

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

**MINUTE: PPC/09/02**

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  
Mrs E Wylie, 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 Wm MORRISON PHARMACY, Wm MORRISON SUPERMARKETS plc, HILMORE HOUSE, GAIN LANE, BRADFORD, BD3 7DL**

**Application**

There was submitted application by Wm Morrison Pharmacy, Wm Morrison Supermarkets plc, received 28<sup>th</sup> January 2008, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new Pharmacy at Wm Morrison Supermarkets plc, Greenhills Road, Lindsayfield, East Kilbride, G75 8TU.

## **Submissions of Interested Parties**

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

1. Letter received from Alliance Pharmacy on 5<sup>th</sup> February 2008
2. Letter received from Boots UK Limited on 6<sup>th</sup> February 2008
3. Letter received from Rowlands Pharmacy on 8<sup>th</sup> February 2008
4. E-mail received from Area Medical Committee of Lanarkshire Health Board on 12<sup>th</sup> February 2008
5. Letter received from Apple Pharmacy on 12<sup>th</sup> February 2008
6. Letter received from Munro Pharmacy on 13<sup>th</sup> February 2008 (contract now owned by Lloyds Pharmacy Ltd, t/a Lloydspharmacy)
7. Letter received from Greenhills Pharmacy on 20<sup>th</sup> February 2008
8. Letter received from Frasers' Pharmacy on 21<sup>st</sup> February 2008
9. Letter received from Area Medical Committee – GP Sub Committee of Greater Glasgow & Clyde Health Board on 26<sup>th</sup> February 2008
10. Letter received from Area Pharmaceutical Committee of Greater Glasgow & Clyde Health Board on 26<sup>th</sup> February 2008
11. Letter received from Alliance Pharmacy on 26<sup>th</sup> February 2008
12. Facsimile received from Lloyds Pharmacy Ltd on 29<sup>th</sup> February 2008
13. Facsimile received from Area Pharmaceutical Committee of Lanarkshire Health Board on 29<sup>th</sup> February 2008 (with subsequent letters received 28<sup>th</sup> May and 12<sup>th</sup> June 2008 clarifying Committee's decision)

## **Procedure**

At 09:30 on Friday, 27<sup>th</sup> February 2009, the Pharmacy Practices Committee (“the Committee”) convened to hear application by Wm Morrison Pharmacy, Wm Morrison Supermarkets plc (“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. 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 that the applicant and interested parties who had chosen to attend be invited to enter the hearing.

### **Attendance of Parties**

The applicant was represented by Mr Fraser Frame who was assisted by Mr Iain Fulton . 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, 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 fourth 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 fifth interested party, Apple Pharmacy, of 23 Crow Road, Glasgow, G11 7RT was represented by Mr Neeraj Salwan.

The Chairman welcomed the applicant and interested parties to the meeting, and introduced himself, the Members, and the officers in attendance from NHS Lanarkshire – Primary Care, NHS Central Legal Office, and Ubiquis. He then asked the applicant and interested parties to introduce themselves.

For accuracy of the minute, it should be noted that Mr Salwan was late attending the hearing, however with the agreement of all present, he joined the proceedings prior to Mr Frame commencing his submission.

The Chairman then asked the parties present to confirm that they had received all papers relevant to the application and hearing to be held today. He then confirmed that the meeting was being convened to determine the application submitted by Wm Morrison Pharmacy, Wm Morrison Supermarkets plc, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new Pharmacy at Wm Morrison Supermarkets plc, Greenhills Road, Lindsayfield, East Kilbride, Glasgow, G75 8TU according to the Statutory Test set out in Regulation 5(10) of the Regulations. He then continued to explain the procedures to be followed and advised 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 in attendance, had any interest in the application.

### **Evidence Led**

**The Chairman then invited Mr Frame, Wm Morrison Pharmacy, Wm Morrison Supermarkets plc to speak first in support of the application.**

Mr Frame thanked the Chairman and advised that before he commenced his submission he would like to clarify which version of the East Kilbride town map was being used for references to the definition of the neighbourhood. Mrs Forsyth clarified that she had circulated the most accurate and up to date version of map with the papers for the meeting which should be used in preference to the version previously provided by Wm Morrison Pharmacy as the Pharmacies had been incorrectly plotted.

Mr Frame thanked Mrs Forsyth, then stated that Wm Morrison Pharmacy believe the area of Lindsayfield to be one community, and that he hoped to demonstrate by his submission that

there is an inadequate Pharmaceutical service within the area they have defined as their neighbourhood, so that their application is both necessary and desirable.

Mr Frame then read the following pre-prepared statement:

“Our store, within the Lindsayfield community, currently has approximately 25,000 customers per week, who access it as part of the daily fabric of their life. We have over 380-plus car parking spaces, of which 40 are designated disabled, and 20 designated family. But also, as a large supermarket, people will migrate to us as a destination, so we feel they would benefit from access to the Pharmaceutical services within. The neighbourhood - we would probably say we serve both the Lindsayfield neighbourhood and beyond. We have estimated, having spoken to the Council and going by the Ward 6 Census Data, that the population of our boundary site is approximately 3,000; obviously meaning that a Pharmacy could viably serve this community. Our boundary sites are Greenhills Road to the North; to the West Shields Road, and fields behind; to the South, Jackton Road; and to the West, we would use Eider Avenue, coming down Eider Avenue then straight across to the West, to Newlands Road (acknowledging that Netherton Road no longer exists due to the building works).”

“We believe this is a boundary with two factors both physical and psychological, because there’s no direct access to the Lindsayfield Road, and secondly because of the large demarcation in housing. The houses behind Lindsayfield are more of a private, four or five bedroom type, whereas the houses of Eider Avenue and to the West, are social housing. Within the defined boundaries of this neighbourhood, we have also two schools. One of them is a high school and a nursery, users of which will obviously require access to Pharmaceutical services. At present, the neighbourhood, as defined, has no access to Pharmaceutical services within it.”

Mr Frame then went on to inform the Committee that the population within his neighbourhood were likely to be affluent with a high percentage of car ownership, and that due to their commuting status they would be unable to access Pharmaceutical services upon their return in the evening or indeed on Sundays, due to the opening times of the Pharmacies within their vicinity. He then went on to proffer that this community would also be likely to be “self-medicators” and require access to Pharmaceutical services to purchase medicines and seek advice. Furthermore he believes that they would also have young families, so would need childrens’ medicines, urgent prescriptions, eMAS and other services associated with the new contract.

