

IN CONFIDENCE – FOR MEMBERS’ INFORMATION ONLY

MINUTE: PPC/09/05

Minute of Meeting of the Pharmacy Practices Committee held on Friday, 27th 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

Officers from Ubiquis

Mr Mark Woffenden, Transcriber

**APPLICATION BY MR MICHAEL DOHERTY OF [REDACTED],
BOTHWELL, GLASGOW, [REDACTED]**

Application

There was submitted application by Mr Michael Doherty, received 31st October 2008, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new pharmacy at 2 St James Avenue, St James Retail Centre, Hairmyres, East Kilbride, Glasgow, G74 5QD (“the premises”).

Submissions of Interested Parties

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

1. Letter received from Boots UK Limited on 11th November 2008
2. Letter received from Frasers' Pharmacy on 25th November 2008
3. Letter received from Rowlands Pharmacy on 25th November 2008
4. Letter received from NHS Lanarkshire's Area Pharmaceutical Committee on 26th November 2008
5. Letter received from Greenhills Pharmacy on 3rd December 2008
6. Letter received from Apple Pharmacy on 5th December 2008
7. Letter received NHS Greater Glasgow & Clyde's Area Medical Committee, GP Sub Committee on 5th December 2008
8. Letter received from The Co-operative Pharmacy on 5th December 2008
9. Letter received from Lloyds Pharmacy Ltd on 5th December 2008

Procedure

At 17:45 on Friday, 27th February 2009, the Pharmacy Practices Committee ("the Committee") convened to hear Mr Doherty's application ("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, 16th 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. Having ascertained that no Members, or officers and representatives 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 Mr Michael Doherty attended and was assisted by Mr Clifford Smith. The first interested party, Apple Pharmacy, of 23 Crow Road, Glasgow, G11 7RT was represented by Mr Neeraj Salwan. 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, Rowlands Pharmacy, Whitehouse Industrial Estate, Rivington Road, Preston Brook, Runcorn, WA7 3DJ was represented by Mr David Young. The fourth interested party, Greenhills Pharmacy, J P Fenton and Sons Ltd, 7 Greenhills Square, Greenhills, East Kilbride, Glasgow, G75 8TT was represented by Mrs Felicity Fenton.

The Chairman introduced himself, the Members, and the officers in attendance from NHS Lanarkshire - Primary Care, NHS Central Legal Office, and Ubiquis, prior to asking all parties to confirm that they had received all papers relevant to the application and hearing, and the additional information circulated by Mrs Forsyth.

The Chairman explained that the meeting was being convened to determine the application submitted by Mr Michael Doherty, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new pharmacy at 2 St James Avenue, St James Retail Centre, Hairmyres, East Kilbride, Glasgow, G74 5QD according to the Statutory Test set out in Regulation 5(10) of the Regulations.

The Chairman then continued to explain the procedures to be followed and advised that the meeting would be recorded for the purposes of having a verbatim note of the proceedings. He then confirmed that all Members of the Committee had conducted a site visit, 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 Doherty to speak first in support of his application.

Mr Doherty introduced himself and asked if the Committee and representatives in attendance had been provided with copies of his statement and information which he had brought to the meeting, and to which he was going to refer. Copies were handed out as required before Mr Doherty began his presentation. He stated that "Pharmacists are the most accessible healthcare professionals and come into contact with a greater number of patients than any other profession. In fact 90% of the population of Scotland visit a pharmacy at least once per annum. Health promotion and illness prevention are a crucial element of community care. Being able to access these community pharmacy services is essential for these government initiatives to work. I believe the residents of the area defined would have a much easier and better chance of using their community pharmacy if there were one situated at the proposed site, not only for prescriptions but also for these new initiatives.

My neighbourhood differs slightly from that of the APC. I define the boundaries as the M77 to the North, Greenhills Road as far as Eden Road [*sic*] to the West, Dunedin Drive to the East and Eden Drive along as far as Dunedin Drive to the South".

Mr Smith and myself believe the difference between the Area Pharmaceutical Committee's ruling and our own to be the Eastern boundary - Dunedin Drive is more of a main road around the proposed neighbourhood than Strathtay Avenue, and would take into account residents we believe would use the new pharmacy. Speaking about our proposed location and premises, it is at 2 St James Avenue, St James Retail Centre, East Kilbride. It is part of a large retail unit including a supermarket, Chinese restaurant, beautician, hairdresser, estate agent, coffee shop, Pizza Hut and a bar-cum-restaurant which is currently trading. Future developments now nearing completion include a dental surgery, dry cleaners and turf accountant. Other units still to be confirmed are a veterinary surgery and the developers have told us that they have started discussions with several doctors in the area regarding a GP surgery. There is also a proposed children's nursery opening within the retail centre beside the Pizza Hut."

To give some background Mr Doherty advised that St James Avenue was once a busy road, with lots of through traffic to the Ayrshire coast and back, however that this has changed now with the building of the M77 link, which has reduced the traffic flow by 70%. He stated that the area is now dominated only by local residential traffic, and that the road is easy to cross, and has had no incidence of accidents. Furthermore, the local council have granted plans for a pedestrian crossing to be built at the retail centre, making it even easier to cross the road, and that the location of this is actually on one of the plans provided as an appendix to the papers tabled.

Mr Doherty reported that the unit itself is of considerable size, 1,000 square feet, and that his plans show a large shop front with disabled access, large dispensary, consultation room and an area set aside for health promotion. This is to enable the provision of new key pharmacy roles in Public Health Service (PHS), and invited those in attendance to look at the floor plans in one of the appendices, as it shows the plan of the proposed site. He is of the opinion that the location is ideal for most modes of transport - the bus stop is 100 yards away, and plans for a drive-in bus stop with a path directly to the retail centre have been agreed. The road is serviced by the number 395 bus, which is an hourly service, and during peak times the 399, a bus which runs through Greenhills towards Hairmyres, and that again, the bus timetable is one of the appendices. He then advised that Hairmyres train station is 200 yards from the proposed pharmacy, and that it is a busy station, with trains every half hour, and is used by approximately 412,000 people per annum, as confirmed by a ScotRail letter, and lastly there is also a taxi rank close by, and that the retail units have parking spaces for 150 cars.

