services in East Kilbride. He further stated that it is an area which is marked for development under the local growth plan, which is soon to be adopted on 19 March 2009, and will be zoned for residential housing. Furthermore, aside from that proposed growth, there are numerous other developments that have occurred in the area, which he hoped that the Committee had information about.

Mr Salwan then progressed to talk about accessibility. He stated that in his opinion their site is better accessible for the population who use Pharmaceutical services the most; i.e. the elderly. He further stated that “the development in St James Avenue caters, I’d say, for basically the driving public. Again, it’s similar to the Morrisons’ application you heard this morning, where it will draw from different neighbourhoods. Ours is more a neighbourhood confined to not that far-spread a catchment area; I feel it probably will be definitely Mossneuk and Hairmyres at most. We are at the heart of the community, with the church, the primary school and the community hall, which holds various functions for the community: Scouts groups, Boys’ Brigade, after-school etc. These are on our doorstep. In the future, when all the houses are built, there will undeniably be increasing car traffic, not only at our site but at the other suggested site at St James Avenue. I believe that the traffic in that site will be a lot worse. It’s already quite congested: you have cars passing by here regularly to access the main hospital at Hairmyres; traffic accessing the train link; and heavy traffic going along the Eaglesham Road to access the A726. The proposed 2,460 new homes’ car traffic will access this road network, leading to even more congestion in that particular part, and it will bypass us. I don’t think we will see that traffic coming to our site; it will undeniably go to the development at St James Avenue, most of that traffic. I feel our site’s more of a “walkable” site. It’s right in the heart of a residential area. Despite what’s been said, there is parking available; it’s just come to light that they are looking to make more parking facilities available there, with the community hall looking move to into the Mossneuk Primary School, so they’re looking to zone that area for parking. We’ve got support from Graham Simpson on that fact – the Councillor, the SNP Councillor.”

“The other site has only one entrance, as far as I can see. It would be difficult for cars coming in and out of only one entry and exit point from that development, as invariably, when trying to exit the site”. It was at this point the Chairman stopped Mr Salwan to remind him that he had stated earlier that the Committee was under a duty to look at this application as a standalone application however that his submission was blatantly referring to other applications for consideration during the day.

Mr Salwan acknowledged the Chairman’s guidance and began again. He advised that with regards to the accessibility of car parking spaces Mossneuk church has its own car park, as does Mossneuk School, and that from speaking to people who work within the shop units and observing traffic during the day, he does not consider the flow of traffic or parking to be a problem given that it appears only to be busy at 9am and 3pm, which is the school’s opening and closing times. For the rest of the time he is of the opinion that it is quiet. In respect of proposed opening times Mr Salwan referred to white papers that have been released by the Health Board, which he advised state that they want healthcare facilities in easily accessible parts of the community, with opening hours to suit all walks of life. It was his opinion that Apple Pharmacy fit these criteria with their proposed hours of service given that they are looking to open 08:30 to 21:00, and that they would be the nearest Pharmacy to Hairmyres Hospital with its Out of Hours Centre. They could “take the pressure off Lloyds at Alberta”, and they would not close for lunch and so could offer healthcare advice and dispense prescriptions, as he stated that the nearest Pharmacy to their proposed site is closed for one and a half hours during the day.

Mr Salwan then moved on to discuss viability and access to services due to population growth and developments. He informed that East Kilbride currently has 11 Pharmacies, with a population near to 77,000, which makes the population per head of these Pharmacies higher than the Scottish average of 5,000. Furthermore that the population within his definition of neighbourhood has a population of circa 4,000, which would increase significantly with the housing proposals outlined within the local plan and community growth area. It is his view that this significant rise in population would stretch the current Pharmaceutical provision in the area, as the existing Pharmacies are so busy with current dispensing levels they may find it difficult to engage in services expected as part of the new contract, which he feels would lead to inadequacy in provision of Pharmaceutical services to the neighbourhood. Therefore he feels, with the growth of the neighbourhood, the award of an additional contract would have a minimal effect on the viability of the existing Pharmacies in the town, and that viability is also not an issue given that the existing Pharmacies are already well established and embedded within their own individual neighbourhoods. Their Pharmacy would only serve to augment existing provision by helping “to deal with current inadequacies patients face; for example, long waiting times, not being able to get their weekly pill packs dispensed.” It was at this point that he referred to an e-mail submitted as part of his supporting evidence from a local Medical Practitioner stating that “he has a problem finding Pharmacies to take on new patients to go onto a weekly pill pack dispensing service, so he is obviously welcoming the suggestion of another Pharmacy to help this situation.”

Prior to progressing to discuss adequacy, Mr Salwan advised that he feels Apple Pharmacy have definitely proven desirability as “this is the community growth area of East Kilbride, and it’s the only area, I believe, to be devoid of Pharmaceutical services in the whole of East Kilbride. As you can see from the map that’s been submitted to us from the PPC, all the Pharmacies are situated North, East and South of East Kilbride; there is nothing on the Western side.” He also referred to support from local Councillors who represent the area

including “various letters from Andy Kerr, Graham Simpson, David Watson, who, after asking the opinions of their constituents or people that they’ve served in that area, have only then given us their support of a Pharmacy in that area of East Kilbride.”

With regards to inadequacy he asked for consideration as to whether or not the “inadequate services in the neighbourhood that I’ve just defined are being made adequate from Pharmacies outside of the neighbourhood?” He intimated that it was necessary to look at what services were expected of the new contract and whether or not they could be provided on an outreach or Collection and Delivery service basis. He used examples such as eMAS, nicotine replacement therapy advice, or Chlamydia testing, to highlight that his view was that patients are relying on a Collection and Delivery service (C&D service) into the area, and that such services could only be provided by having a Pharmacy in the area. Mr Salwan went on to proffer that convenience is also not the sole issue, however that accessibility to such services for the frail, elderly and sick, is extremely important as their proposed location gives them “a fighting chance of accessing all of these services”.

He then expanded this statement to include reference to the view that such services were introduced to relieve pressure on demands within general medical practice and that he had heard that the current waiting time to see a Doctor just now is “four days, five days, a week”. Mr Salwan stated that he believes that the services of the new contract were introduced to be of most benefit to communities that are isolated from, or devoid of general medical services in their neighbourhoods, and that with the population figures he provided earlier, the existing numbers of Pharmacies within the town, and the dispensing figures available to the Committee will, he suggested, demonstrate that they will be vastly in excess of the national average dispensing figures of 4,500-5,000 per Pharmacy.

Mr Salwan finished his submission by giving an overview of the services they wished to provide e.g. eMAS, NRT, AMS, Chlamydia testing, monitored dosage systems, stoma supply, domiciliary oxygen, disposal of waste medicine including controlled drugs, and eventually CMS, as well as outlining the flexibilities of their C&D service. They also intend to staff the Pharmacy with an “independent pharmacist” [sic]. With regards to hours of service he remarked that their proposed extended hours of service over seven days, in his opinion, will make their provision of services such as eMAS accessible at times when many of the existing Pharmacies are closed. Furthermore they intend to shopfit their Pharmacy in accordance with the Scottish Health Planning Note 36 - Part 3 Community Pharmacy Premises in Scotland – Providing NHS Pharmaceutical Services, taking guidance from NHS Circular PCA(P)(2007)28, and “aim to fulfil all the core and possibly some additional service requirements, as envisaged and underpinned by “The Right Medicine” white paper.” Mr Salwan also intimated that they aim to liaise with the local disability forum, as advised in the Scottish Health Planning Note, to seek their advice on what kind of things would make it easier to access their Pharmacy, and to comply with the Disability Discrimination Act.

Mr Salwan then commented that there was nothing further he wished to add in addition to his verbal submission and supplementary evidence distributed, apart from the fact that he feels that this part of East Kilbride has a big population which is underserved at the moment, and that will only continue to grow, and that of all the areas in the town, it is at least desirable to grant their contract. He then thanked the Committee.

**The Chairman then invited questions from Mrs Felicity Fenton, Greenhills Pharmacy, to Mr Salwan.**

Ms Fenton replied that she had no questions to ask Mr Salwan.