He continued “It is a densely populated area with large houses and there is more development on the way. In Lindsayfield Road just now, there is a development of flats adjacently behind the Morrisons store. Following along Lindsayfield Road, there’s a Miller Homes site which has 44 large four-bedroom homes planned, and Wimpey Homes has also acquired land with its first phase expected to have another 40 four-bed and above homes. Wimpey Homes are also looking for planning permission for the rest of the field from Lindsayfield Road right along to Newlands Road.”

“I would ask that the Panel take this into consideration, as the contract should be considering the future needs of the neighbourhood for access to Pharmaceutical services as it grows. Obviously all these groups within this community or neighbourhood would benefit from the services of the new Pharmacy contract, especially when electronic transmission of prescriptions comes more into effect; we are ETP compliant and have been since it started.”

“Within this neighbourhood, the public transport is mixed. In some areas you have limited bus services that only run first thing in the morning, between the hours of 06:00 – 09:00, and don’t run again until finishing work time, approximately between 16:00 – 19:00. If you want to access the town centre there’s a direct bus journey however to other outlying parts but you may have to take two or three bus journeys.”

“I’ll now touch on some inadequacy in services. There are currently no Pharmaceutical services within our defined neighbourhood. The nearest Pharmacy is Greenhills Pharmacy approximately 0.4 miles away from this store, in the shopping centre. It has less than wholly adequate access to it due to the busy Greenhills Road, which has only one controlled crossing. Also, the pavements are discontinuous on the right hand side of the road so you have to go into the housing estate on the right, near Larch Place, then go through the housing estate to come through the underpass at Lickprivick Road, to access the Greenhills Shopping Centre. Also, if you come from the left side of Greenhills Road, you have to go through an underpass, which is poorly lit and not in the best condition to go into Greenhills. I think it’s entirely unfeasible for patients to have to walk to Pharmacies out of their neighbourhood e.g. to Lloyds Pharmacy or Frasers’ Pharmacy, when they or their children are unwell. I don’t think it should be feasible that they should be made to walk another extra mile’s distance from our store, especially since some of the estates have got inclines within, and any young mothers with prams or those who are disabled or with poor walking mobility could obviously find the journey quite tiring, and during the dark nights in the winter evenings it’s a very poorly lit underpass.”

“Greenhills Pharmacy, the closest to our store, is closed for an hour and a half during the day for lunch, and also closed on Sundays, so there is no continuous access to Pharmaceutical services during the day for the people of Lindsayfield or Greenhills without going out of their area. Therefore people are suffering and will have to take a longer journey to access Pharmaceutical services e.g. those who are on lunch break within the local shopping centre next to Greenhills Pharmacy would have to either walk or take their car to Lloyds Pharmacy or try and access Pharmaceutical services after 18:00 when they’ve finished their work. This obviously shows a complete inadequacy in Pharmaceutical services. Indeed if you require Pharmaceutical services outwith of the opening hours of Greenhills Pharmacy, travelling from our neighbourhood to Lloyds Pharmacy took me approximately 20-25 minutes to walk, and I found it quite a hard route with discontinuous pavements, some of which were also uneven, so would cause anyone with disability or mobility issues some considerable problems. Also at the site I could only find one dedicated disabled space.”

“The next closest Pharmacy is Frasers’ Pharmacy, again approximately 20-25 minutes walk from our store, and which does not provide services on Sundays, which we find people ultimately may require, so again the same issues walking to Lloyds Pharmacy apply. The shopping centre at Frasers’ Pharmacy is poorly lit and very uneven under foot, it’s also very hard to distinguish the disabled car park spaces because the car park has very poor markings. We intend to open the Pharmacy Monday-Friday, 08.30 to 20.00; Saturday 08.30 to 18.00; and Sunday 09.00 to 18.00, and hope the extended opening hours provide access to Pharmaceutical services to the customers within our neighbourhood. We will not close for lunch, and therefore clearly meet the demands of the people, especially those working within or visiting the area, be it from the building sites, school teachers from Strathaven Academy, or for the workers further along at the shopping centre at Greenhills.”

“We propose to provide all the aspects of the new Pharmaceutical contract; eMAS, AMS, public health services, smoking cessation, EHC, which we have successfully been doing in all our Pharmacies. As I said before we are EAMS compliant and I know some Pharmacies are not. We also have an excellent track record in smoking cessation from our Glasgow sites, having statistically higher than the national average both for the CHP and the health board that we’re in. We also have a Local Pharmacy Champion within our Stewartfield store, who is very proactive. We also intend to provide an urgent supply of prescriptions using the CPUS scheme, which again I think will provide an adequate service for people who are looking for this on bank holidays and Sundays when the doctors’ surgeries are closed and there’s restricted access to the local Pharmacies round about. We also hope to provide palliative care from this site as this has been invaluable in our Stewartfield store, having been accessed from as far afield as Hamilton, Blantyre, and even from some parts of the Easterhouse area, due to shortages of diamorphine. We also hope to provide nomad trays, methadone, and any other services that NHS Lanarkshire wish us to provide.”

Mr Frame then went on to explain that the Pharmacy area would be located behind the tills in the store, comply with all DDA requirements and have a dedicated consultation room. He is of the belief that the granting of the contract would not affect any of the existing Pharmacies in the town, and would benefit residents and visitors to Lindsayfield by providing increased access to Pharmaceutical services at the times he has suggested there is a lack. He referred to the services they intended to provide and expanded upon the need for EHC service, based upon his estimation of the demand for such a service given the close proximity of the high school.

He concluded by saying “We believe that existing Pharmaceutical services provided to the neighbourhood of Lindsayfield is inadequate and there is limited access, as has been highlighted, at the weekends and evenings for the neighbourhood, and that by Wm Morrison Pharmacy providing extended hours, we hope to increase access of Pharmaceutical services to the population of Lindsayfield and beyond. Therefore we say that this contract is both necessary and desirable.”

**The Chairman invited questions from Mrs Felicity Fenton, Greenhills Pharmacy, to Mr Frame, and was advised that she did not have any.**

**Having ascertained that Ms Fenton had no questions, the Chairman then invited questions from Mr Colin Fraser, Frasers’ Pharmacy to Mr Frame.**

Mr Fraser asked Mr Frame if he thought that 3,000 people was a sufficient population to sustain a Pharmacy, and was advised that he did. Mr Fraser queried this and asked on what basis he based his opinion. Mr Frame advised that some of their stores survive with a lower population, however this particular store has a large population who will migrate to them especially during the weekend and from outwith the area because he feels they are a large supermarket destination. This led Mr Fraser to question the point of their neighbourhood definition as he was contradicting himself by stating that they would cover a wider area. Mr Frame replied that the Regulations require them to define their neighbourhood, and that in doing so this is the area they felt they would serve. Mr Fraser then asked if he would accept that his neighbourhood was therefore immaterial in these circumstances, and was advised that he would not.

