

## MINUTE: PPC/2010/10

Minute of Meeting of the Pharmacy Practices Committee held on 15<sup>th</sup> November 2010 in Committee Room 1, NHS Lanarkshire Primary Care, Strathclyde Hospital, Airbles Road, Motherwell, ML1 3BW.

Chair: Mr Bill Sutherland

Present: Lay Members Appointed by NHS Lanarkshire Board

Mr James Murray  
Mr Charles Sargent

Pharmacist Appointed by The Royal Pharmaceutical Society of Great Britain

Mr Edward J H Mallinson

Pharmacist Nominated by Area Pharmaceutical Committee

Mrs Janet Park  
Mr David Sinclair

In Attendance: Officers from NHS Lanarkshire - Primary Care

Mr George Lindsay, Chief Pharmacist – Primary Care  
Mrs Gillian Forsyth, Administration Manager – Primary Care  
Miss Lea Ann Tannock, Personal Secretary – Primary Care

### 10 APPLICATION BY MINT HEALTHCARE LTD T/A MINT PHARMACY, 119 CAMBUSNETHAN STREET, CAMBUSNETHAN, WISHAW, ML2 8NN.

#### Application

There was submitted application by Mint Healthcare Ltd t/a Mint Pharmacy, received 4<sup>th</sup> May 2010, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new pharmacy at 119 Cambusnethan Street, Cambusnethan, Wishaw, ML2 8NN (“the premises”).

#### Submissions of Interested Parties

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

- (i) E-mail correspondence received on 11<sup>th</sup> May 2010 from Deans Pharmacy
- (ii) E-mail correspondence received on 25<sup>th</sup> May 2010 from Area Medical Committee, NHS Lanarkshire
- (iii) Letter received on 26<sup>th</sup> May 2010 from I J Allan Pharmacy
- (iv) Letter received on 4<sup>th</sup> June 2010 from Lloyds Pharmacy Ltd, t/a Lloydspharmacy
- (v) Letter received on 4<sup>th</sup> June 2010 from Welch Chemists Ltd
- (vi) Letter received by e-mail on 8<sup>th</sup> June 2010 from Central Pharmacies (UK)Ltd

- (vii) Letter received by e-mail on 8<sup>th</sup> June 2010 from Area Pharmaceutical Committee, NHS Lanarkshire
- (viii) Letter received on 8<sup>th</sup> June 2010 from Cleland Pharmacy

## **Procedure**

At 10:00 hours on Monday, 15<sup>th</sup> November 2010, the Pharmacy Practices Committee (“the Committee”) convened to hear application by Mint Healthcare Ltd t/a Mint Pharmacy (“the applicant”). The hearing was convened under Paragraph 2 of Schedule 3 of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, (S.S.I. 2009 No.183) (“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 had previously undertaken a site visit of Cambusnethan and surrounds independently in order to gain a flavour of the natural patterns of travel of residents and visitors during various times of the day and week. All confirmed that in so doing each had noted the location of the premises, pharmacies, general medical practices and other amenities in the area.

Prior to the arrival of parties the Chair asked Members to confirm that they had received and considered the papers relevant to the meeting, and that they had no personal interest in the application nor association.

The Chair then instructed Miss Tannock to invite the applicant and interested parties in attendance to enter the hearing.

## **Attendance of Parties**

The applicant Mint Healthcare Ltd was represented by Mr Khuram Akram who was accompanied by Mr Mubashar Khan. From the interested parties eligible to attend the hearing three had accepted the invitation. The first interested party, Lloyds Pharmacy Ltd, was represented by Ms Melinda Setanoians. The second interested party was Welch Chemists Ltd, represented by Mr Stephen Welch. The third interested party was Deans Pharmacy represented by Mr John Connolly (“the interested parties”).

The Chair introduced himself, the Members and the officers in attendance from NHS Lanarkshire - Primary Care, prior to asking the parties to confirm that they had received all papers relevant to the application and hearing.

The Chair then explained that the meeting was being convened to determine the application submitted by Mint Healthcare Ltd, for inclusion in the Pharmaceutical List of Lanarkshire Health Board in respect of a new pharmacy at 119 Cambusnethan Street, Cambusnethan, Wishaw, ML2 8NN, according to the Statutory Test set out in Regulation 5(10) of the Regulations.

The Chair continued to explain the procedures to be followed as outlined within the guidance notes circulated with the papers for the meeting, and confirmed that all Members of the Committee had conducted a site visit, and that no members of the Committee or officers in attendance, had any interest in the application.