**Having ascertained that Ms Fenton had no questions to ask of Mr Salwan, the Chairman then invited questions from Mr Colin Fraser, Frasers' Pharmacy to Mr Salwan.**

Prior to beginning Mr Fraser apologised for the number of questions that he had, however he asked the Committee to bear with him as he would appreciate being given the opportunity for them all to be asked. He also made reference to his earlier objections regarding the lateness of the supplementary submissions being received, and asked for forgiveness if he asks questions that have been answered within the supporting documentation.

Mr Fraser's first question was to ask if Mr Salwan was aware of any people writing to NHS Lanarkshire complaining about current level of Pharmaceutical service within the area, and was advised by him that letters "have come through". When questioned further Mr Salwan replied that comments were contained within the additional communications received from residents, elected representatives, and local community groups of East Kilbride previously circulated by Mrs Forsyth, but he did however acknowledge that this referred to support for a separate application, and did not refer to complaints regarding levels of existing service provision. Mr Fraser asked if Mr Salwan was aware of any members of the neighbourhood asking NHS Lanarkshire to investigate a possible service in the area or complaining about the existing services in the area prior to submitting his application. He was advised that they had secured letters of support from local Councillors, which led Mr Fraser to establish that it was done after the application was submitted.

Mr Fraser's next line of questioning was around Mr Salwan's definition of the neighbourhood, which had changed since time of application. He was advised that Mr Salwan had covered that aspect during his oral submission and that it was due to them feeling that the revised neighbourhood felt more natural with proper and distinct boundaries that separated it from other ones. This led Mr Fraser to question the need for this revision and whether it was normal policy for Apple Pharmacy to change aspects of their application so close to the hearing date and to not have acquainted themselves with the area beforehand in order to research their submission. Mr Salwan replied that whilst he felt the question was irrelevant to consideration of their application, he did admit that it should have been reviewed earlier. However the delay was due to the timing of this particular application being handed over to him from a colleague, and his need to acquaint himself with the project.

Mr Fraser then asked if he had any evidence to substantiate the claim in their letter of support that a local Medical Practice is relocating to premises closer to Severn Road. Mr Salwan replied that he had investigated this matter and received a response from NHS Lanarkshire under the Freedom of Information Act stating that there were no plans for this to happen. Mr Fraser then asked if Mr Salwan considered his proposed site to be easily accessible by public transport? Mr Salwan replied that to him it was, and that there were also other community facilities available, he also confirmed when questioned that it was not on a local bus route.



Mr Fraser's next question was about their proposal to offer a free C&D service, and was advised that they would offer it only after asking patients whether or not they required this facility. This led Mr Fraser to ask for clarification as to whether or not they would confine the service to deliveries solely within their defined neighbourhood, and was advised that they probably would given that their area is more residential. Mr Fraser wished to explore this matter in greater detail and suggested areas to Mr Salwan of where patients could travel from to reach their Pharmacy and whether or not he would refuse them access to the facility solely on the grounds that they lived outwith his boundary. Mr Salwan replied that in his view it was an impossibility that patients would travel from some of the areas suggested e.g. Greenhills, and that it was down to the Committee to decide on the actual neighbourhood of the application. However they would provide a full service regardless of the boundaries defined.

Mr Fraser then went on to question the notion of viability and asked Mr Salwan how many people he thought necessary to sustain a Pharmacy business, as in the information they submitted originally he thought their reference to 2,750 was insufficient. Mr Salwan said he did not remember quoting that figure and they discussed the matter further prior to the Chairman reminding them to limit their dialogue to questions, and to accept the comments as a question as to how many people Mr Salwan thought necessary to sustain a Pharmacy. In response Mr Salwan answered by referring to a Pharmacy they opened in Gartcosh approximately one year ago, which has a population of approximately 1,800 to 2,000 people, and was on the local growth area plan, and which he reported is doing well due to the way they limited their initial running costs and overheads, and the levels and types of services they provide.

This led Mr Fraser to ask him if he accepted that the populations within local community growth area plans are purely projections, and was advised by Mr Salwan that he had spoken to someone in the local planning department. The Council have been told by The Scottish Ministers that it should be for residential housing, thus it is "very, very unlikely" that the Council would not zone it for that purpose, and that whilst he appreciates that is not a definitive answer, it's the current advice available from the local planning office. Mr Fraser then referred to the impact the current economic climate would have on the rate of house-building in this area, which would lower the figures originally forecast in 2007. Mr Salwan acknowledged the current slump however felt that it was still pertinent given that the economy would eventually "come back on track" whether or not it happened within six months or a year or two.

Mr Fraser then referred to the original statement in support which accompanied the application which stated that they would forward letters of support in due course. He asked if that was most of the bulk of the information that NHS Lanarkshire received recently, because he had not received anything prior to the Wednesday of the week of the meeting. The Chairman interjected that this matter had been discussed and agreed earlier in the proceedings and that unless Mr Fraser had not seen them, then the hearing could continue. Mr Fraser then went on to question whether Mr Salwan had any evidence to support his claims that traffic at the other site to which he referred "would be worse than your narrow residential street proposal?" Mr Salwan's response was that he thinks that whilst the Hairmyres area is busy already, the majority of the planned housing development is for the Bogton Farm area, and that once the 2,450 houses are built, Greenhills Road will become "very, very busy".

Mr Fraser's final questioning was around Mr Salwan's reference during his oral submission to his view that if their application was granted there would be minimal effect on existing Pharmacies, and asked if he had any evidence to substantiate that claim. Mr Salwan said that he did not, other than it was his opinion that because it's a growth area with a lot of new housing, his Pharmacy would be contained to servicing the needs of the new residents. This led Mr Fraser to ask what evidence Mr Salwan had in order to allude that no Pharmacies in the area would dispense below the national average of prescriptions. Mr Salwan replied that again whilst he had no evidence, he derived this view from the population figures against the number of existing Pharmacies in East Kilbride.

Mr Fraser had no further questions and thanked the Chairman.

**Having ascertained that Mr Fraser had no further questions, the Chairman then invited questions from Mr David Young, Rowlands Pharmacy to Mr Salwan.**

Mr Young stated that he had only one question, and it was to clarify with Mr Salwan that he was saying that current the current service provision within the neighbourhood he defined is inadequate? Mr Salwan confirmed that it was his opinion. Mr Young had no further questions and thanked the Chairman.

**Having ascertained that Mr Young had no further questions, the Chairman then invited questions from Mr Danny McNally, Lloyds Pharmacy Ltd to Mr Salwan.**

Mr McNally stated that he had only one question, and it was to ask Mr Salwan what evidence he had to suggest that Lloydspharmacy, Alberta Avenue experience any pressure providing services, resulting from their proximity to the GP out of hours service within Hairmyres Hospital, during their extended hours of service. Mr Salwan replied that this opinion was derived from his view that as there is only one Pharmacy open extended hours in the area, and with its location so close to the Hospital, that they would be the sole facility open for patients in the evening and that possibly another closer Pharmacy to the out-of-hours service and Hospital would be better and alleviate some pressure. Mr Salwan expanded to state that whilst he did not have any figures to support his claim, the pressure could be estimated from the fact that one Pharmacy is expected to offer services to as many areas such as Westwood, to Mossneuk, to Hairmyres, to Greenhills, and to Newlandsmuir. This led Mr McNally to ask Mr Salwan to confirm therefore that there was no evidence at the moment that suggests that the existing contract is under pressure, to which Mr Salwan replied that "The Board will have the figures. I don't have the figures – I'm not privy to them."