Mr Fraser then asked Mr Frame if he had received any complaints in relation to the accessibility of services in the area, and was advised that he had not. He continued to ask him if he thought that an additional Pharmacy, operating extended hours in the area, was necessary, to which Mr Frame replied that he thought he had made that clear in his presentation, which led Mr Fraser to ask what evidence he had to support such a claim. Mr Frame advised that the only evidence he could use was their customer base which is high between the hours of 18.00 and 20.00 with people shopping after work, and also at the weekends. Mr Fraser then asked why Mr Frame referred to the state of the pavements within the neighbourhood when he had already stated the high car ownership and commuting nature of the residents. Mr Frame responded that he thought that he had said that most people, not all, had access to cars however those that did not, could also access the store by foot. Mr Fraser's final question was to ask how long it took to travel by car from the Morrisons store to Lloyds Pharmacy and was informed that it took approximately six minutes.

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

Mr Young asked Mr Frame if he had any tangible evidence that the current service provision is inadequate, to which he replied that he did not. Mr Young then referred to Mr Frame's comments that the area was affluent with most families having cars, and asked if it would be fair to suggest that people returning from work outwith East Kilbride, with its good road infrastructure, could access Pharmaceutical services being provided during the extended opening hours of Morrisons Pharmacy in Stewartfield or Lloyds Pharmacy, which is close to his proposed site. Mr Frame replied that he thought that Morrisons Pharmacy in Stewartfield was quite far away from his proposed neighbourhood, however whilst it was feasible, he was of the view that most people would return to their community to access their community Pharmacy.

**Having ascertained that Mr Young had no further questions, the Chairman then invited questions from Mr McNally, Lloyds Pharmacy Ltd to Mr Frame, and was advised that he had no questions to ask at this time.**

**Having ascertained that Mr McNally had no questions, the Chairman then invited questions from Mr Salwan, Apple Pharmacy to Mr Frame.**

Mr Salwan asked Mr Frame if he would agree that residents of the neighbourhood were likely to access medical services at Greenhills Health Centre and therefore would use Greenhills Pharmacy which is located within the same shopping centre area. Mr Frame replied that he would presume that they would, given that it's the closest Pharmacy. Mr Salwan then asked for clarification as to where the Pharmacy would be located within the store, and it was established that they intend to reduce the café area to incorporate it. Mr Salwan's final question was to ask which services they intended to provide which were currently unavailable within the area and was advised that there were no additional services that were not already being provided by existing Pharmacies.

**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 Frame**

Mrs Park was invited to question first and asked how Mr Frame felt he could justify the need for a third Pharmacy with extended hours given that there were currently two within the

town. Mr Frame thought that the large neighbourhood population and store's customer base could support a Pharmacy, and that their hours would allow patients to access Pharmaceutical Services at times when the closest Pharmacies are closed, thus negating the need for patients to travel outwith their neighbourhood when unwell. Mrs Park then asked him about the difficulties he outlined regarding the poor pavements and difficult terrain travelling to Lloyds Pharmacy and enquired if there was no local taxi service. Mr Frame replied that whilst there were taxi services available he thought that this may not be an affordable option for some of the households within the cross border social housing developments. Mrs Park's final line of questioning centred around staffing levels and service provision, and was advised that Wm Morrison Pharmacy have a comprehensive workforce planning system which details how many members of staff are required based on volume, and that it is normal practice for them to have two members of staff and a Pharmacist on duty during their evening hours. When Mrs Park asked if they had sufficient numbers of Pharmacists employed, she was advised that they operate 12 late night Pharmacies in Scotland, all of which have a Pharmacy Manager and most of them also have a support Pharmacist, therefore he could guarantee her that all Pharmaceutical services would be available during their hours of opening.

Mr Mallinson was next and referred to Mr Frame's indication that their neighbourhood would extend as far out to include Newlands Road, and asked him why they did not include that in their definition of the neighbourhood at the time of application. Mr Frame replied that he had not personally submitted the original application however it was his view that there was a clear demarcation from the housing at Newlands Road compared to the future developments along Jackton Road and Lindsayfield Road. This led Mr Mallinson to ask Mr Frame if he could give an indication of where the approximate 25,000 customers visiting the store per week came from and therefore what their catchment area was. Mr Frame intimated that from the yearly studies they conduct within the store and the statistical evidence that they have available he would estimate that they are drawn from the houses behind the store extending up towards the areas of Westwood and The Murray, and the area to the right of the Queensway, as his view was that residents of the Queensway area would frequent their Stewartfield store. When Mr Mallinson suggested that effectively their catchment area was far wider than the one Mr Frame had been using and included the areas of Westwood, Hairmyres and Mossneuk, Mr Frame agreed that whilst some customers came from further afield their core population came from within their neighbourhood and the Lindsayfield area.

Mr Mallinson's final line of questioning was around the more "individual patient focussed" aspect of the new Pharmacy contract, and asked how Mr Frame envisaged the estimated 25,000 customers using the Pharmacy. Mr Frame informed that he thought that patients would use all aspects of the new contract including eMAS, smoking cessation, and that the high elderly population within the neighbourhood would benefit greatly from CMS, which led Mr Mallinson to question how patients could incorporate the concept of a CMS consultation with the Pharmacist alongside doing routine daily or weekly shopping. Mr Frame advised that they would identify customers looking to access the service for the first time and conduct a care plan when they next return. Mr Mallinson queried if Mr Frame thought it feasible to get patients to register for CMS with a Pharmacy located outwith the neighbourhood they live as effectively it would mean that if they had a problem not only would they have to go the short distances that Mr Frame referred to in his application, but halfway across East Kilbride to access their consultation. Mr Frame informed that he thought it was feasible because there may be an element of that population who work away from their community therefore would require access after they come back from work or at the weekend.

Mr Mallinson's final questions centred around Mr Frame's reference in his submission to the population of his neighbourhood having a great demand for the purchase of medicines and advice, and commented that there was no need to have a contract to provide such services. Mr Frame intimated that it was an "add-on because a lot of affluent families have been shown that they do like to be self-medicators as well, and they also look for advice, and other purchases of vitamins and supplements. It's just an add-on." Mr Mallinson remarked that he was of the belief that Mr Frame had implied that they would be self medicators as opposed to accessing dispensing services, to which he apologised and said that it was not the impression he meant to give. Mr Mallinson then asked for confirmation that he was now saying that his reference to the purchase of medicines is in addition to the services offered under the new contract, to which Mr Frame agreed.