He then stated that the new pharmacy would be 250 yards from Hairmyres hospital, prior to stating that there are no pharmacies within 1.5 miles of the proposed site. Indeed, he had used the online RAC Route Planner to judge distances, and from that advised that Frasers' Pharmacy was 1.51 miles; Munroes 1.87 miles; Alliance Pharmacy 2.14 miles; Greenhills Pharmacy 2.23 miles; Murray Pharmacy 2.47 miles and Morrisons Pharmacy 3.15 miles. Mr Doherty remarked that most of the listed pharmacies were to the East of his proposed pharmacy, and that from the estimations he obtained he is of the opinion that they are of considerable distance for residents to obtain pharmaceutical services and provisions.

Mr Doherty then advised that in order to discuss the residential population of the area, the information he has provided had been supplied by the local councillor, and that they had marked electoral wards on one of their maps. He then invited attention to the areas, and stated that EK 23, which is an area opposite Lidl, and right towards Gardenhall roundabout,

including Mossneuk and the new-build flats at the train station, has 1,241 occupied properties; Area 42, the area to the immediate left of Hairmyres Hospital behind the ambulance station and the established Hairmyres Park, has 380 occupied properties; Area 47, Jackton and Thorntonhall, has 309 occupied properties; Area 51, the Gardenhall area, 497 occupied properties; and finally Area 43, Dunedin Drive and the neighbourhood to the left of area 42, has 168 occupied properties. This is total of 2,595 properties, within an area which Mr Doherty estimated a total population of 6,488 people, by multiplying the number of properties by an average of 2.5 occupants. He expanded to state that the figures do not include the 183 unoccupied new build houses at the Thornton Grange Development, which when occupied could increase the population by an estimated 345 people.

Furthermore, he revealed that South Lanarkshire Council have published their local plan proposals, which seek to set out the rules and guidelines for future development, both residential and commercial, in South Lanarkshire through to 2018, and that a number of community growth areas have been identified. Within East Kilbride, he reported 1,500 new homes are proposed, and between 1,300 and 1,400 of those new homes will, if the local plan is approved, be established on the West side of the town, which will boost the population in the area by an estimated further 3,000 people.

He then stated that there is a lot of local employment in the area e.g. Hairmyres hospital, the Department of International Development, HM Revenue and Customs, Mentholatum, Lidl and other businesses in the Redwood Industrial Estate, giving the neighbourhood in question a potential 3,000 customers from employment alone. He then talked about the proposed pharmacy, stating that due to extended professional roles for community pharmacists, he is going to ensure that the premises are fit for present and future use, and this will include addressing access for people with disabilities, whether visual, hearing or physical, and the provision of a private consultation room. The room will have a sink, computer terminal and adequate room for three people. The desire for privacy and discreetness is paramount, he will use the consultation room for a variety of services, both existing and new, including: Minor Ailments Scheme (eMAS), smoking cessation, the provision of advice and consultation, pregnancy testing, emergency contraception, Chlamydia testing, blood glucose and blood pressure testing, cholesterol testing, head lice treatment, healthy living advice and help with weight loss, methadone dispensing and supervision, buprenorphine service, and needle exchange if granted funding. In the future, he would provide a Chronic Medication Service (CMS) and Acute Medication Service (AMS), and that in addition he would also make available a comprehensive range of information leaflets and DVDs.

Mr Doherty also advised that he is keen to liaise with other healthcare professionals and would make available the consultation room if required. He would also be willing to assist patients who have difficulties with their medication by providing compliance aids where necessary. He recognises that “the new Community Pharmacy Contract in Scotland” will ensure the provision of the four essential pharmaceutical services, namely eMAS, AMS, CMS and PHS, so he would install the most up-to-date pharmacy equipment in order to carry out these tasks thoroughly. He would also provide a comprehensive prescription collection and delivery service for all the local doctor surgeries, which would be an inclusive service, not an exclusive service, and provide an oxygen delivery service with in-house training for patients if required. His intended opening hours are Monday to Friday, 09.00 until 18.00, Saturday 09.00 to 17.30 and Sunday 10.00 until 16.00, opening hours which he believes would allow the local residents access to their pharmaceutical needs seven days a week, as MAS becomes more necessary at times when doctors’ surgeries are closed. Indeed, the two

other pharmacies which he owns are taking part in the MAS audit this week. He then reported that the first of the audits took place last year, and since then he has noticed that the number of patients requiring the service has increased threefold, thus highlighting the growing importance of the MAS service. He intends that the pharmacy will be fitted to the highest professional standards, and has shop fitters ready to start within four weeks of a successful application. Furthermore, his lease has been agreed with the developer, Kean Property Limited, for a period of 25 years.

Mr Doherty advised that they have various supporters for the application; in compiling the application he has gained the support of many people who are actively involved in improving the services to the residents of this area. He further advised that they have a list of local councillors, etc, with supporting letters contained within the rear end of the papers they tabled, all of which state a need for a pharmacy; and that with the continuing growing numbers in the area, a local pharmacy at this site will be essential.

In conclusion, he is of the opinion that the current level of pharmaceutical provision in the neighbourhood would be greatly enhanced by a new contract at the St James Retail Centre, and that the West End of EastKilbride lacks the proper service it requires. For him the existing population deserves it and with the ever growing numbers, the future population deserves it. In his opinion the location of the pharmacy is ideal for people within the neighbourhood described, as it is at the centre of a new, exciting retail development and extremely easy to get to. Not only that, it would also benefit 412,000 commuters who use the Hairmyres train station, benefit the 3,000 people employed in the area, and be of benefit to the nearby Hairmyres hospital and the new Kilbride Hospice. Indeed he is of the belief that by granting the contract, the Committee will be giving the people of Hairmyres, Jackton, Mossneuk, Gardenhall and Thorntonhall their local pharmacy.

Mr Doherty finished by respectfully requesting that consideration be given to the granting of this application, and thanked the Committee.