**Having established that there were no further questions from the Interested Parties, the Chairman then invited questions from Members of the Committee in turn to Mr Salwan**

Mr Allan was invited to question first and asked for confirmation that the proposed site was the double unit currently occupied by a Hairdresser, and was advised that it was. Mr Allan then asked for clarification as to the size of their share of the unit from the proposed plans submitted, and was told that it was approximately 700 sq ft in total. He asked why they had chosen to site the disabled toilet at the very back of the premises, and was informed that the plans had been drawn up with the help of their shop fitter and that they could not see any other place to accommodate it. This led Mr Allan to say that he did not consider the location of the disabled toilet to lend itself well to public use, despite him implying during his submission that they would be offering the area an extra service. Mr Salwan replied that they

had made the plans so that the dispensary area would be cut off from people using the toilet, and that everything relating to medicines is isolated once you go past the first consultation room, and that the doors would be sliding and the widths increased, in order that a wheelchair can go all the way through and access the back of the premises. Mr Allan remarked that he could not gain access to the premises on the day of his visit but that the unit itself did not look very big. Mr Salwan advised that the size is deceptive and it goes further back behind a small partition wall which is there at present. Mr Allan then asked whether or not there was access through the car park for deliveries to be made to the back of the unit. Mr Salwan confirmed that they only envisaged one delivery a day and that this would be made via the back doors. This led to a discussion around how frequent their deliveries normally happen and the arrangements they have with their supplier.

Mr Allan's questions then focused on how confident Mr Salwan was in terms of leasing the unit, and of any arrangement in place between Apple Pharmacy and the Hairdresser. He was advised that it was a source agreement with the landlord, and when he asked if they had something in writing he was advised that it had all been "done legally". Mr Allan asked Mr Salwan if he was aware of the timescales associated with inclusion in the Provisional Pharmaceutical List, and was advised that they could open within one month.

Mr Allan at this point sought clarification as to what Mr Salwan meant earlier when he referred to having an "independent pharmacist" in the Pharmacy, and was advised that he meant to say independent prescribing pharmacist. Mr Allan's final line of questioning was around Mr Salwan's reference to long waiting times in other Pharmacies within the area and asked if he had any evidence of this. Mr Salwan advised that his opinion was based on an estimation of "the population per head per Pharmacy". To which Mr Allan asked him to clarify that it was not based on any factual information such as the numbers of staff within each Pharmacy in relation to numbers of prescriptions dispensed, and Mr Salwan confirmed that it was not. Mr Allan had no further questions for Mr Salwan and thanked him.

Prior to inviting Mrs Park to ask questions of Mr Salwan, the Chairman asked if there were any local authority issues in terms of change of use for the unit, and was advised that as the Hairdresser currently occupies both units they are already designated Class 1, in retail use so there would be no problems associated with turning one into a Pharmacy.

Mrs Park was then next to speak and her first question was regarding proposed hours of service, and asked Mr Salwan whether or not he felt that it was necessary to open from 08:30 until 21:00, seven days a week, given that there are already some late night Pharmacies in East Kilbride? Mr Salwan replied that because of their proximity to Hairmyres Hospital, which is the local hub for the GP out of hours service, they thought that would be a good service to provide for people that would otherwise require to get a taxi to access other Pharmacies. This led Mrs Park to ask whether or not they anticipated any difficulties getting staff to work those hours, and enquired if they had staffing plans in place. Mr Salwan advised that as they've already got a Pharmacy in East Kilbride they have staff who would be keen to move and work from the new site, in addition to having a pool of staff within their 15 other Pharmacies within the group that they can draw from as required. Mrs Park then referred to Mr Salwan's example of the Gartcosh Pharmacy opening and low initial running costs and overheads, and the minimum staffing levels required there, and asked what he anticipated the staffing levels for this Pharmacy to be. Mr Salwan said that he anticipated this Pharmacy being busier so they would perhaps require a full time dispenser in the back, one pharmacist, and probably two part-time assistants out in front initially, as a 'starting off'

position. Mrs Park asked how he intended to get the staff to work all of the proposed hours and was advised that they would probably organise it in shifts, between 09:00 to 18:00 slots, and then 18:00 to 21:00. Mrs Park asked if he could guarantee that there would be good communication and good quality of service, given the continuity issues that would arise. Mr Salwan intimated that it would rely upon the way they managed the Pharmacy, and that obviously they would have continuity books, and a period where there would be a half hour 'double cover', so the other staff could pass on information to the incoming shift. Mrs Park had no further questions and thanked Mr Salwan.

Mr Mallinson was next invited to question Mr Salwan and his line of questioning explored Mr Salwan's estimation of population and staff required for the Pharmacy given that the neighbourhood he defined had an estimated population of 4,000, which with the planned housing developments which Mr Salwan had alluded to would see staged growth, driven by the current market climate, to between 8,000 to 9,000 residents. Mr Mallinson advised that from the information presented he calculated the population to potentially be around 11,000 and he asked Mr Salwan how they could cope and staff the Pharmacy in order to ensure the provision of all proposed Pharmaceutical services, as Mr Salwan had previously alluded to the average population for a Pharmacy being significantly less than that. Mr Salwan replied that they could not know what would happen in the future but he did not imagine that all of the new residents would travel to access their Pharmacy, as they would be able to choose others.

This led Mr Mallinson to recall that previously Mr Salwan had alluded to difficulty in accessing Pharmacies in this particular neighbourhood, and so based on his remarks he anticipated that they would travel to his Pharmacy. Mr Salwan asked if Mr Mallinson was asking how they could cope with the full increase in population, and he confirmed that he was, as well as if he also envisaged that a further new Pharmacy was required to enable adequate provision of services. Mr Salwan advised that he thought that a further Pharmacy could be a possibility for the future, as when the current developments are completed and occupied, there could be a need for a contract perhaps at Jackton or nearby there. However in the interim period they would do what they could, to cope with demand. Indeed should the proposed population use their Pharmacy they would be able to recruit extra staff and possibly a second pharmacist. He was of the view that "only time will tell", then again there was also the possibility that an additional Pharmacy would open, given the increased population.

Mr Mallinson asked Mr Salwan if he thought that they could actually make the Pharmacy work, given the relatively small size of the unit, its location, and having to accommodate the required number of staff. Mr Salwan advised that they have had in-depth conversations with the hairdressers, and said to them: 'Look, this could be an issue for the future. Is it an issue, if we made you an offer for your premises? Would that be something you would think about?' They've agreed to that, yes. If it should come to that, we've got the possibility of extending the Pharmacy right into the full unit."

Mr Mallinson then stated he would change tack slightly, and asked Mr Salwan to clarify his views on Collection and Delivery services, as those within his written submission appear to differ from his oral presentation. Mr Salwan replied that if a patient was looking for advice regarding their medication, they could not receive this from a delivery driver who is not trained to give out such advice, and that patients needed to access a Pharmacy in order to receive the services associated with the new contract. However for housebound patients, a C&D service is a necessity. Mr Mallinson then asked if Mr Salwan was saying that if you are

housebound using a C&D service you receive only a secondary service, despite the fact that they intended to provide one. Mr Salwan replied that you needed to exercise flexibility and that if a housebound patient approached them then they would not refuse them, and could arrange for their Pharmacist to go out and visit the patient. Mr Mallinson accepted that Mr Salwan agreed the need to have C&D services, and asked him to expand upon his proposal to offer a service whereby they collect prescriptions from the patient's home, and the turnaround time? Mr Salwan replied that it tended to be "quite quick", and that the service had been introduced to cater for patients who have received a house call from their Doctor and were therefore deemed unfit to leave their home. He explained that as you could not rely on patients reading a prescription correctly during a telephone call, it was decided that their driver would collect the script in order that the pharmacist could check it before dispensing and having it returned to the patient's home. Following discussions between Mr Mallinson and Mr Salwan it was acknowledged that the turnaround time depended upon the proximity of the patient's home to the Pharmacy and the number of drivers they had deployed on that day. Mr Salwan estimated that it normally took between two to three hours to deliver this service, and that if the driver could not do it and the address was close by then a member of staff was expected to drop it off after work. Mr Mallinson asked if there was much demand for this service, and how widely they publicised it. Mr Salwan said that there was not a big demand and that it was not a huge part of our business: it was just an extra service.