Mr Allan asked if Mr Frame had any plans available for the layout of the Pharmacy, and was advised that the company uses a standard modular unit which tends not to vary apart from perhaps the side on which the consultation room is located. This led Mr Allan to ask about the timescale associated with establishing the Pharmacy and was advised that due to their modular nature they could open within six months or earlier depending on planning permission. Mr Allan then asked Mr Frame to clarify their Company position with regards to dispensing of methadone as their Stewartfield store did not seem to provide this service. Mr Frame confirmed that whilst they were willing to provide the service they did not have any clients looking to obtain this from them and thought that it was perhaps down to their location. Mr Allan's final question was to ask how many stores Wm Morrison Supermarkets plc had within NHS Lanarkshire's area and how many currently were subject of applications for Pharmaceutical contracts. Mr Frame advised that out of six stores they had applied for three new Pharmacy contracts.

Mr Woods followed and asked Mr Frame if he could help him understand better his idea of the population that visit the store; and his references to them being the population of Lindsayfield versus the neighbourhood which he stated a colleague had defined. Mr Frame's response was that the neighbourhood is what he defined within his opening statement; being the area turning off at Greenhills Road to the East, Shields Road, to the South, Jackton Road, and to the West coming down Eider Avenue and then stopping at the bottom to go straight across to Newlands Road, therefore taking in the new development. This led Mr Woods to estimate the usage of the Pharmacy given that there were approximately 25,000 people accessing the store each week, however the resident population of the neighbourhood was 3,000 people, and asked Mr Frame if they were expecting the balance of 22,000 people to also use the services of the Pharmacy. When Mr Frame replied that it was not unknown for that to happen Mr Woods then asked him whether he was then requiring to extend the boundaries of his neighbourhood, as it was relevant to his argument. Mr Frame replied that he wouldn't wish to include them as part of their neighbourhood and that he would be comfortable to refer to the "people of Lindsayfield". Mr Woods then queried why he was not including the area to the North of Greenhills Road as he presumed people would also access the store, and was advised that whilst they probably do, Mr Frame considered Greenhills Road a definite boundary given that it is an extremely busy road, with only one crossing. This led Mr Woods to say that they required to cross the boundary to access the store, and Mr Frame agreed however went on to say that they could also have customers from Coatbridge if they were working in the area so you had to draw a line over how wide you extended your boundary. Mr Woods agreed but continued that he still had difficulty understanding why Mr Frame was restricting the neighbourhood to such a small area. Mr Frame replied that he had already referred to the demarcation in housing, which could be classified as a social area with two different and distinct parts to it, as one is clearly quite an affluent area.

Mr Woods continued along the same line of questioning and queried why if Mr Frame was expecting the 25,000 people accessing the store to use the Pharmacy then why he was reluctant to include them in their neighbourhood boundaries, and suggested that it was perhaps an oversight of the colleague who originally defined the neighbourhood at the time of the application. Mr Frame replied that he would define it in the exact same way with the only change being extending it further out to Newlands Road, which he had done in his submission, and when asked Mr Woods asked if he would take it anywhere else he said that he wouldn't take it any further from that area.

Mr Woods thanked the Chairman and stated that he had no further questions at this time.

When invited to speak Mrs Caraher and Mrs Crawford both advised that they did not have any questions at this time.

The Chairman then asked Mr Frame if he knew if the pupils attending Ballerup High School were likely to reside within his neighbourhood. Mr Frame replied that the school was now known as Strathaven Academy and that pupils travelled from Strathaven to attend. The Chair then asked if pupils would also come from the areas of Newlandsmuir and Greenhills, and Whitehills, and when advised that this was possible he suggested that Strathaven Academy therefore didn't only serve the neighbourhood that Mr Frame sought to define, to which he agreed. The Chairman's last question was to ask him if he thought that people using Greenhills Sports Centre were also likely to access their Pharmacy, and was advised that they possibly could however he had no evidence to support that.

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

Ms Fenton introduced herself and gave an overview of the history of Greenhills Pharmacy and the services they provide, including amongst others, provision of monitoring dosage systems to those who require it, Methadone and Subutex supervision, and that they supply patients using the CROMA system, most of whom are housed in Lindsayfield. She also advised that they provide a prescription collection service from all of East Kilbride's surgeries, and a free delivery service to all patients who require this, and that they are currently in the process of reviewing our opening hours to reflect the changes in the opening hours of the medical practice.

She then began to read from the following pre-prepared statement:

“First of all, I'd like to consider the legal test, and start off with the neighbourhood. The neighbourhood in which the proposed premises are located, is usually the key question in an application to provide Pharmaceutical services, however, I do not believe that this – or indeed any of today's applications – follow this common rule, and I'll explain why later, but with regard to this simple question of neighbourhood, or maybe not so simple, it may be best to defend how the part of East Kilbride South of the Queensway is divided into neighbourhoods. I doubt there's any dispute that the Queensway forms a neighbourhood boundary between North East Kilbride and the South. The question is, how does one divide the South of East Kilbride into the neighbourhoods if indeed it is made up of discrete neighbourhoods? In my opinion, there are three options. Option one: East Kilbride to the South of the Queensway is a single neighbourhood. Option two: East Kilbride to the South of the Queensway comprises of three neighbourhoods, each made up of smaller settlements. And option three: East

Kilbride to the South of the Queensway comprises at least nine neighbourhoods, each one being a small settlement. Option one can obviously be discounted because the whole of East Kilbride South of the Queensway couldn't be considered a single neighbourhood as it's just too large a population. Option three, every settlement in that area is a neighbourhood so we would have Hairmyres, Westwood to The Murray, Mossneuk, Newlandsmuir, Lindsayfield, Greenhills, Whitehills, Birniehill, and discounting the Kelvin Industrial Estate, are all neighbourhoods; well, it would suit all the applicants if they were. And if one was to assume that every neighbourhood needs a Pharmacy, then all the applications would be granted."