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

Mrs Fenton asked Mr Doherty who the application is by, and he advised that it had his name on it. She then asked for clarification that it was not an application in the name of a partnership of yourself and Mr Smith? Mr Doherty replied that he was in a partnership with Cliff Smith, which led Mrs Fenton to ask if that would not mean if he was to be granted this application he would then have to re-apply as a partnership? He advised that this was not the case because he believed that it would merely be a transfer of ownership, given that the contract would be in his name.

Having ascertained that Mrs Fenton had no further questions, the Chairman then invited questions from Mr Colin Fraser, Frasers' Pharmacy to Mr Doherty.

Prior to beginning Mr Fraser apologised for the number of questions that he had, however he felt that they are so fundamental to the application that he would appreciate being given the opportunity for them all to be asked. His first question to Mr Doherty was if he was aware if NHS Lanarkshire had received any complaints regarding existing services? Mr Doherty replied that he was not aware of any. This lead to him asking if Mr Doherty had any evidence of inadequacy in the area? Mr Doherty replied that again, he was not aware of any.

Mr Fraser then asked if Mr Doherty could clarify his definition of the neighbourhood as he missed where it followed from the foot of Dunedin Drive? Mr Doherty advised that as there is no exact through road to the tip of Eden Drive, he had extrapolated a line from the top of Dunedin Drive along to the Southern tip of Eden Drive. Mr Fraser then asked if it included Wellesley Crescent and was advised that it did.

Mr Fraser then asked Mr Doherty as to whether his partnership with Mr Smith was legally binding. Mr Doherty asked in what way did Mr Fraser think you made a partnership legally binding? Mr Fraser stated his views, and asked if within their partnership they had an equal split, to which Mr Doherty confirmed that it was a 50/50 split. Mr Fraser then questioned Mr Doherty's relationship with the local councillor, Michael McCann. Mr Doherty stated that he did not have a relationship with him. Mr Fraser then remarked that he found it interesting that he had met a South Lanarkshire Council planning official approximately two years ago, and had been told that Mr Kean, Kean Construction, the site developer, was going to get a pharmacy at St James Avenue, which leads him to question Mr Doherty's relationship with them? Mr Doherty advised that he had never met Mr Kean, which led Mr Fraser to ask if Mr Clifford Smith know Mr Kean, and when he was advised that he did, he asked if this was as a personal friend or a business associate, to which Mr Doherty replied that it was as a friend.

Mr Fraser then asked if Mr Doherty knew how many unsolicited letters of support had been received by NHS Lanarkshire prior to the involvement of Councillor McCann? Mr Doherty sought an explanation as to what he meant, and Mr Fraser explained that he was referring to letters sent without being prompted to respond to any prospective applications in the area i.e. people just at will writing into NHS Lanarkshire saying they would wish a pharmacy to be granted in that area. Mr Doherty stated that he couldn't answer that question. Mr Fraser then went on to ask if his understanding that Councillor McCann wrote to residents in the area was correct, and if so did either Mr Doherty or Mr Smith ask him to do so? Mr Doherty stated that he knew that there was a leaflet drop-off in the area regarding the proposed pharmacy but that they did not ask him to do it on their behalf. Mr Fraser then enquired as to the origins of the e-mails and if they consider them to carry much weight given that approximately 30 of them appear to have exactly the same two phrases? After seeking clarification from Mr Smith, Mr Doherty confirmed that the leaflet drop-off had been organised by Cllr McCann, and that they could not comment further as they had no involvement in the process.

Mr Fraser then reminded Mr Doherty that he could not claim that he would provide a domiciliary oxygen therapy service when there is a possibility that NHS Lanarkshire could refuse him such a contract. Mr Doherty replied that he hoped that it would be granted. Mr Fraser then asked him about his claim that they would provide a repeat prescription collection and delivery service, and if the pharmacist would be personally delivering the prescriptions, or would he use a delivery driver? Mr Doherty intimated that the pharmacist would deliver problem prescriptions, but other than that it would be a delivery driver. Mr Fraser then asked if he would have any delivery boundaries, and was advised that they probably would deliver outside the boundary of their neighbourhood. Mr Fraser then enquired as to what level of population would Mr Doherty deem sufficient to sustain a community pharmacy, and was told that he would estimate around 4,000 people. Mr Fraser then asked if he would agree that there is no evidence to support your claim that you may be able to get a GP surgery at that site? Mr Doherty replied that there is no fact that it's going to happen, and that he just stated that discussions had taken place. Mr Fraser then asked Mr Doherty about his experience and

if he had ever operated a pharmacy without a doctor's surgery nearby? Mr Doherty advised that whilst he had not, he had operated one which had a doctor's surgery open for only four hours per week.

Mr Fraser then turned his attention to questions around viability and asked how many prescriptions Mr Doherty expected to dispense. Mr Doherty replied that he estimated 2,500 items per month, and he believed that whilst those figures would be sufficient to sustain his viability initially, he would foresee the business growing from there. Mr Fraser asked what made him envisage that and Mr Doherty replied that he had "worked in the pharmacy game a long time and have built up businesses", and that he knows how to do it by offering a good service which make people come to you. In response to this statement Mr Fraser reminded him that as he had no evidence to suggest that the existing service that people are providing currently is inadequate, Mr Doherty replied that whilst he had no reason to doubt that the service is okay, but whether it is brilliant or not is a different story. Mr Fraser then enquired as to whether he had a business plan, and was told that he had, which led him to ask if Mr Doherty accepted that the population figures for the community growth area are projections. After seeking clarification on the area to which Mr Fraser referred, Mr Doherty stated that the proposed growth was the empty houses that are already built, and that they had already mentioned that there has been a plan for the area up until 2018, he agreed with Mr Fraser that due to the current economic climate the rate of house building in the area will be much slower than that originally forecast, therefore it could be a number of years before we see the population figures for the community growth area.

Mr Fraser questioned Mr Doherty as to whether or not there was any evidence to support that there would be no detrimental effect to current service provision should an additional contract be granted. Mr Doherty remarked that whilst there may be some prescriptions come from outwith their neighbourhood, he did not anticipate it being of a great detriment to Frasers' Pharmacy, however this could only be proved after the pharmacy opened. Mr Fraser contested Mr Doherty's views as he should know and have factored in to his business plan where patients within his neighbourhood currently go to access medical and pharmaceutical services.