Mr Mallinson's final question was regarding an earlier comment made by Mr Salwan about proposed services and his discussion with a local Hospital, and asked him to clarify for what particular reason he required to do so. Mr Salwan said that he had approached them to see if they found it difficult to discharge patients requiring domiciliary Oxygen, as it was a service they would like to support and deliver. This led Mr Mallinson to ask what input the local Hospital would have on the allocations of domiciliary Oxygen service contracts. Mr Salwan replied that it would be good for patients with COPD or airway problems. Mr Mallinson clarified that he was discussing the actual mechanism for awarding Oxygen contracts given that it was a service controlled by the Primary Care department, and that it was not a simple matter for Mr Salwan to offer such a service and have it automatically deemed necessary. Mr Salwan acknowledged that he would have to apply for the service as a separate element of his Pharmacy application, and when asked by Mr Mallinson if his initial investigations had demonstrated a need for an extra oxygen contractor in that area was advised that he did not know. Mr Mallinson then asked Mr Salwan if he was saying that "We will provide it, but we don't know if there is an actual demand", to which he replied "Exactly. The NHS will decide that." Mr Mallinson had no further questions.

Mrs Caraher was next to question and asked whether Mr Salwan could give any assurance that they would seek to ensure an adequate protection for the local School children from the patients receiving supervised dispensing of Methadone. Mr Salwan acknowledged that this was always a contentious issue. However they have other Pharmacies which are located close to Schools, and are used to dealing with patients using this service - how to treat them, speak to them, and monitor them under a controlled programme to stabilise their addictions. Furthermore, it's not that they are outside the Pharmacy buying drugs on the Street or using needles, so they feel that it is better for all concerned that they access the private area within the Pharmacy for the reasons outlined above, as well as having a clear agreement about what level of behaviour is expected from them in order to continue to receive the service. Mrs Caraher accepted this explanation but asked if they ensure that the patients were moved on after using their service and not allowed to loiter around. Mr Salwan replied that the most they can do is to ensure that their methadone patients comply with the contract they sign in

order to access the service, and that anyone found deviating from those conditions has their contract terminated. This led Mrs Caraher to ask if they would ensure that the local community would be advised of this agreement given that they would be concerned over the safety of their children. Mr Salwan agreed and stated that it was important that they were educated in the benefits of a supervised programme to stabilise patients with such addictions.

Mrs Caraher's next question was to ask Mr Salwan if he knew the location of the nearest bus stop to the proposed Pharmacy on the map, to which he replied that he was not sure where it was. This reply led Mrs Caraher to ask if he had not researched the accessibility of public transport, and was advised that he knew that there was no bus stop close to the shops. However he was unsure as to the location of one for the area.

Mr Woods was next to speak and his initial point was to seek clarification from Mr Salwan as to whether or not they had driven around the area at the time of making their initial application or did they only conduct a site visit in advance of the hearing. Mr Salwan advised that they did one visit prior to using Google Maps to plot their initial definition of the neighbourhood, however it was only a very quick drive past and not as in-depth as the second visit. He expanded to say that the subsequent visit allowed them to highlight and correct mistakes in their original boundaries, and they feel that the new definition makes more sense. Mr Woods asked if Mr Salwan was agreeing to the original definition which accompanied the application being submitted to the Committee without enough thought to it, and was advised that he was.

Mr Woods then made reference to comments Mr Salwan made during his oral submission to "inadequate services" in the neighbourhood "being made adequate from Pharmacies outside the neighbourhood". Mr Woods asked Mr Salwan to define the inadequacies in order to help the Committee to understand what they are, and highlight which services Frasers', Fentons, Lloyds, and Apple Pharmacies are not providing. Mr Salwan recalled his early statement that they have support from a local Doctor who states he has difficulty obtaining monitored dosage systems, which highlights a problem with that service for elderly patients who require it. This response led Mr Woods to ask if that applies to the four Pharmacies to which he referred, and was advised that Mr Salwan presumes that as the Pharmacies are all close to the Doctor's surgery then he would contact them all. Mr Woods asked if this was the only inadequacy that he recognised, and was informed that Mr Salwan thinks that it is quite important as an inadequacy. He then expanded to say that there is a further inadequacy around hours of service, stating that one of the Pharmacies closes for lunch, and that their evening closing times means that there is no cover during the evening when the Out of Hours service is being provided at the Hospital, as there is no Pharmacy directly within that neighbourhood that he could find. Mr Woods asked that if that meant that the service was being provided from outside of that neighbourhood, to which Mr Salwan replied "like I say, there's only one other Pharmacy which is in that immediate vicinity, which is Lloyds."

When Mr Woods asked if that meant that Mr Salwan thought that Lloydspharmacy was therefore not giving an adequate service, and was told by him that he didn't know. This led to a discussion between Mr Woods and Mr Salwan as to what he viewed as the inadequacies in the area, Mr Salwan again referred to the statement by the local Doctor regarding access to monitored dosage systems, before eventually agreeing that he was meaning that in his opinion neither or the four Pharmacies were providing this service to the neighbourhood. Mr Woods then turned his attention to the provision of services during the extended hours provided by Lloydspharmacy, and asked if Mr Salwan was saying that this service provision was inadequate. Mr Salwan reiterated that his view was formulated by the fact that there was

only one Pharmacy open late for that population, however accepted that there was no evidence to support inadequacy. Mr Woods then reminded Mr Salwan that he previously had determined the service to be inadequate, so sought clarification as to what he meant by “inadequate”. There followed a lengthy exchange between Mr Woods and Mr Salwan as to how satisfaction of accessibility to late night services could be measured, and whether or not travelling distance for those without cars could impact upon the test of adequacy. Mr Woods highlighted that finding it hard to access services and being unable to access services were two different matters.

Mr Woods final question was to ask Mr Salwan about the content of the supplementary submissions received, which as well as including supporting statements from various other people and bodies, also included objections to the proposal some of which were saying that a Pharmacy was simply not necessary at his proposed site as it would not serve the local community. He went on to say that he noted that some of the letters opposed the Pharmacy on the basis of accidents in the area and provided quite detailed objections about some of them, including real details of a child who had been knocked down by a car, and asked Mr Salwan what his views were on those objections. Mr Salwan advised that he was of the opinion that it was “evidently a public campaign run by a Councillor” which was biased against his application, and that a lot of the letters could be demonstrated to contain extracts from the letter he sent to all of his constituents in the area. Mr Salwan went on to say that the Committee should discount the information which could be seen to have been prompted by the Councillor given that there are no addresses provided, and that the majority of the comments are contained within e-mails which does not verify the authenticity of the sender. Mr Woods then sought clarification as to whether Mr Salwan wished the Committee to discount the objections, but to accept those agreeing with the application. Mr Salwan replied that the Committee should only accept submissions from local Pharmaceutical contractors. Mr Woods had no further questions to ask of Mr Salwan.

Mrs Crawford was next to question Mr Salwan and stated that she had only one point she wished him to cover and it was around his statement that the Pharmacy could open soon after being granted a contract, and could he confirm that this indeed was the case. Mr Salwan replied that they could open “very comfortably within the six months”. Mrs Crawford thanked him and confirmed she had no other points requiring clarification.

The Chairman then asked Mr Salwan to describe the area named as Gardenhall. Mr Salwan advised that it is a small district of Mossneuk including the gatehouse and Gardenhall Inn, however in the main it is considered to be part of Mossneuk around the shops. He expanded to say that within their application they’ve included Weaver Place, Eden Grove, Spey Terrace which they consider to be part of the Gardenhall area of Mossneuk, and that it is not a huge area. This led Mr Sutherland to remark that it was an area considerably smaller than they have defined as a neighbourhood, which was confirmed by Mr Salwan.