"A more sensible policy is to look at the area and divide it into real neighbourhoods. These are based on obvious geographic boundaries. On that basis, I would say the most sensible of the three options is Option two. If we exclude the Kelvin Industrial site, then the area is almost triangular. Split that triangle into three almost equal parts and you get Hairmyres, Mossneuk and Westwood. The Murray and Birniehill. Newlandsmuir, Greenhills Lindsayfield and Whitehills - the third in which Morrisons are proposing to have their Pharmacy. I'll go through the boundaries of that neighbourhood, which I believe to be at the North starting at the junction of Mossneuk Road and Westwood Hill, running along Westwood Hill down towards Lickprivick Road and East along open ground to meet Stroud Road, heading East along Stroud Road to the Ballerup playing fields. The Western boundary would run from the junction of Mossneuk Road and Westwood Hill heading South to meet the Greenhills Road. The Southern boundary is open land, South of East Kilbride. The Eastern boundary is a boundary of the Ballerup playing fields between Stroud Road and Greenhills Road, West along Greenhills Road and then comes to the housing estate at Lindsayfield. There are ancillary retail areas such as Morrisons at Lindsayfield...

It was at this point that the Chair requested that Ms Fenton repeat her definition of the neighbourhood as it would be beneficial to those trying to track the boundaries on a map. Ms Fenton obliged and reviewed her earlier submission stating "starting from Northern boundary at the junction of Mossneuk and Westwood Hill, travel along Westwood Hill down towards Lickprivick Road and East along to meet Stroud Road, which has all open ground to the back, to the Ballerup playing fields. The Eastern boundary runs down alongside the playing fields to meet the Greenhills Road. Carry back along west and encompass Lindsayfield. At the western side it runs from the junction of Mossneuk Road again, with Westwood Hill, and heads South to the open fields to meet the Greenhills Road and then back to the open ground."

She continued to state that within her defined boundary there are retail areas e.g. Morrisons in Lindsayfield and the new retail development at Hairmyres, both of which serve wider neighbourhoods than where they are located. She advised "Nobody would consider Lidl or Morrisons as having a catchment area which is restricted to the neighbourhoods in which they are located. If that were the case, they'd soon be 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: Frasers' Pharmacy serving the first neighbourhood, The Murray [sic] serving the second, and myself at Greenhills serving the third. Also, in addition, there is Scotland's first (and I'm not sure if it's the only) drive-through Pharmacy – providing a unique service to residents of all three neighbourhoods. I believe that this is the most rational way of dividing this part of the new town of East Kilbride into neighbourhoods. I emphasise 'new town' because PPCs are good at dividing old towns into neighbourhoods, but I believe that new towns need to be considered differently."

“Now we have to look at the existing services in the proposed neighbourhood. The proposed premises are located in a neighbourhood I have described as comprising Newlandsmuir, Newhills, Lindsayfield and Whitehills, and which is served mainly by my Pharmacy at Greenhills Square. Greenhills Square is located in the centre of the neighbourhood. There’s plenty of parking, easy disabled access, and the Pharmacy is conveniently located next to the other neighbourhood facilities, where most residents of the neighbourhood will use my Pharmacy, there will be some who will access services at other Pharmacies in adjacent neighbourhoods, especially if their GP is next to another Pharmacy or, if necessary, they require services out of the normal working hours, in which case they will use, conveniently, the late opening drive-through Lloyds.”

“The next point I want to look at is adequacy. If the PPC accept the neighbourhoods as I have defined them 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 with easy car parking, disabled access, and to top it all off, an innovative late opening drive-through Pharmacy almost on their doorstep. It would be extremely unusual for the PPC to grant a new application within a neighbourhood which already has a Pharmacy because it would be extremely unusual for a Pharmacy in a neighbourhood to be unable to provide an adequate Pharmaceutical service. 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 new Pharmacy 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 may believe a new Pharmacy might be.”

“Do not let the word ‘desirable’ in the regulations confuse you. This refers to the desirability or necessity of a new Pharmacy as a way of plugging a gap in adequacy. If there is no gap in adequacy, then the test has failed before the question of necessity or desirability is 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 is not. We can certainly improve our Pharmaceutical service by, for example, providing additional opening hours, better car parking; perhaps by giving everyone a Pharmacy within walking distance so they don’t need to use their cars. In fact, you could improve services hugely by opening a Pharmacy in their own street. But that’s not the purpose of the regulations. The regulations are designed to allow a new Pharmacy only when the current Pharmaceutical service is inadequate, and there is a very good reason for this. Whilst you may be told by the applicant that a new contract is cost-neutral to the NHS as it merely dilutes the global sum, I’m afraid this is not true. The global sum is indeed a fixed amount which is paid to the Community Pharmacy Network in Scotland, and were it always to say the same, then you’d be correct in saying that new Pharmacies do not affect it, but this is not the case. The global sum is informed by the total cost of the Pharmacy network and when new Pharmacies are opened, the entire cost of running them is added to the cost of the network, as there is no corresponding reduction in the costs at existing pharmacies. This additional cost is picked up at the next cost enquiry, such as the one which is currently taking place, and inevitably will be picked up by the taxpayer. It is right that the Board considers the needs of patients, but they must also consider the needs to have a rational and efficient network which allows best value to the NHS. That is why it is so important that PPCs grant applications which are

necessary and/or desirable to secure an adequate pharmaceutical service, not just grant applications because local residents may find them convenient.”

“So with this in mind, let’s consider the question of the adequacy of Pharmaceutical services in the neighbourhood in which premises are located. Well the most obvious factor is that there is a Pharmacy at the heart of the neighbourhood: mine. And as I described earlier, we provide an excellent Pharmaceutical service to the entire neighbourhood, supplemented by the Pharmacies in adjacent neighbourhoods, in particular the late opening drive-through Lloyds. The applicant has failed to provide any evidence of inadequacy because there is none. Services are adequate and the application must fail. 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 made up of nine different neighbourhoods? 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 – Westwood, Murray, Whitehills and Greenhills – are designed for easy pedestrian and vehicular access to neighbourhood centres, so residents can easily walk or drive to their nearest Pharmacy. And what about the newer parts? Let’s consider Lindsayfield, the housing estate in which the premises are located and which the applicants are claiming to be a discreet neighbourhood. What sort of person lives in Lindsayfield and what sort of routing 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. This is a simple, indisputable fact. I should point out though, there are some residents living in sheltered housing. They are not mobile, but they are not mobile to the extent of these delivery services, which we provide to them. There are no local services in these settlements. Why? Because that’s not what people who live in them want and if they did I think they wouldn’t have moved there in the first place. Morrisons is not a local grocer; it’s a supermarket which services 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 on the edge of a small residential settlement is irrelevant. It certainly doesn’t make it a corner shop. The residents of Lindsayfield will probably use Morrisons for their weekly shop, but they’ll do so by car. I can guarantee you won’t see many people walking out of the car park laden down with Morrisons’ bags because they’ll be driving out of the car park with their shopping in the boot. The simple fact is this: in all the recent new buildings 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 you would look at the geography, of, say, an urban area where the car is not king. Distances by car are not the same as distances by foot. It’s also worth pointing out, there’s a distance of only 0.3 miles from Morrisons to my Pharmacy, and that’s by car, otherwise they can easily access via an underpass. So even if one were to call Lindsayfield a neighbourhood in its own right – a fact which I would dispute – it doesn’t make any difference to this application. Pharmaceutical services provided to Lindsayfield by the existing Pharmacy network are adequate and, accordingly, this 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, then read the following pre-prepared statement:

“We’re a small independent community Pharmacy at 16 Westwood Square, East Kilbride. We’ve been there for 18 years, and a community pharmacy was there for approximately 30 years previously. We currently serve the wards of Westwood, Mossneuk, Hairmyres and Gardenhall. The manager of our Pharmacy is a well-qualified Pharmacist, with a postgraduate degree in Diabetes, and has recently completed the Pharmacist Prescribing course, which will enable her to run clinics from the Pharmacy. Currently we provide the following services: a repeat prescription collection and delivery service, minor ailment service, monitored dosage system service, smoking cessation service, emergency hormonal contraception; we are also a stoma contractor; we provide blood pressure monitoring; we provide the CROMA service, pharmaceutical public health service, and a nutritional food service.”

“As we have no doctor’s surgery at Westwood Square, we rely on collecting prescriptions from the local surgeries. Historically, there used to be a doctor’s surgery above our premises, however, in spite of strong local objections, NHS Lanarkshire allowed it to close approximately 10 years ago. Since then, we have campaigned for its reinstatement, and I met with Andy Kerr, who was the then Health Minister approximately two years ago, and he dismissed the possibility of GPs moving out to a purpose-built facility at Westwood Square. His explanation then was that a new Hunter Health Centre would be built in 2015, where a full range of services would be available, all under one roof, including for example, retinal screening.

A significant proportion of our patients are elderly and young mothers from a socially-deprived background. We employ a full-time Pharmacist, one full-time dispenser, a full-time counter assistant and two part-time counter assistants.”

“East Kilbride is well served by the current 11 community Pharmacies. In addition, Morrisons at Stewartfield and Lloyds at Alberta Avenue both provide excellent, extended hours of opening. GP surgeries throughout East Kilbride are closed at weekends and do not even allow patients to collect their repeat prescriptions on a Saturday morning. Consequently, the demand at weekends for dispensing repeat prescriptions is extremely low. Nonetheless, we remain open on a Saturday afternoon to allow patients to collect prescriptions and to provide the minor ailment service and to provide urgent supply of medication.”

“Greenhills, Lindsayfield, Whitehills and Newlandsmuir are currently adequately served by Fentons Pharmacy during normal working hours, and, out of hours, at Lloyds Pharmacy, which I would say is approximately five minutes by car from the site at Greenhills. I would classify Greenhills, Lindsayfield, Whitehills and Newlandsmuir as one neighbourhood, however, larger neighbourhoods must be considered when supermarkets are applying for new contracts in the area. Therefore, as stated by the applicant, his new neighbourhood would more realistically cover North up to the Queensway; that whole area, so that would encompass many more Pharmacies than he purports to, or that he claims that it will affect.”

“Patients tend to access the Pharmaceutical services nearest their GP surgery. In East Kilbride there are four surgeries serving the whole area. That is: Hunter Health Centre,

Alison Lea Medical Centre, The Murray Surgery, and Greenhills Surgery. This is a very mobile population and patients travel the whole distance predominantly by car. Not many patients travel the area by foot. Supermarkets will take prescription business off every Pharmacy in East Kilbride, however that is business that Frasers' Pharmacy cannot afford to lose. Unfortunately we do not have the luxury of 25,000 people coming through our doors every week, and are more vulnerable than other Pharmacies in the area. Losing any business would threaten our viability and our ability to deliver many initiatives in the new Pharmacy contract, for example, our Pharmacist-run diabetes clinic. The current population is insufficient to sustain another community Pharmacy. Fenton's Pharmacy, after all, is 0.4 of a mile from the proposed site and only a five minutes' walk. Convenience is not a reason to grant a Pharmaceutical contract. Greenhills, Lindsayfield and Whitehills and Newlandsmuir is one neighbourhood. The granting of this contract would have a devastating effect on the Pharmaceutical services in the whole area South of Queensway. Thank you."

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

Mr Young thanked the panel and read the following pre-prepared statement:

"Firstly, I would like to contest the applicant's defined neighbourhood. I agree with the APC's neighbourhood which takes in the areas of Greenhills, Whitehills and Newlandsmuir. The applicant's neighbourhood conveniently negates to include Greenhills Pharmacy. Furthermore, within close proximity to this neighbourhood, you have Apple Pharmacy, Frasers' Pharmacy and Lloyds Pharmacy, which has extended opening hours 9am to 8pm Monday to Friday, 9am to 6pm on Saturday, and 10am to 5pm on Sundays."

"Having defined the neighbourhood, we need to ask ourselves if the current service provision is adequate. There is no evidence whatsoever to suggest otherwise, and indeed, the area in question is well served by the four Pharmacies I mentioned. That is not even taking into account the three Pharmacies in East Kilbride shopping centre, which is the main hub within East Kilbride."

"The applicant mentions the fact that a new Pharmacy would provide more "choice" in the locality for people living and working in the neighbourhood. I have to say, again, that four Pharmacies in the vicinity, and a further three in the centre, constitutes choice in my book. The applicant has provided no evidence of any inadequacy in Pharmaceutical service, and is not offering anything at all that is not already being provided. As such, this application should be refused. Thank you."

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

Mr McNally advised that in light of the application made by Wm Morrison Pharmacy, Lloyds Pharmacy have looked at the neighbourhood defined by the applicant and request that the PPC consider Greenhills Pharmacy to adequately service that area, which is in line with the definition outlined by Ms Fenton. He is of the opinion that whilst Wm Morrison Pharmacy suggest that they will do extended hours, he questions the need for this because there is an adequate service already being provided via their Pharmacy at Alberta Avenue in the area, including up to Queensway Drive. He advised that they are currently offering a full Pharmaceutical Service during the hours of 08.30 till 22.00, seven days a week, 365 days a

year, and that they have Pharmacists on site at all times, with adequate parking facilities, therefore it is their belief that there are adequate services within the existing contract held by Lloyds Pharmacy, to deliver what the applicant is stating they will also deliver, therefore an additional contract is neither necessary or desirable to secure adequate provision of pharmaceutical services within this area. The Chairman asked Mr McNally to clarify that his submission supported the view of Greenhills Pharmacy on the neighbourhood and was advised that it did.