Mr Fraser finished by thanking Mr Doherty and the Chairman.

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

Mr Young stated that he had only one question to ask and it was in response to him mentioning that the West End of East Kilbride 'lacks the proper service it requires', and asked Mr Doherty what evidence he had of this? Mr Doherty replied that he based his statement on his belief that there should be a local pharmacy in that area. Mr Young thanked him for clarifying the matter.

Having ascertained that Mr Young had no further questions, the Chairman then invited questions from Mr Neeraj Salwan, Apple Pharmacy to Mr Doherty.

Mr Salwan asked Mr Doherty what new services he was looking to provide that are not being provided right now by the current pharmaceutical network? Mr Doherty replied that from the report provided within the papers he was not entirely sure if anybody was providing the buprenorphine service, and that whilst he knew that there were pharmacies in the area that

open on a Sunday, there's nobody down there that opens on a Sunday, and extended hours on Saturdays, and that what they are trying to create is just a local pharmacy in that area. Mr Doherty then went on to state that whilst he is aware that throughout the whole of East Kilbride every service will be provided, but that he thinks the extent that patients have to go to get them, he thinks, is wrong. What we want to do is to just have a pharmacy local to the neighbourhood that we have defined. Mr Salwan asked of him whether that would be the case even if it's judged that the services are adequate to that area, and that he just wants a pharmacy, regardless that the services are currently being adequately provided. Mr Doherty queried whether or not it was adequate expecting residents from his neighbourhood to travel outwith. Mr Salwan responded saying that it may be the case in areas which don't have such high car ownership, and that Mr Doherty's neighbourhood contains a highly-mobile population, which accept that they have to travel outwith for routine aspects of life. Mr Doherty replied that whilst he acknowledged that there is a high car ownership in East Kilbride; being a more affluent area, however why should they have to drive that far when they could just go to the St James Centre? Likewise, they cannot assume that everybody will be driving. Mr Salwan remarked that Mr Doherty had previously referred to the area being served by ample public transport.

Mr Salwan then began making references to the outcome of the earlier hearing of his application, and asking Mr Doherty to comment on aspects of the Committee's definition of neighbourhood and decision re adequacy. It was at this point that the Chairman stated that it was not fair to quiz Mr Doherty on matters upon which he has no knowledge.

Mr Salwan then rephrased his questions in order to ascertain if Mr Doherty wished to change his definition of his neighbourhood in light of what he had just been told. Mr Doherty stated that he did not. Mr Salwan then asked how Mr Doherty intended to staff and use the consultation room and if it may be used by other external contractors, Mr Doherty stated that he hadn't thought about this yet. Mr Salwan then asked for clarification as to why he hadn't applied as a partnership, and Mr Doherty replied that it was of no concern to Mr Salwan.

Mr Salwan's last question was to ask Mr Doherty if he was aware of any inadequacy within the neighbourhood, to which he replied that he had already answered that earlier and stated that he had not found any.

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 Doherty.

Mr Allan was first to speak and stated that whilst Mr Doherty had answered most of the questions he had regarding the premises in the quite detailed plans, etc, he wanted to know if it was correct that he could actually open within the suggested four weeks timescale. Mr Doherty responded saying that yes they could start work. Mr Allan's only other question was to ask if he was aware of an objection by Westwood Council which was submitted to Lanarkshire Health Board? Mr Doherty said that he saw it and that whilst he was surprised to see it he had no comment to make.

Mrs Park was next to speak and asked Mr Doherty to explain where he felt that the majority of his patients would come from. Mr Doherty answered that they would definitely be from within the neighbourhood they've described, and that whilst there are a lot of people who travel though that area and work in the area, the mainstay, would be in that neighbourhood they've defined.

Mrs Park then asked how he thought that they would travel to his pharmacy, and was advised that he felt that most of them would travel by car. This prompted Mrs Park to ask why, if they were travelling by car, would they come to his new pharmacy rather than any of the existing pharmacies in the East Kilbride area? Mr Doherty stated that he thought that it would be due to its location as he believes that it's within a nice new unit of shops, and also the locality of it: it would be nearer for that neighbourhood to go there than anywhere else.

Mr Mallinson was next invited to question and commented that he was keen to learn about Mr Doherty's intention with regards to offering the consultation room to others, following his whole list of services for which he thought the consultation room was essential. His question to Mr Doherty was what would the patients who required the pharmacy services that needed the consultation room do if he had hired the consultation room out to somebody else? Mr Doherty replied that whilst the room would be there he didn't anticipate a great demand for it, but if there was, whilst the plans don't show it, there is a second floor underneath that could be developed into a further consultation area. Mr Mallinson's final question was to ask for confirmation on whether Mr Doherty was saying that he would give preference to the use of the consultation area for pharmaceutically-related services, as opposed to using it for extended services by others, to which Mr Doherty replied yes, he would.

Mr Woods was next to speak and his initial questions centred around adequacy, and the fact that Mr Doherty had freely admitted that he was unable to identify any inadequacy within the area. Mr Doherty remarked that whilst he was not aware of any he was of the opinion that there should be a more local pharmacy for that neighbourhood. Mr Woods then asked if that did not follow on to an argument for convenience. Mr Doherty advised that yes it was, however as far as he was aware the new government proposals are for 'a local pharmacy', and leading people away from their GP, and that a pharmacy at St James would be a lot more local and a lot handier for people to get to than going to the other pharmacies in the area, for that neighbourhood defined. This led Mr Woods to ask what affect the new pharmacy would have on other existing pharmacies within the area, Mr Doherty replied that it wouldn't have a positive effect.

Mr Woods' final line of questioning was in relation to the neighbourhood he had defined in his conclusion, and asked for clarification that he was excluding the areas of Jackton, Gardenhall and Thorntonhall. There followed some confusion as to the maps being used to define the area, however the outcome was that Mr Doherty intimated that his actual boundary was "further back" than the line they had drawn so would include Thorntonhall and Jackton.