Mr Mallinson then asked if he could ask a further question for clarification, and referred back to when Mr Salwan was discussing inadequacy and the monitored dosage systems for the elderly, and asked if he were right in recalling that the Doctor who had made the complaint was located within Alison Lea Medical Centre? When advised that he was correct Mr Mallinson asked Mr Salwan to clarify the location of this Medical Centre on the map in relation to the neighbourhood that they had defined. Mr Salwan obliged and Mr Mallinson noted that it was considerably outwith the area they had defined as their neighbourhood, and in doing so reminded Mr Salwan that he had stated earlier that he didn’t think that residents

of Greenhills would travel to their Pharmacy, however he now expected patients to travel from the location of Alison Lea Medical Centre. Mr Salwan asked what would happen if patients couldn't get that service, to which Mr Mallinson replied that the question was whether or not Mr Salwan was expecting patients who require that service to travel from Alison Lea Medical Centre over to Mossneuk to access it. Mr Salwan replied that as he had previously stated "If they want those boxes delivered, we would deliver them" as this is what they do in their other Pharmacies if required. This led Mr Mallinson to recall Mr Salwan's earlier views on the effectiveness of C&D services, to which he replied that he understood what Mr Mallinson was saying, however that they would not say to those patients not to take their medication. Mr Mallinson, clarified that his point was that Mr Salwan was arguing for a contract within a defined neighbourhood, however using an example of a service not being provided far outwith the neighbourhood he has defined in order to demonstrate inadequacy. Mr Salwan replied that this was only one Doctor that he had mentioned in support, and when Mr Mallinson responded to say that it was the only example of inadequacy that he could give, Mr Salwan intimated that it was the only one to which he could provide evidence of, any other evidence is only verbal which he didn't expect the Committee to accept, however he stated that they "have got doctors in nearby places saying: 'Yes, it is a problem'", however that they were "too busy to type out a letter for that" so that is why he did not mention it.

Mr Allan then asked the Chairman if it was ok for him to ask one more question. Before he responded, Mr Young asked the Chairman if he could be excused from the hearing at this point for a comfort break. The Chairman advised that this was perfectly acceptable and Mr Young vacated the room.

Mr Allan was then given the opportunity to ask his question and referred back to the provision and appropriateness of monitored dosage systems, and asked Mr Salwan how many patients he thought required this service in a neighbourhood, and did he consider it significant enough to grant an additional Pharmaceutical contract, as that was the only example he had been able to provide. Mr Salwan replied that in the main it was elderly patients and that it is a growing business within most of their Pharmacies, with on average 40 to 50 people, which accounts for a significant number of prescriptions given that each patient tends to take around 15 or 16 drugs.

**Having ascertained that there were no further questions for Mr Salwan, the Chairman then asked Mrs Felicity Fenton, Greenhills Pharmacy, to state her representation.**

Ms Fenton thanked the Chairman and before starting her submission asked if it was acceptable in this case to bypass the section where she explained what she considers the neighbourhoods to be for the first three applications being heard today, and limit her submission to discuss the boundaries of the neighbourhood she believes to be covered by the application by Apple Pharmacy, given that there had been no change to the Committee membership or those interested parties in attendance at the earlier hearing. The Chairman stated that he understood the concept and asked if anyone present had any objections, and was advised that they were all in agreement. It was at this point that Mr Young entered the room and rejoined the hearing. The Chairman informed him that during his absence Ms Fenton had asked if all present could transfer their understanding about the concepts she presented regarding neighbourhoods from this morning without hearing it again. He advised that everyone in attendance was in agreement to that and wondered if he found it acceptable. Mr Young agreed that he had no difficulty with that proposal.



Ms Fenton then stated that she would also bypass the section within which she outlines the services supplied by their Pharmacy, other than to mention that they have no waiting lists at present, and that Doctors or patients can give them a call, and they would happily oblige and provide whatever service they could.

Ms Fenton then began her submission by reading the following pre-prepared statement: “Hairmyres, Mossneuk and Westwood, is the neighbourhood in which Mr Salwan is proposing to have a Pharmacy. As I see it, this neighbourhood has the Northern boundary of the Queensway, the Eastern boundary from the Queensway heading South down Murray Hill onto Murray Road, heading South West along Owen Avenue, down Lyttelton. That takes us onto open ground to the East of the Lickprivick Road.”

It was at this point that the Chairman stopped Ms Fenton and asked her to slowly clarify the boundary so that he could follow it on his map, starting from Westwood Hill going South. Ms Fenton started her definition again from the Queensway on the North side “running down to the roundabout, down Murray Hill, and then turning Eastward onto Murray Road. Then we would go Westwards along Owen Avenue, and down Littelton. That takes us onto the open ground just East of Lickprivick. So then we would head Northwards up towards Westwood Hill, the junction of Mossneuk Road, and then down Westwardly through open ground to Greenhills Road. It could be the space of the area between Lickprivick and open ground is known as ‘Westwood’. At the moment I’m including that in the Newlandsmuir area, but that could also be part of that.” The Chairman asked for clarification as to the direction he would travel from Greenhills Road, and Ms Fenton replied “Well, just straight on. It’s open fields there, so that would be the boundary: across the Greenhills Road.” The Chairman then asked how that would link up with the Northern boundary of the Queensway, and how he would travel from Greenhills Road to Queensway. Ms Fenton replied that it would be through open fields, and when asked if that would be to the North of the railway line, stated that it would not as that would be to the West. The Chairman established that the route would be to cross Eaglesham Road and continue up to meet the Railway, which would form part of the boundary.

Having established what Ms Fenton was proposing as the neighbourhood and boundaries, she then restarted her submission to talk about existing services within this neighbourhood, stating: “The proposed premises I have described above comprise of Hairmyres, Mossneuk and Westwood. This neighbourhood has therefore the Pharmacies at the Westwood Shopping Centre, and the Lloyds drive-through, both of which offer parking, disabled access, and are located next to other neighbourhood facilities. The Lloyd’s drive-through offers all out-of-hours, late opening, and Sunday opening.

The next point we talk about is adequacy of the existing services. If the PPC accept the neighbourhood as I have defined, then there can be no question that services in the neighbourhood are adequate. Each neighbourhood in the wider area has a local Pharmacy providing a wide range of services: parking, disabled access, and to top it all off, a drive-through late night Pharmacy almost on your doorstep. It would be extremely unusual for a PPC to grant a new application within a neighbourhood that already has a Pharmacy, because it’s extremely unusual for a Pharmacy in a neighbourhood to be unable to provide an adequate Pharmaceutical service. That’s the keyword today: ‘adequate’. The regulations are quite clear. In every application which is here today, the most important question is: ‘Are the services in which the proposed premises are located adequate?’ Not: ‘Can they be improved?’ Not: ‘Can they be made more convenient?’ Not: ‘Would a Pharmacy here be a

better choice of location?' If the services provided to the area are currently adequate, then the application fails, no matter how convenient or indeed important the local population or politicians believe a new Pharmacy might be.

Do not let the word 'desirable' in the regulations confuse you. This refers to the desirability or accessibility of the new Pharmacy as a way of plugging a gap in adequacy. If there is no gap in adequacy, then the test is failed, before the questions of necessity or desirability are reached. This is a hugely important point. There is another thing which needs to be understood about the concept of adequacy: adequacy is a fixed point. There are no degrees of adequacy. In other words, a Pharmaceutical service cannot be made 'more adequate'. It is either adequate, or it's not. You can certainly improve a Pharmaceutical service by for example providing additional opening hours, better car parking, and perhaps by giving a Pharmacy within walking distance, so people don't need to use their cars. In fact, you could improve service by giving everyone a Pharmacy in their own street, but that is not the purpose of the regulation. The regulation is designed to allow a new Pharmacy only where the existing Pharmaceutical service is inadequate.

With this in mind, let us consider the question of the adequacy of the Pharmaceutical services of the neighbourhood in which the premises are located. Well, the most obvious fact is that there are two Pharmacies in the neighbourhood: Frasers' Pharmacy and the late-opening drive-through Lloydspharmacy. Both of these provide services complimented by Pharmacies in adjacent neighbourhoods. The applicant has failed to provide any evidence of an inadequacy, because there is none. Services are adequate, and the application must fail. In fact, papers submitted by another applicant would suggest that there is a huge local opposition to a Pharmacy at this site, because it is located in the centre of a modern housing estate and it would appear that there are already problems with traffic. I would also suggest that a Pharmacy at this site would not be viable, and so cannot secure an adequate Pharmaceutical service. Whilst it may attract patients from surrounding areas, the population and demographics would not support a community Pharmacy, and it is unlikely that anyone further than a few streets away would access services in this hard-to-find site.