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

Mr Salwan advised that he did not intend to go over what had already been said by the other interested parties, and that all he wished to do was to read out some points outlining his views. He advised:

“Apple Pharmacy, are complying with all parts of the new contract services. We have been involved in all the strand payments to date, and installed a computerised system to allow us to participate in eMAS. We have also conducted a workforce audit to make sure our staff are trained and are able to take on all parts of the new contract. We offer NRT smoking cessation, stoma supplies, and have a Collection and Delivery service for all residents in that area. We also take part in methadone dispensing and supervision, and subutex provision. We also are able to do domiciliary visits to people who are housebound as one of our Pharmacists believe that this helps motivate such patients. We are also compliant with the most recent guidance on premises standards and good practice.

“We do have residents from the area defined by the applicant which includes the practice of Drs Matthews and partners which is very close to our Pharmacy and therefore patients can easily access Pharmaceutical services from ourselves. The applicant has said that they would probably draw from other areas in East Kilbride, so to me, part of the legal test regarding securing adequacy won’t happen. It could have the opposite effect in destabilising the Pharmacy network at a time when we are trying to invest in our premises, and to be compliant with everything that needs to be done for the new contract. I also agree with Mr Mallinson regarding the new contract services, in that they will be more geared towards people making more use of their local Pharmacy and being registered with them, so I don’t envisage many people choosing to register at the site proposed by the applicant.”

“The other thing I noticed is that there are certain parts of the neighbourhood between Eider Avenue or Crosshouse Road to the North, where patients can more easily walk to Greenhills Pharmacy than they would be able to access the Morrisons’ store. The applicant fails the legal test as no inadequacy has been proven, and clearly that should be where consideration stops as we cannot go on to discuss other parts of the test. The last thing that I want to say is that the application is not like a normal neighbourhood Pharmacy application where the Pharmacy is just in a neighbourhood and is going to draw principally from the areas very close to it. This will draw from all over East Kilbride, particularly the areas of Greenhills and the Murray. And that’s all I’ve got to say. Thank you.”

The Chairman asked Mr Salwan if he had anything he wished to say about what he considered to be the neighbourhood within which the application is situated. Mr Salwan advised that he thought that it should be expanded to include Newlands Road to the West, to which the Chair responded to enquire if Mr Salwan wished the Committee to consider that

Newlandsmuir, Greenhills, and Whitehills all form part of a neighbourhood with Lindsayfield and was advised that he did.

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

Mr Frame's first question was to ask Ms Fenton if their delivery service was a free service and as such could be withdrawn at any time. Ms Fenton replied that it was a free service however she could not understand or envisage any reason why they would wish to stop it. Mr Frame continued to pursue his view that it was however possible that they could withdraw it at any time, without notice, and she replied that yes technically they could but there was no reason why they would given how successful it is. Mr Frame then asked her if she could provide an estimate of the population of the neighbourhood as she had defined it and was advised that she did not have this information to hand. He then asked if she would agree that patients should have access to Pharmaceutical services on a Sunday, to which she replied that she did, however they could presently access them via a short car journey to the drive through Lloyds Pharmacy, which she considers just as convenient, if not more so, than the location of the Morrisons store.

Mr Frame then asked her if she thought that it was acceptable that patients without access to a car had to walk in excess of a mile from Greenhills Pharmacy to Lloyds Pharmacy to access Pharmaceutical services during the weekend. Ms Fenton replied that in certain parts of the neighbourhood the patients would have to walk over a mile to reach Morrisons store. Mr Frame then referred to Ms Fenton's comment during her submission that she had not seen any evidence of people walking with bags from a Morrisons store, and asked how long she gathered that information. Ms Fenton replied that it was a general consensus and that "the people who do walk with bags are probably the people that walk under the underpass and come to Greenhills because they are people that are not mobile, not people that could have gone into town."

Mr Frame's next question was to Mr Fraser asking him if he knew the population of the neighbourhood as defined by Ms Fenton, and was advised that he did not however that the reason he chose to agree with Ms Fenton's description of the neighbourhood was based on his knowledge of where they receive prescriptions from. Mr Frame then asked him about his Collection and Delivery service and remarked that it too could be withdrawn at any time, Mr Fraser replied that whilst it was unlikely, theoretically it could.

Mr Frame then asked Mr Young if he would agree that patients accessed Pharmaceutical services from Rowlands Pharmacy who lived outwith their area, to which Mr Young replied "absolutely"

Mr Frame's next question was to Mr McNally and asked if he thought that it was feasible that people who do not have a car or had limited mobility have to walk over a mile from Greenhills Pharmacy to Lloyds Pharmacy to access Pharmaceutical services late in the evening or at weekends. Mr McNally advised that based on the evidence available to him, the service that Lloyds Pharmacy provide seems to meet the needs of the patients within the town, and that his opinion was that some drive and some walk, however if his question was do they monitor where they walk from then his response would be that they do not. Mr Frame then asked if he knew whether or not there was a direct bus service from the Greenhills area to outside their Pharmacy, and was advised that it was not directly outside.

Mr Frame's attention then turned to Mr Salwan and his first question to him was to ask if they experienced any parking issues outside their Pharmacy and was advised that he had not been made aware of any. Mr Frame then asked him if he thought that it was acceptable that patients within the area of Greenhills have to walk to access Pharmaceutical services on an evening or on Sundays when their local Pharmacy was not open. Mr Salwan replied that he thought it had been well established that a high proportion of patients would drive within the area and thus could easily access Lloyds Pharmacy. Mr Frame then asked Mr Salwan that given they had patients from Lindsayfield accessing services from their Pharmacy, if he would not agree that people from other areas would register with their new Pharmacy if the contract was granted. Mr Salwan referred to the Chronic Medication Service and his view about the need for continuity and accessing services locally rather than travelling, which led Mr Frame to comment that people living in the houses behind Morrisons store currently have to travel over a mile to reach Apple Pharmacy, to which Mr Salwan replied that they had the option of travelling to Greenhills Pharmacy, and that residents of that area travel to their site due to the location of the GP surgery. Mr Frame then recalled Mr Salwan's comments during his submission regarding the viability of existing Pharmacies should the contract be granted and asked him where this factored in the statutory test. Mr Salwan advised that he thought it was relevant to the availability of funds to invest in making premises suitable for the provision of services, and that whilst it was not part of the statutory test, it did impinge upon the factor of adequacy if it had a destabilising effect on existing contracts.