Mrs Caraher advised that she did not have any questions at this point, so the Chairman then asked Mrs Crawford if she would like to speak with Mr Doherty. Mrs Crawford replied that she would like to seek clarification on whether Mr Doherty would be able to accommodate all the services he intended to provide to an additional 300+ people when the new build housing is completed and occupied. Mr Doherty stated that he definitely would as it's a large unit which could accommodate it, and that he would employ more staff if required.

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

Mrs Fenton started by defining her views on the boundaries of the neighbourhood which are slightly different to those proposed by the applicant. She believes them to be the Queensway

to the North, the Railway to the West, the Eastern boundary is from the roundabout on the Queensway heading South down Murrayhill onto Murray Road, heading South West along Owen Avenue and down Lyttelton onto open ground to the East of Lickprivick Road, up Westwood Hill to the junction with Mossneuk Road, and down through open fields to the Greenhills Road. In her mind this neighbourhood comprises Hairmyres, Mossneuk and Westwood.

She then went on to read from the following pre-prepared statement. “The retail development is located in this neighbourhood but serves wider neighbourhoods. No one would consider Lidl or the restaurants at St James as having a catchment area which is restricted to the neighbourhood in which they are located. If that were the case, they’d soon go out of business, so they should not be considered as part of the neighbourhood facilities. Most importantly, there are a number of easily-accessible pharmaceutical services – Fraser’s and Lloyds’ drive-through servicing this neighbourhood, both of which are conveniently located, both offer plenty parking, easy disabled access and are located next to the neighbourhood facilities. Whilst most residents of this neighbourhood will use these pharmacies, there will be some that access services at other pharmacies in surrounding neighbourhoods, especially if their GP is next to another pharmacy.

And so to the issue of adequacy. If the PPC accept the neighbourhood that I have defined then there can be no question that services in the neighbourhood are inadequate. Each neighbourhood in the wider area has a local pharmacy providing a wide range of services, with easy car parking, disabled access and, to top it all off, a late-night opening drive-through pharmacy almost on their doorstep. And that’s the key word today, adequate. The regulations are quite clear; in every application which is heard today, the most important question is ‘Are services in the neighbourhood 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 in question 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. The regulations are designed to allow a new pharmacy only where the current pharmaceutical service is inadequate, and there is good reason for this. You may be told by the applicants that a new contract is cost-neutral to the NHS as it merely dilutes a global sum. I’m afraid this is not true.

With this in mind, consider the question of adequacy of pharmaceutical services in the neighbourhood in which the premises are located. The most obvious fact is that there are already two pharmacies in the neighbourhood; Fraser’s, and the late-night opening Lloyds pharmacy. The applicants have failed to provide any real evidence of any inadequacy, because there is none. Services are adequate, and the application must fail. What the applicants have managed to engineer is a huge volume of letters to the Health Board. These letters were instigated by a local councillor, Michael McCann, who wrote a very misleading letter to all the constituents in his ward. I’m sure you have a copy, but here’s a couple of quotes: ‘It’s been a long ambition of mine to create a neighbourhood centre at the heart of the community.’ Creating a neighbourhood centre is not plugging a gap in adequacy. Convenient seems to be a word used a lot. ‘We will serve the community far better than the proposed Severn Road.’ I think that’s because people were misled into thinking there was going to be a pharmacy, and it was going to be a choice of the two. ‘The other proposal at Severn Road is not that far from the Greenhills pharmacy. Surely it makes sense for it to be located beside other medical services.’ ”

“The residents clearly believed their councillor is offering a pharmacy as part of a package, which we’ve already found out isn’t true, because there is no relocation of surgeries. ‘I look forward to having a dentist and GP there as well’. Well, that’s not happening. ‘The proposed siting of the new pharmacy is just what the voters need. The prospect of having a dentist, GP surgery, sports hall and library services is also in much need for this area.’ Voters – is this a pharmacy and NHS priority or an electoral priority? These comments were taken from the letters in the order I received them. Life’s too short to continue, and since they were all almost identical I’m going to assume that they’re indicative of the general feeling. Not one of them mentions any real problems with the existing pharmaceutical service; almost all of them are written under the misapprehension that a new pharmacy was a done deal, and the only question is whether it should be the Doherty pharmacy or the Apple pharmacy. Put it this way: if I thought it was a choice of two, I’d believe everyone. Given the choice, I’d say the St James site is the most sensible, but only if the choice was one or the other. This councillor, of whose relationships with Messrs Doherty and Smith I have no knowledge, has grabbed this as an opportunity to make political capital. I find that quite distasteful, especially when this is a decision which will cost his council nothing but will cost the NHS a substantial amount.

It’s ironic that the applicants have presented these letters as supporting evidence, because in my opinion they don’t support the application. In fact, it’s quite the opposite. Because if there was an inadequate service at present, then one would expect that message to come through loud and clear. It doesn’t. I can hardly find a single letter which refers to a problem in accessing the existing pharmacy network. What they do say is that they don’t want a pharmacy in Severn Road, that’s for sure. They also like the idea of having a pharmacy next to the Lidl; it would be convenient. Also, they see a pharmacy as a useful card in a campaign to get other services, a GP, maybe, or a dentist. The councillor thinks it could be the start of a community-based neighbourhood centre. I’m afraid that the councillor, the residents and – quite obviously – the applicant do not understand the regulations. The duty of the PPC is not to perform a town planning function. It’s to ensure that pharmaceutical services in a neighbourhood are adequate; no more, no less. This neighbourhood has an existing pharmaceutical service in it, and a wide range of pharmaceutical services which are easily accessible in adjacent neighbourhoods.

But what if this PPC decides that I’ve got the neighbourhood wrong? What if the PPC is of the opinion that this area is indeed made up of nine or more different areas? Would this make a difference to the adequacy of pharmaceutical services in the neighbourhood in which the premises are located? The answer, I firmly believe, is no. Remember earlier I said that new towns need to be looked at differently than old towns. The reason is that the town planners built them in a particular way. The older parts of East Kilbride in this area – that’s Westwood, The Murray, Whitehills and Greenhills – are designed for easy pedestrian and vehicular access to neighbourhood centres, so everyone can easily walk or drive to their nearest pharmacy. What about the newer parts? Let’s consider the area in which the premises are located, and which the applicants are claiming to be a discrete neighbourhood. What sort of person lives there? What sort of routine does their day comprise of? Well, the population of these newer parts is more affluent, and most importantly they are 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; that’s simple, indisputable fact. There are no local services in these settlements – why? That’s not what people living in them want. If they did, they wouldn’t have moved there in the first place.