What if PPC decides that I have got the neighbourhood wrong? What if their opinion is that this area is indeed made up of nine different neighbourhoods? Would this make a difference to the adequacy of Pharmaceutical services in which the premises are located? The answer, I firmly believe, is 'No'. Remember I said: 'New towns need to be looked at differently to old towns'? The reason is that the town planners, in particular in the older parts of East Kilbride - Westwood, Murry, Whitehills, and Greenhills - designed for easy pedestrian and vehicular access to their neighbourhood centres, so everyone could easily walk or drive to their nearest Pharmacy. But the new parts - Mossneuk, Hairmyres - are the housing estates in which the premises are located, and which the applicants are claiming to be a discrete neighbourhood. What sort of person lives there, and what sort of routine does their day comprise of? The population of these newer parts is more affluent, and mostly mobile. The vast majority of households will have two cars, and almost every household will have one car. Modern housing developments are built for people with cars. It is a simple, indisputable fact. The residents of this area will shop at Lidl's, at one of the two Morrison stores, at any of the large supermarkets in the area, in the town centre, or occasionally out of convenience at the Westwood Shopping Centre. But they will do their shopping by car. The simple fact is this: in all these built and soon to be built parts of the new town of East Kilbride, the residents do not travel by foot. They travel by car. This means that the PPC must not look at the geography of this area in the same way that they would look at the geography of say an urban

area. Distances by car are not the same as distances by foot. Even if one were to call Hairmyres and Mossneuk a neighbourhood in its own right - a fact I would dispute - it doesn't make any difference to this application. Pharmaceutical services provided in this neighbourhood by the existing Pharmacy network are adequate, and accordingly the application should fail. Thank you."

**The Chairman then remarked that he would depart from the procedure outlined within the guidance notes by asking each of the interested parties to give their representations at this point, and then invite questions from the applicant to each one in turn, prior to giving Members of the Committee their opportunity. All parties were in agreement to this deviation.**

**Mr Colin Fraser, Frasers' Pharmacy was the second interested party to make his representation**

Mr Fraser began by thanking the Chairman, and read the following pre-prepared statement:

"We have accounts with three national wholesalers, enabling us to source drugs for patients if one wholesaler is out of stock. This practice costs our Pharmacy £300 per month. However, it provides patients with an excellent service, and only very rarely are we unable to fulfil a prescription. This service is much superior to the service currently proposed at Severn Road. I am surprised that patients at Apple and other existing Pharmacies put up with a once-daily delivery from their wholesaler. Also, we do provide a repeat prescription, collection and delivery service, and that is provided by the pharmacist. That is not a driver that provides that service. As mentioned earlier, we also supply monitored dosage systems. I am not aware of any refusal of any monitored dosage systems. They are assessed on an individual need, and we have never refused a request for a monitored dosage system, particularly if it's made by the Doctor.

As we have no Doctors surgery, we rely on collecting prescriptions from the local surgeries. We currently dispense below the national average of prescriptions. Our business would become non-viable, if a new contract at Severn Road were granted. A significant proportion of our patients are elderly or young mothers from a socially deprived background. The loss of their Pharmacy would be catastrophic on both a health and social front. It would also destroy my livelihood, and result in the redundancy of our manageress, one full-time dispenser, one full-time counter assistant, and two part-time counter assistants. We currently provide an excellent service to the patients of Westwood, Mossneuk, Gardenhall, and Hairmyres. These areas are affluent low-density housing areas, with multiple car ownership. Mossneuk and Gardenhall have double the national average, and Hairmyres has one a half times the national average. These areas have below the national average of prescriptions, and below the national average of pensioners. Mossneuk has less than half the national average of pensioners, and Gardenhall and Hairmyres almost half the national average.

This population does all of its shopping at supermarkets, where they can purchase a wide range of general medicines. Following the opening of supermarkets in East Kilbride, our over the counter turnover has fallen by 75%. All of our business is critical for our survival. The applicant's defined neighbourhood is not a neighbourhood in its own right. It is well served by the existing 11 community Pharmacies in East Kilbride. Areas of the quoted neighbourhood are within five minutes walk of Fraser's Pharmacy, and a significant

proportion of our patients reside in Apple's so-called neighbourhood. In addition, Fenton's Pharmacy at Greenhills is only two minutes drive from the site at Severn Road. Severn Road is a narrow road in the middle of a housing estate, entirely unsuitable as a site for a proposed community Pharmacy. It is on a hill, has inadequate parking facilities, and is off the beaten track. It is very easy to get lost on this estate, due to the number of cul-de-sacs. Community Pharmacies are meant to be easily accessible. This site is entirely unsuitable. Apart from a Spar and a hairdresser, there are no other supporting shops. GPs at Hunter Health Centre, Alison Lea Medical Centre, the Murray Surgery, and Greenhill Surgery serve the whole of East Kilbride: not just one area in isolation. A Pharmacy in this site would not be viable unless a GP surgery was established in an adjacent unit. There is no evidence whatsoever that this is going to happen. The current population is insufficient to sustain another community Pharmacy. The applicant would also need to poach business from Fraser's Pharmacy and Fenton's Pharmacy in order to survive, thereby jeopardising the services we currently provide, and those we will provide in the future.

A contract cannot be granted on hypothetical population statistics. South Lanarkshire Council has earmarked a piece of land between Lindsayfield and Jackton called the 'community growth area'. They have committed themselves to 1,500 new homes over the next 10 years, and a further 1,000 homes thereafter. In the current economic climate, housebuilding has significantly slowed and in some areas stopped altogether. It is extremely likely that the dates of this project will be postponed. In any case, the existing community Pharmacies are well able to absorb the growth in population.

This application at Severn Road is founded on two principles: a new GP surgery, which the applicant has now confirmed is not going to happen; and significant growth in population, which is entirely hypothetical. The residents of Westwood, Mossneuk, Gardenhall, and Hairmyres are within five minutes of four community Pharmacies: Fenton's at Greenhills, Fraser's at Westwood Square, Lloyds at Alberta Avenue, and Apple at Murry, one of which provides extended hours of opening way beyond that proposed by Severn Road. Morrisons at Stewartfield also provides extended hours of opening.

In summary, the application at Severn Road is neither necessary nor desirable. The proposed neighbourhood is not a neighbourhood, and is well served by existing Pharmacies. The population figures are hypothetical. The possibility of a GP surgery was also hypothetical. However, we now know it is false. Awarding a contract would have a detrimental effect on the services I currently offer to my patients. Thank you."

**Mr David Young, Rowlands Pharmacy, was the third interested party to make his representation**

Mr Young thanked the Chairman and began his submission by stating that whilst you could debate the definition of the neighbourhood all day, for the purposes of this application he felt we should first look at the applicant, then next, look at whether there are adequate Pharmaceutical services within this neighbourhood, or an adjoining neighbourhood. He acknowledged that whilst there is no Pharmacy within the neighbourhood defined by the applicant, he remarked that we should be realists and recall from the earlier discussions that there are two existing Pharmacies just outside the neighbourhood: Frasers' Pharmacy and Fentons Pharmacy. He also informed that it would be safe to say that "if you tweak the neighbourhood ever so slightly, even by a few streets", their Pharmacy would also be in the neighbourhood. Furthermore he stated that if you were to travel a few streets further again,

you have the choice of Apple Pharmacy in the Murray, or Lloydspharmacy, Alberta Avenue with its extended opening hours. He then expanded to ask for consideration that if you were to travel a bit further, you would also include the three Pharmacies within the East Kilbride Shopping Centre.

Mr Young asked if there had been “any indication today from the applicant at all of the current inadequacy of the service provision?” and remarked that the answer to that question had been “a straightforward ‘No’”. He then asked “Do the people who live in the applicant’s neighbourhood have any difficulty whatsoever in accessing that all-important face-to-face contact with a pharmacist?” and suggested that the answer to that was also “No”.