**Having ascertained that Mr Frame 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 asked Ms Fenton to explain the CROMA service. Ms Fenton informed that it was a community method of administering medication, which had been developed at Kirklands Hospital for patients with mental and physical health problems who were being taken out of long term care institutions and being re-homed. Mr Mallinson asked how much Pharmacist input was required into the sheltered housing establishments, and was advised that after the initial visits to all the homes, they now only require to have regular contact with the carers to clear up any issues which may arise, and that she currently has less than 15 patients using the service.

The Chairman then asked Mrs Park if she had any questions at this point, and was advised that she had one question for Ms Fenton and it was if she could give an indication of any trends in the demand for Methadone and suboxone services. She informed that they have approximately five patients on suboxone and 20 methadone patients, which she feels is a good level to allow them to keep service provision discrete, however confirmed that they could accept more patients as they do not have a waiting list.

Mr Allan was next and asked Mr Fraser if he had conducted any audits to ascertain how many of their patients come from the Southern areas down towards Lindsayfield, and was advised that their patients are predominantly from the areas of Westwood, Hairmyres and Mossneuk, and that they only very occasionally get patients who have travelled down from Greenhills or Lindsayfield.

Mr Woods was then given the opportunity to question and asked Ms Fenton to confirm their current hours of service which he recalled from her submission were presently under review. Ms Fenton stated that the hours they opened were historical based on the opening times of the shops within the arcade, however in light of the recent Pharmacy applications and changes to

the way GPs worked they were undertaking a review, she then advised that this would not include opening on a Sunday as the entire arcade is closed and they have no independent access.

Mrs Caraher was next to speak and sought further information from Ms Fenton on the CROMA service, and asked who trains the carers. Ms Fenton advised that the carers also attended the training event, and that during their initial site visits there was representation from the service developers, providers and users which she found of benefit.

Mrs Crawford was last to be invited to question and remarked that she had difficulties in appreciating the large neighbourhood which Ms Fenton had designed as looking to the North of the main thoroughfare through East Kilbride, the outlying areas all have a Pharmacy e.g. in Calderwood, St Leonards, Stewartfield, however when travelling down to the South and West of the town there's only one included, which is her own in Greenhills. Ms Fenton stated that it was because the area was adequately served.

**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.**

Mrs Fenton intimated that she would like to be brief and re-iterate what she believed to be the most important facts in the case, stating: "The current Pharmacy network service in East Kilbride provides an adequate Pharmaceutical service to every resident in the area. No matter how you split the wider area into neighbourhoods, the fact remains: no one has difficulty in accessing Pharmaceutical services. The population least likely 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 all their daily needs. The pavements are empty. Additional Pharmacies are a cost to the NHS, and can only be justified when services are inadequate, which they are not."

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

He stated: "I just urge the committee to reject this application on the grounds that it is neither necessary nor desirable, and reiterate the point that the applicant said that his neighbourhood would be a much larger area than stated in his original application, and urge that the committee bear that in mind when considering this application."

**When invited by the Chairman to sum up his representation, Mr Young, Rowlands Pharmacy advised that he was happy with his submission and had nothing further he wished to add.**

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

Mr McNally stated that in his opinion I'd just like to say that an adequate service is already provided with the existing contracts.

**Mr Salwan, Apple Pharmacy was fifth and final interested party to sum up his representation.**

Mr Salwan stated that he just wished to say that he believes that there are adequate services being provided to the area from the Pharmacy in Greenhills, and also the surrounding Pharmacies that are all providing modern services introduced by the new contract.

**The Chairman then invited Mr Frame to sum up in relation to his application, and reminded him of the earlier request that he addresses the confusion surrounding his reference to inadequacy based on the need for patients looking to access Pharmaceutical services late evening and on Sundays having to walk to Lloyds Pharmacy.**

Mr Frame thanked the Chairman and stated:

“We believe that the existing Pharmaceutical service provided to the neighbourhood of Lindsayfield is inadequate. There is both limited access at the evening and at weekends, and from what we’ve heard today I would query whether Greenhills Pharmacy are reviewing their hours in light of this application or just in general. Touching on from your point, Mr Chairman, I think those who are requiring access to Pharmaceutical services in the evening, if they don’t have access to a car, have to traverse quite a large area to get to Lloyds Pharmacy. As I said the direct access is very long and took me 20 to 25 minutes to walk. I do not feel that it should be necessary, or is desirable, for an unfit or unwell person to walk that length to get access to a Pharmaceutical service. We will provide extended opening hours and will increase access to Pharmaceutical services at night and at the weekend to the Lindsayfield population and neighbourhood. I would ask the committee to agree that the Pharmaceutical services within this neighbourhood are inadequate and it is therefore necessary and desirable to grant this contract. If, however, they disagree with the neighbourhood that I have defined, I would ask them then to consider the neighbourhood as defined by Greenhills Pharmacy which, as has been highlighted by Ms Crawford, takes in the South of East Kilbride, is such that the population will be slightly larger than the national average of 5,000 per Pharmacy, which again shows that the Pharmaceutical service within the South of East Kilbride is inadequate and therefore the granting of this contract is both necessary and desirable.”

### **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 Frame, Mr Fulton, 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

## **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 Westwood Road along Murray Road to its junction with Kelvin Road, then taking a line due South to include the greenbelt area and Ballerup playing fields, to Greenfields Road. Proceeding West along Greenhills Road until it joins Shields Road, using Shields Road till it joins Jackton Road and West along Jackton Road to the greenbelt to the

West of Newlands Road, heading North to Westwood recreation ground and joining Westwood Road again.

### **THE COMMITTEE**

in reaching this decision was of the opinion that the neighbourhood constituted a self contained community bounded by natural boundaries - either greenbelt or significant roads.

#### (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 noted that there were two existing contract Pharmacies within the neighbourhood, with further Pharmacies outwith the neighbourhood providing services to the neighbourhood, which also included access to a seven day per week late night opening Pharmacy providing services to residents within the neighbourhood.

#### (iii) Adequacy

### **THE COMMITTEE**

discussed the test of adequacy and agreed, for the reasons set out above, that existing services could be considered adequate as the written and oral evidence provided, including the report collated by the Chief Pharmacist – Primary Care, demonstrated that existing Pharmacies provided 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, all of which were easily accessible to the residents of the neighbourhood. Therefore these Pharmacies could be deemed adequate to meet the needs of the population within the neighbourhood, including the elderly, less mobile or disabled, young mothers and those requiring addiction services, and that Wm Morrison Pharmacy did not intend to provide any additional services to those already being provided by existing Pharmacies to 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 Wm Morrison Pharmacy, Wm Morrison Supermarkets plc 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.**