Lidl is not a local grocer; it's a supermarket which serves the entire area of East Kilbride South of the Queensway, plus the residents of Jackton and probably Eaglesham. The fact that it happens to be in a small residential settlement is irrelevant. It certainly doesn't make it a corner shop. The residents of this area will shop at Lidl, one of the two Morrison's, or any of the other large supermarkets in the area and the town centre, and occasionally, for convenience, at the Westwood shopping centre. But they'll do their shopping by car. The simple fact is this: in all the recently-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 the area in the same way as they would look at the geography of, say, an urban area. Distances by car are not the same as distances by foot, so even if one were to call this a neighbourhood in its own right, a factor of dispute, it doesn't make any difference to this application. Pharmaceutical services provided to this neighbourhood by the existing pharmacy are adequate, and accordingly, the application should fail."

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 currently serve the population of Westwood, Mossneuk, Hairmyres and Gardenhall, along with Lloyds Pharmacy at Alberta Avenue, which operates an extended hours of opening pharmacy service. In addition to the services that we provide at Westwood Square, we do have a consultation room. However, I strongly feel that the consultation room in all community pharmacies should be accessible to all patients all the hours that the pharmacy is open. As we have no doctor's 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 St James Avenue were granted. A significant proportion of our patients are the elderly or young mothers from a socially-deprived background. The loss of their pharmacy would be catastrophic on both a health and social front, as illustrated by Westwood Community Council. 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.

East Kilbride is well-served by the current 11 community pharmacies. A contract cannot be granted on hypothetical population statistics. South Lanarkshire Council has earmarked an area 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, house building has significantly slowed, and in some areas stopped altogether. It is extremely likely that the dates for this project will be postponed. In any case, existing community pharmacies are well able to absorb the growth in population. The current population is insufficient to sustain another community pharmacy. Indeed, we serve a significant number of people in the applicant's defined neighbourhood. Dunedin Drive, after all, is only five minutes' walk from our pharmacy, and one minute's

drive. The applicant could only survive by poaching business from our pharmacy, thereby jeopardising the services we currently provide and those we will provide in the future.

I suspect that unless permanent GP services are secured at St James Avenue, then the new pharmacy will be non-viable. Fraser's Pharmacy has received copies of letters and emails supporting the application. However, the names and addresses have been removed from every single one, except for Councillors, MSPs and MPs. Indeed, we have received letters from the Right Honourable Adam Ingram MP, Andy Kerr MSP and officials from the Kilbride Hospice. What do they all know about community pharmacy? After all, the supporters – are they just friends or associates of the developer, the applicant or local Councillor Michael McCann? Fraser's Pharmacy experienced a similar situation in Barrhead, where a developer and pharmacist applied for a pharmacy contract, and were subsequently supported by a few local councillors. As the names and addresses remained on these letters, we were able to check their authenticity. In doing so, we learnt that the vast majority of the people had been misled by the applicant and councillors, and, remarkably, a hand-written letter of support was obtained from a blind lady and a dead man.

I urge the committee to ignore this correspondence, as there is no way of verifying its authenticity. There appears to be a remarkable similarity on a number of emails received by NHS Lanarkshire; indeed, 30 contain the same two phrases. Did Councillor McCann tell people what to write? Why is Councillor McCann playing such an active role in campaigning for a pharmacy and GP surgery at St James Avenue? And how many unsolicited letters of support has NHS Lanarkshire received from residents in the area? Westwood Square has been desperate for a GP's surgery for 10 years. Why have no councillors or politicians done anything about that? After all, the social deprivation ratings of Westwood are much higher than those of Hairmyres, Mossneuk and Gardenhall. Consequently, their healthcare needs are much greater. GPs at Hunter Health Centre, Alison Lea Medical Centre, The Murray Surgery and Greenhills Surgery serve the whole of EastKilbride, not just one area in isolation. A pharmacy at this site, again, would not be viable unless GP facilities were established. There is no evidence to support the opening of a GP surgery at St James Avenue. There is no community at the St James site; it is on the periphery of East Kilbride, adjacent to an industrial estate.

We currently provide an excellent service to the patients of Westwood, Mossneuk, Gardenhall and Hairmyres. Mossneuk, Gardenhall and Hairmyres are affluent, low-density housing areas, with multiple car ownership. Mossneuk and Gardenhall have double the national average, and Hairmyres has 1.5 times the national average of car ownership. Their areas are 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 have almost half the national average. This population does all their shopping at supermarkets throughout East Kilbride, where they can purchase a wide range of GSL medicines. Many medicines have been de-regulated, and can now be purchased at supermarkets, filling stations and indeed convenience stores. The application at St James Avenue is founded on two principles: significant growth in population, which is hypothetical, and a new GP surgery, which is false. The residents of Westwood, Mossneuk, Gardenhall and Hairmyres are within five minutes' driving time of four community pharmacies, one of which provides extended hours of opening beyond that offered at St James Avenue. Lloyds' hours of opening are 08.20-22.30, Monday to Sunday. In addition, Morrison at Stewartfield also provides extended hours of opening.

In summary, the application at St James Avenue is neither necessary nor desirable. It appears to be a political crusade by Councillor Michael McCann and a developer. Losing Frasers' Pharmacy at Westwood Square would have a devastating effect on the local population, and would deprive them of an essential pharmaceutical service. Thank you, Chairman."

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

Mr Young, thanked the Chairman and stated that he would accept the applicant's definition of neighbourhood, but in doing so would then need to look at the factor of adequacy for that area. He then stated that he had heard nothing today that suggests the current service is inadequate, and that whilst the applicant talked about the West End of East Kilbride lacking the proper service it deserves - the proposed site sits on almost the outer edge of East Kilbride. Furthermore, whilst he appreciates that it's undergoing development at the moment, he disagrees with the applicant when he states in his submission that a pharmacy in the area would bring a much-needed service to the growing community. He asks "Where is the evidence that a pharmacy is much needed in this area?". To this end he is of the belief that this application is neither necessary nor desirable, and as such ask that it be refused.