He then informed that he would like to take the opportunity to read a small excerpt from an objection letter within the hearing information circulated by Mrs Forsyth: ‘There is no proof of provision having fallen into inadequacy provided by the applicant, because there is none. All of the Pharmacies in East Kilbride are involved in the core NHS services required of them. Granting of a contract would further dilute the NHS global sum, putting the viability of the other Pharmacies into question, especially with purchase profits having been cut by the NHS with the introduction of Category M, and being replaced by less profitable services. Remember the Committee must take into account that adequacy must be secured: i.e. it must not be destabilised via a new contract in the Pharmaceutical network, if this is not deemed to be required.’ Mr Young advised that this excerpt had been taken from a letter submitted during the consultation period for another application for a new Pharmacy within a proposed site not far from the application currently being discussed, before highlighting that the author of the letter was Mr Salwan “who has summed up my submission quite nicely, as an applicant who contested his own application.” Mr Young had nothing further to add and thanked the Chairman.

**Mr Danny McNally, Lloyds Pharmacy Ltd was the fourth and last interested party to make his representation**

Mr McNally informed that he did not agree with the newly defined neighbourhood submitted by the applicant, as he feels that it was defined in such a way as to ensure that there was no Pharmacy located within it. He is of the opinion that whilst the applicant refers to a residential road, he contends that this does not of itself render existing services to be inadequate. He feels that the new and proposed housing is of good quality which attracts relatively mobile populations, which detracts from the need for additional Pharmacies. He remarked that whilst the applicant has already advised that there are extended hour Pharmacies at Morrisons and Lloydspharmacy, this is now being produced as the need for an additional extended hour Pharmacy at the proposed site. Furthermore, that the applicant suggests that he would also provide an additional hours service due to the proximity of the Hospital, however as the Hospital has an onsite Pharmacy, it is unlikely that there would be much generation of NHS prescriptions that needed dispensing out of hours - any of these would be currently dealt with by the existing service. He intimated that the the applicant has listed the services they would wish to provide, however they are already being provided by the existing Pharmacies. Thus, in summary, Lloydspharmacy contend that an additional NHS contract is neither necessary nor desirable to secure adequate provision of Pharmaceutical services.

**Following Mr McNally's representation the Chairman then invited Mr Salwan to ask questions of the interested parties.**

Mr Salwan's first question was to ask Ms Fenton what the size of the population was within the neighbourhood she described, to which she replied that she did not know. He then asked if she thought that Lloydspharmacy would have a "bigger draw" from external neighbourhoods just like Morrisons due to their extended hours of opening, and also because of their drive-through facility. Ms Fenton asked if his question was to establish how many people would travel to it, and was advised that he was just trying to gauge the size of that population. Ms Fenton reminded him that she did not know what the population was in that area. Mr Salwan then remarked that Ms Fenton refers to a "sliding scale of inadequacy", and asked whether she would say that services could slip into inadequacy, if for example there was an unprecedented growth of population occurring in East Kilbride since the last Pharmacy was opened. Ms Fenton replied that "they would become inadequate, if a circumstance happened whereby they became inadequate. But at the moment they aren't." Mr Salwan and Ms Fenton debated in length over whether or not there could be a spectrum of adequacy or if it was a matter of being either "100% adequate, or 0% adequate" with nothing in the middle. Mr Salwan asked if she did not consider a fraction of over-provision to improve services in the area, to which she replied that if you were improving services then they would have been deemed 100% adequate. Mr Salwan stated that he did not want to labour the point, so went on to ask Ms Fenton if she had carried out an audit in their Pharmacy, or had she any proof that services were indeed adequate, given that he had been asked for proof of inadequacy. Ms Fenton replied that she had never received any notice from patients or NHS Lanarkshire to suggest inadequacy, therefore she accepted that as confirmation and evidence of adequacy.

Mr Salwan's next question was to Mr Fraser, and asked him whether or not his C&D service was contained to within his neighbourhood, and was advised that this was correct. This led Mr Salwan to present a scenario whereby a Doctor had left a prescription with a patient during a morning housecall and asked Mr Fraser if that would mean that they could not have this prescription dispensed by them until after their Pharmacy closed because the pharmacist could not leave prior to then, and advised that this was correct. Mr Salwan referred Mr Fraser to his earlier comment that the area is hard to find because it is residential, however as it has community services such as a church, community hall, and a school, would it be hard to find by members of the community using those services. Mr Fraser replied that this was his my personal opinion formed when he drove to find Severn Road, given that there are a number of cul-de-sacs in that area, and that he didn't consider it easily accessible for the public. This led Mr Salwan to state that there is a significant population who are used to travelling there for the services he outlined, who would therefore have no difficulty in finding the Pharmacy. Mr Fraser accepted this however remarked that Mr Salwan was wanting to extend their neighbourhood down to Dunedin Drive and Mossneuk Road, which would not be easily accessible for those residents. Mr Salwan's counter argument was that those residents would know the area due to accessing the school, which led to a debate over which schools the local children would attend, where the main entrances for each of them were located, in relation to the proposed site. Moving on from this debate Mr Salwan asked why would town planners site community facilities in an area which would be difficult to find. Mr Fraser responded by saying that he is not a town planner, however knows that East Kilbride has a "right mishmash of schools where they are, shops where they are", and that the land on which the shops are located "wasn't earmarked for a health centre or a Pharmacy. So that's all I can say on that."

It was at this point that the Chairman interjected to remind Mr Salwan that the Committee had undertaken a site visit and were aware of the location of the proposed premises. Mr Salwan moved on to ask if Mr Fraser's Pharmacy had the capacity to absorb any population growth, and could they actually service an 10,000 increase in the population without another Pharmacy being required. Mr Fraser replied that he considered this to be a hypothetical question as there was no guarantee of when this would happen, and he did not consider it appropriate to apply for a Pharmacy contract on hypothetical growth statistics, especially in the current economic climate. He then stated that as they currently dispense below the national average, they would be happy to experience an increase in patients, and have plenty of staff to cater for the demand. Mr Salwan's final question to Mr Fraser was to ask if he thought that if you were to ask someone in Mossneuk where do they stay, would they say 'Mossneuk' or 'Westwood'. Mr Fraser replied that they would say East Kilbride. Mr Salwan then asked if the same answer would apply if he asked "Do you stay in Westwood?" as he feels that the question of identity about where people stay is important. Mr Fraser and Mr Salwan then debated the areas mentioned in great detail, before Mr Fraser remarked that he did not understand the point of Mr Salwan's questioning.

Mr Salwan then asked Mr Young how many people from within his neighbourhood accessed Rowlands Pharmacy, to which he replied that he did not know. Mr Salwan asked Mr Young the location of his Pharmacy and was advised that they had three, one in Calderwood Square, another in St Leonards Square, and the third in Hunter Street, within The Village, which is close to the Town Centre.

Mr Salwan's final question was to Mr McNally asking him if he knew what time the Hairmyres Hospital Pharmacy closed. Mr McNally replied that he had no idea, however based on the prescriptions that they deal with from the Hospital he would estimate that it would be around 18:00.

**Having ascertained that Mr Salwan had no further questions, the Chairman then invited questions from Members of the Committee to each of the interested parties**

Mr Mallinson was invited to question first and advised that he had no questions to ask of the interested parties.

The Chairman then asked Mrs Park if she had any questions at this point, and was advised that she had one question for Mr Fraser. She stated that as a Committee they are very aware of the sensitivity to issues surrounding commercial confidentiality, however Mr Fraser speaks of the effect that this additional contract would have on your business, and asked if he had any true evidence that this could lead to the closure of their Pharmacy. Mr Fraser advised that they have a substantial number of patients from the "so-called Mossneuk area" who use their Pharmacy on a regular basis, as well as patients who travel from Gardenhall, from across the other side of Greenhills Road, and also patients that come from Blaeshill Road, which runs parallel to Greenhills Road, and that he could happily say that they serve most of that area incorporating Dunedin Drive, Inglewood Crescent, Pitcairn Crescent, Spey Grove, Spey Terrace. He advised that those areas are low-density housing, however that a lot of their business comes from there because it's within a short driving distance.

Mrs Park asked if he could give a prediction of the percentage loss of numbers they would experience should an additional contract be granted. Mr Fraser replied that if Apple Pharmacy were to introduce a Collection and Delivery service alongside of the other services

they proposed, then he would estimate that they would need to reduce the number of services they currently offer to their patients, and that their business could drop by at least 25% to 30%. He qualified his estimation by explaining that they currently dispense very low percentages because they don't have a Doctors surgery nearby so it is therefore incredibly difficult to sustain a business without that so it would be "hypothetical what figures I put into that."