Mr Neeraj Salwan, Apple Pharmacy was the fourth and last interested party to make his representation

Mr Salwan advised that as a lot of detail has already been discussed he would just read quickly through the following pre-prepared statement:

"This whole application has been run as a political campaign by the local councillor, with the emails in support for what his aspirations are. We are being made aware that he has gone door-to-door and basically told respondents what to say. I would ask the Board to then respectfully ignore all the emails sent, as they are forced and contrived. The councillor has done this campaign by giving misleading advice to his constituents, in that he believes that by getting his constituents to support a particular site, that way he will have proven inadequacy of services. This is ludicrous. You have a lot of emails stating it would be convenient to have a chemist at the site. Only a few emails state that they are not happy with the services provided by the other pharmacies. Convenience is not a reason to grant a contract, as you know. If it were, then pharmacies would be opening everywhere.

It is also very obvious to see how the Councillor has fixed the emails going to you, as there is not one letter of support for Apple's proposal at Severn Road, yet we do have people supporting us, as provided to you in our submission. There are emails from people that don't even stay in East Kilbride saying they support a pharmacy at Hairmyres, but not Severn Road. The fact that they don't stay there makes it highly unlikely, unless told to, for someone to comment on this issue. Lots of emails say that an application would bring methadone to the area, but we have never said this. The people obviously do not know that the St James Road [*sic*] proposed pharmacy wants to do needle exchange, a fact that the Councillor has not disclosed to the people that he got to send emails. I would wonder then, if they found out this site was looking to do needle exchange that that support would then disappear.

As mentioned earlier, most of the emails are of a similar fashion; it looks like it's been copied and pasted, the two phrases, to suggest that it will exacerbate the traffic problems – that's regarding our application. So, this again comes across as their being told what to write in their emails. A rather interesting fact is that emails do not have addresses of residents that stay in the area, so, who are these people? Where are these emails coming from?"

It was at this point that the Chairman advised that there was a reason for NHS Lanarkshire redacting the personal details, which Mrs Forsyth expanded upon. Mr Salwan accepted the explanation and stated that he merely wished to highlight that there is no way to authenticate the communications.

Mr Salwan then tackled Mr Doherty's definition of the neighbourhood which in his opinion conveniently excluded streets which he felt should be included. Mr Salwan then continued to refer to an earlier decision by the Committee, which he feels should also relate to this application and in doing so reduces the neighbourhood further which impacts upon, and that this confirms further that there is no inadequacy and makes it even more of a non-viable option. Mr Salwan stated that he wished to finish by emphasising that the applicant has said there is no inadequacy of pharmaceutical services in this neighbourhood, and hence – as Lord Brown [sic] said in a judicial review, that is the end of the matter; there is no necessity or desirability.

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

Mr Doherty asked Mrs Fenton about her views on car ownership and if she agreed that whilst people would drive if they had a car, if there was a pharmacy 500 yards away and one a mile and a half away, which one would they go to. Mrs Fenton remarked that not many communities had a pharmacy within 500 yards and that most people would likely be travelling by car given that it is not a neighbourhood centre where people would walk and browse as they would in normal neighbourhood facilities. Mr Doherty did not feel as if his question had been answered so asked her again, to which she replied that if there was one 500 yards away, if it wasn't raining, she personally would probably walk to it, rather than travel a mile and a half. If she was driving it would depend upon what else she was looking for and consider if it was more convenient to travel elsewhere.

Mr Doherty then asked her to take into consideration the amount of eMAS prescriptions generated by the interested parties present, and did she think that the total amongst all those pharmacies would increase or stay the same if his pharmacy was granted? There then followed a debate about whether or not this question should exclude the population following completion of the housing development, following which she commented that it would probably reduce as it would be the same people that are getting served adequately at the moment, and an additional pharmacy would dilute their share.

Mr Doherty then asked Mr Fraser if he had heard Mr Doherty stating that he included Westwood within his definition of the neighbourhood, and was advised that he didn't. He then asked him why he thought that a pharmacy at St James Retail Park would not be viable, and was told that it was based upon his professional business opinion. Mr Doherty then asked Mr Fraser to confirm that he had not indicated that a GP was guaranteed to be sited within the park, which Mr Fraser agreed before adding that he thought that reference to the

possibility of it occurring significantly sways people's opinion as to whether a pharmacy is necessary.

Mr Doherty then asked Mr Salwan if he did not think all pharmacies should offer needle exchange service, and was told no because it should be based on a question of need, which is for the Health Board to determine. This led Mr Doherty to ask if his opinion would change if there was no issue over funding. Mr Salwan said that location would also come into play and that it may not be appropriate if for example it was next door to a nursery or a school, however this was irrelevant as it is solely need related. Mr Doherty then asked him if he would agree that St James Retail Park is a good site for a pharmacy. Mr Salwan said that it was however there is no evidence of inadequacy to support it. Mr Doherty then asked him the same question regarding eMAS as he had Mrs Fenton. Mr Salwan said it was impossible to say as it would depend upon the opening hours of the pharmacy compared to others within the area. When queried further on whether this supported a notion of inadequacy for this service Mr Salwan said that he refused to answer given that it was a hypothetical question.

Having ascertained that Mr Doherty 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 stated that he had just one matter for clarification, that any of the interested parties could answer and it was with regards to eMAS, and it was whether or not they felt that the residents within the neighbourhood defined, would fall into the category eligible for this service. Mrs Fenton replied that she felt it would be mainly children not elderly or people on income support, tax credits, etc, so compared to other areas there wouldn't be a large demand. Mr Fraser then commented that based on a highly- affluent population where most of these people will self-medicate from medicines bought from a supermarket, as they don't see many eMAS figures in one of our other businesses which is in an affluent area. Mr Doherty stated that in his experience at least 80% of eMAS is with children, regardless of the amount of money coming into a household.

The Chairman then asked Mrs Park if she had any questions at this point, and was advised that she did not. The Chairman then invited questions from Mr Allan who asked Mr Fraser to clarify a few of his points about the proportion of his business he realistically thought he might lose should the contract be granted, to which Mr Fraser advised at 30%. He then asked if this would mean that he would be non viable to the point that he would need to close or just unable to operate at the same level at present. Mr Fraser stated that he would become non viable.

When invited by the Chairman, Mr Woods, 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, Mrs Fenton, Greenhills Pharmacy was first to speak.

Mrs Fenton thanked the Chairman and stated "I'd just like to reiterate what I believe to be the most important fact in this case. The current pharmacy network in South East Kilbride provides an adequate pharmaceutical service to every person in the area. No matter how you split this wider area into neighbourhoods, the fact remains: no one has difficulty in accessing

pharmaceutical services. The population leastlikely to have a car are close to the existing pharmacies; the population in the newer housing estates further away from the existing pharmacies all have cars and use their cars to access their daily needs. Additional pharmacies are a cost to the NHS, and can only be justified when services are inadequate. Thank you.”

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

Mr Fraser thanked the Chairman and stated “In the worst case scenario, granting this contract would leave the vulnerable population of the area without a community pharmacy. There is no evidence of inadequacy in the area. Michael Doherty applied for a pharmacy contract for two main reasons: significant growth in population, which is entirely hypothetical, and relocation of a GP surgery, which is blatantly false. And on those grounds, I think that this contract is neither necessary nor desirable, and if granted would have a catastrophic effect on the current pharmaceutical services I provide. Pharmacy contracts cannot be granted because they are, to quote the applicant, ‘handy for the local population.’ A pharmacy business cannot be sustained purely on eMAS prescriptions. I urge the committee to reject this application. Thank you, Chairman.”

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

Mr Young stated “In response to a question from Mr Salwan, Mr Doherty described the pharmaceutical services in his neighbourhood responded, and I quote, ‘No, I have not found any inadequacies.’ I would also, while I’ve got the chance to, answer the question Mr Doherty asked around provision of eMAS and the effect on existing pharmacies which everyone was dancing about it – pharmacy number nine on the map handles 650 eMAS items a month, more than any other Rowlands Pharmacy in Scotland, and one of the highest in Scotland of any other company. The answer to your question is yes; if you get decent staff who are selling the service, put a pharmacy anywhere on that map and eMAS will go up. It doesn’t mean it’s inadequate or there’s a lack of service. Everyone was dancing about it; I just wanted to clarify. It’s to do with staff and selling the service. Thank you.

Mr Salwan, Apple Pharmacy was the fourth and final interested party to sum up his representation

Mr Salwan stated “The test as I see it is one of inadequacy, so the Board must be mindful of not looking at areas that have a proven adequacy. I would then suggest that this neighbourhood is significantly smaller than what the applicant has proposed, due to an earlier decision taken by the board on a similar application by Apple pharmacy. Unfortunately, the test is not about convenience. It’d be great, as the applicant says, it’s a great site, and it’s a nice new build, and people will love it. That’s not what the test is about. It’s about inadequacy. That’s not been proven, so this application must fail. Thank you.”

The Chairman then invited Mr Doherty to sum up in relation to his application.

Mr Doherty concluded by saying “To state facts, the population figures that I mentioned are not hypothetical. They are in existence. Mr Fraser has used the word ‘hypothetical’ twice about the population figures; it is not. We did talk about further plans, in the future, but that is not included in the total amount I mentioned.

In conclusion, I am of the opinion that the current level of pharmaceutical provisions in the neighbourhood would be greatly enhanced by a new contract at the St James Retail Centre. The West End of East Kilbride lacks the proper service it requires. The existing population deserves it and with the ever growing numbers, the future population deserves it. The location of the pharmacy is ideal for people within the neighbourhood described. It is at the centre of a new, exciting retail development and extremely easy to get to. It would benefit the vast numbers, 412,000 people, who commute using Hairmyres train station, benefit the 3,000 people employed in the area, be of benefit to Hairmyres hospital. To extrapolate slightly, in my experience people coming out of hospital leave with only a few days' worth of painkillers, a few bandages. That's when they come to us straight from hospital; being right next to the place would be of benefit. It would also benefit the new hospice. By granting a contract, you will be giving the people of Hairmyres, Jackton, Mossneuk, Gardenhall and Thorntonhall their local pharmacy. I respectfully request that consideration be given to the granting of this application."

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 a copy sent to them as soon as possible. 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 Doherty, Mr Smith, Mrs Fenton, Mr Fraser, Mr Salwan, and Mr Young 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 representation 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 following the railway line to the North along to join Dunedin Drive then travelling Southwards to meet Mossneuk Road, cutting through greenbelt in a SouthWesterly direction to join Jackton Road. Thereafter taking a line Northwards adjacent to Newhouse Farm, passing across Eaglesham Road to reach the railway line.

THE COMMITTEE

in reaching this decision was of the opinion that the neighbourhood constituted a distinct area bounded by significant roads, railway line and greenbelt as a natural boundary.

(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 acknowledged that whilst there were no existing contract Pharmacies within the neighbourhood, there were two in close proximity to the boundary, namely Greenhills Pharmacy and Frasers' Pharmacy, both of which were easily accessible by car and foot, and noted from the report collated by the Chief Pharmacist – Primary Care, that these pharmacies provided a comprehensive range of pharmaceutical services including the core requirements of the new contract, and therefore could be considered 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

THE COMMITTEE

also recalled that it was a reasonably affluent area with a high percentage of car ownership, and therefore it was considered that there were no barriers to prevent residents within the neighbourhood accessing pharmaceutical services, which also included access to a seven day per week late night opening Pharmacy. Furthermore that whilst there was a supermarket in the retail centre, the characteristics of the neighbourhood were such that the residents are used to travelling outwith to access other services e.g retail shopping, banking, and postal 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 given the nature and numbers of the current population and stage of the planned housing expansion, services were deemed adequate for the population within the neighbourhood at this present moment in time. Indeed the applicant agreed during the hearing that existing services were adequate, and acknowledged that he was not looking to provide any additional services not already being provided by contractors in the area.

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, Mr Doherty's application 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.