The Chairman then invited questions from Mr Allan who advised that he had no questions to ask of the interested parties.

Mr Woods was next to speak and remarked that he had found Mrs Park's question to be very interesting and wondered if Ms Fenton considered that they also dispensed into that area and would it have a significant effect on their Pharmacy. Ms Fenton advised that they have "loads" of patients from the area between South of Mossneuk as far as Gardenhall, and that Tweed Street, Skerne Grove, Eden Drive, are all very familiar to her. Mr Woods asked if it was possible for her to estimate a percentage of the total loss, and was advised that it could possibly be around 10% however she was unsure of that figure as whilst they do serve that community, it is only an adjacent neighbourhood to theirs. Mr Woods thanked Ms Fenton and confirmed that he had no further questions.

When invited by the Chairman, Mrs Caraher and Mrs Crawford stated that they had no questions for the interested parties at this time.

**Having ascertained that there were no further questions to either the applicant or interested parties, the Chairman then invited the interested parties to sum up their representations, keeping to the previous order. Accordingly, Ms Fenton, Greenhills Pharmacy was first to speak.**

Ms Fenton thanked the Chairman and stated: "Again, I would just like to reiterate what I believe to be the most important fact in this case. The current Pharmaceutical network in East Kilbride provides an adequate service to every person in the area. No-one has trouble accessing services. The population least likely to have a car are close to the existing services. The population in the new housing estates all have cars, and use their cars to access all their daily needs. Additional Pharmacies are a cost to the NHS, and can only be justified where services are inadequate. Thank you."

**Mr Fraser, Frasers' Pharmacy was second to sum up his representation**

Mr Fraser thanked the Chairman and stated: "This application is neither necessary nor desirable for the following reasons: the location is entirely unsuitable with poor access and no public transport; population increase may not happen for 10 years, especially given the current economic downturn; the new contract will be extremely damaging to three community Pharmacies including Lloydspharmacy; and may result in our closure, depriving the local area of essential Pharmaceutical services. The current Pharmaceutical services are adequate, and I urge the Committee to reject this application on the grounds that it is neither necessary nor desirable. Thank you."



**Mr Young, Rowlands Pharmacy was third to sum up his representation**

Mr Young thanked the Chairman for the opportunity however stated that as he was happy with his submission he had nothing further he wished to say.

**Mr McNally, Lloyds Pharmacy Ltd was the fourth and final interested party to sum up his representation**

Mr McNally as with Mr Young, thanked the Chairman for the opportunity however stated that as he was happy with his submission he had nothing further he wished to say.

**The Chairman then invited Mr Salwan, Apple Pharmacy to sum up in relation to his application.**

Mr Salwan concluded by stating: "If you look at the map, as I said before, this is the area in East Kilbride that is not covered - it doesn't have a Pharmacy service there. All the Pharmacies are located to the North and South of East Kilbride. The population's potentially about to explode, there's going to be a vast increase. You as the Committee mustn't make a decision just on what's there right now. You've got to take into consideration future developments, and how they're going to affect the adequacy of services. I believe there will be growth. There's already been substantial growth in this area. It's going to put an extreme amount of pressure on the other Pharmacies to cope with providing an adequate service. You've got other applications to hear today, but I believe this is the only logical place with the plan that you've got for this area to forward plan, and put in a community Pharmacy right now. Because I just feel that the other Pharmacies will not be able to cope, and for that reason I ask that the Committee grant me the contract for this neighbourhood."

**Retiral of Parties**

The Chairman then invited the Applicant and Interested Parties to confirm whether or not they considered that they had received a fair hearing, and that there was nothing further they wished to add.

Having being advised that all parties in attendance were satisfied, the Chairman then informed them that the Committee would consider the application and representations prior to making a determination, and that a written decision with reasons would be prepared and made available after the hearing had concluded. Parties were also advised that anyone wishing to appeal against the decision of the Committee would be informed in the letter as to how to do so and the time limits involved.

At the Chairman's request Mr Salwan, Ms Fenton, Mr Fraser, Mr Young, Mr Shearer, Mr McNally, and Mr Sim withdrew from the meeting.

**Supplementary Submissions**

Following consideration of the oral evidence

## **THE COMMITTEE**

noted:

- i. that they had undertaken a site visit of the proposed neighbourhood, noting the location of the proposed premises, the Pharmacies, the general medical practices, and some of the facilities and amenities within the town
- ii. map showing the location of the Doctors' surgeries in relation to existing Pharmacies in East Kilbride, and the site of the proposed Pharmacy
- iii. prescribing statistics of the Doctors within Blantyre, East Kilbride, Hamilton, and Strathaven during the period August to October 2008
- iv. dispensing statistics of the Pharmacies within Blantyre, East Kilbride, Hamilton, and Strathaven during the period August to October 2008
- v. demographic information on the townships of Blantyre, East Kilbride, and the village of Strathaven taken from the 2001 Census
- vi. comments received from the interested parties including existing Pharmaceutical Contractors in Blantyre, East Kilbride, and the area served by the Greater Glasgow & Clyde Health Board in accordance with the rules of procedure contained within Schedule 3 to the regulations
- vii. report on Pharmaceutical Services provided by existing Pharmaceutical contractors within the towns of Blantyre, East Kilbride, and Strathaven
- viii. communications received from residents, elected representatives, and local community groups of East Kilbride who whilst not interested parties as defined within the regulations, were clearly interested and wished their comments to be brought to the attention of the Committee and have their views taken into consideration

## **Decision**

### **THE COMMITTEE**

then discussed the oral representations of the Applicant and the Interested Parties in attendance, and the content of the supplementary submissions received, prior to considering the following factors in the order of the statutory test contained within Regulation 5(10) of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995, (S.I. 1995/414), as amended

- (i) Neighbourhood

### **THE COMMITTEE**

in considering the evidence submitted during the period of consultation and presented during the hearing, and recalling observations from their site visit, deemed the neighbourhood to be the area bounded by Greenhills Road to the West, Mossneuk

Avenue to the North, up Eden Drive to the top of Eden Grove to the South, and going round the boundary of the Primary School.

### **THE COMMITTEE**

in reaching this decision was of the opinion that the neighbourhood constituted a very distinct residential area.

(ii) Existing Services

### **THE COMMITTEE**

having reached a conclusion on the neighbourhood, was then required to consider the adequacy of existing Pharmaceutical services in that neighbourhood, and whether the granting of the application was necessary or desirable in order to secure adequate provision of Pharmaceutical services in that neighbourhood.

### **THE COMMITTEE**

in doing so recognised that there were no existing contract Pharmacies within the neighbourhood, however the evidence provided including the report collated by the Chief Pharmacist – Primary Care, demonstrated Pharmacies outwith the neighbourhood, but in close proximity and readily accessible to the neighbourhood by car and foot, providing services to the neighbourhood, including a comprehensive range of Pharmaceutical services alongside the core requirements of the new contract, including access to a seven day per week late night opening Pharmacy. These Pharmacies could be considered providing services to residents within the neighbourhood to meet the needs of the population of the neighbourhood, including the elderly, the less mobile or disabled, young mothers and those requiring addiction services

(iii) Adequacy

### **THE COMMITTEE**

discussed the test of adequacy and agreed, for the reasons set out above, that existing services could be considered adequate, and provided a breadth and range of NHS Contract services to the neighbourhood, which were easily accessible to the residents of the neighbourhood. Therefore services could be deemed adequate for the population within the neighbourhood.

Accordingly, following the withdrawal of Mr I Allan and Mrs J Park in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995, as amended, the decision of the Committee was unanimous that the provision of Pharmaceutical services at the Premises was neither necessary or desirable in order to secure adequate provision of Pharmaceutical

Services within the neighbourhood in which the Premises were located by persons whose names are included in the Pharmaceutical List and that, accordingly, the application by Apple Pharmacy was rejected subject to the right of appeal as specified in Paragraph 4.1, Schedule 3 of The National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995, as amended.

**Mr I Allan and Mrs Park were then requested to return to the meeting.**