### **Evidence Led**

The Chair invited Mr Khuram Akram to speak first in support of the application. Mr Akram thanked the Committee for the opportunity to attend to represent his case then read the following pre-prepared statement:

“Firstly the neighbourhood:

Northern boundary – Greenbelt north of Lewis Avenue, Louisville Avenue, Galloway Avenue & crossing Coltness Road.

Western boundary – Abbotsford Road crossing through Kirk Road to Meadowburn Road (by the bottom of Cambusnethan Cemetery.

Southern boundary – Greenbelt south of Cambusnethan Cemetery, joining onto Woodhall Road.

Eastern boundary – Woodhall Road to the Northern Greenbelt boundary.

The proposed pharmacy premises are at 119 Cambusnethan Street, Wishaw, ML5 8NN. The premise is being converted from a public house to two 1500sq. feet units. Building work has already commenced and Mint Healthcare Ltd has an agreed lease agreement in place. The unit will be fitted to specification with an advice area, consultation room and adequate room for shop space. The unit will be DDA compliant with ramp access if required. On street parking would be easily available on both sides of the street without restrictions and pelican crossings are situated on either side of the unit - regardless of where you park there is ease of access to pelican crossings.

The neighbourhood has various amenities within it such as, convenience stores, two parish churches, primary school, nursery and a joint high school. The neighbourhood has been determined on speaking to people within the area, as well as the principal teachers about the catchment areas for the Nursery and two schools - we found they currently cater to the neighbourhood as outlined above. The local residents use the parish facilities for community events on a regular basis along with a youth club using these facilities and space at Coltness high school. We recently carried out a brief door to door exercise to gain feedback from the residents; all whom questioned agreed with the understanding of our neighbourhood and felt they need a healthcare provision as they feel isolated in between other neighbourhoods which have such provisions.

There is at present a new development of 20 new council houses in Cambusnethan (two bedrooms). The former Cambusnethan Primary School site is being developed to house residents of various backgrounds alongside sheltered accommodation for the elderly.

The population from the SNS website data from 2009 and use of data sets from Lanarkshire website was approximately 4000 residents. The neighbourhood would be regarded typically more affluent than its surrounding neighbourhoods again defining it further as a separate

neighbourhood. Cambusnethan has a mixture of residents from all age and social backgrounds. From the data sets we found 25.4% of the population would be of pensionable age, this being 7.4% above NHS Lanarkshire Health Board average, and 5.1% above the 2009 data for Wishaw. Respectively there are a slightly lower number of children within the neighbourhood, though only by 3% of the Wishaw data. As a whole the population has a mixture of people in work and on benefits mimicked by the Wishaw ward data of 2009.

Services we look to provide (and are providing in other areas at the moment):

e-MAS	Urgent Supply Out Of Hours
CMS	Prescription Collection & Delivery
Smoking Cessation	DDA Compliance
Needle Exchange – if applicable	Consultation Room
Domiciliary Oxygen	Palliative Care – if applicable
Chlamydia Testing	Methadone Supply
Emergency Hormonal Contraception	Compliance Needs assessment

### Other Provisions

Currently there are no healthcare provisions within this neighbourhood (no doctors or dentists). The residents currently have to travel 0.8 miles (20 min walk) to the pharmacies within Newmains along Cambusnethan Street or 0.7 miles (20 min walk) to the Lloydspharmacy on Kirk Road, from our proposed site. The access to Newmains by foot is not ideal as residents from Cambusnethan would have to walk through a proportion of Cambusnethan Street which would be regarded as typically not “built up”. Parking at Newmains can be tricky with limited on street spaces. Access to the provision at Kirk Road is downhill from Cambusnethan, with the return journey on a reasonable incline along the footpath. All the pharmacies within Wishaw town centre have no adequate parking facilities on street (yellow single lines). Patients would have to use the car parks dotted around the town centre. Most of the spaces within these tend to fill up very quickly with spaces usually being at the further end of the car park when available. Though there is a single yellow restriction outside the Pharmacy on Kirk Road, patients parking would be walking out onto a single carriageway and have to overcome the fencing. Though the distance from the proposed unit is 0.8miles and may not be regarded as significant, this journey would be in addition to that of the patient from their home to Cambusnethan Street (up to 1.5 miles to reach existing provision).

The population of Newmains increased by approximately 11% between the 2001 census and 2009 data. Similarly Coltness had a 13% increase from the data and Wishaw as whole between 2011 and 2009 showed an 11% population increase. The increase is predominantly due to the various new build properties with in this ward and due to renovation of older unused tenancy. Since 2009 there has been a less accelerated increase in new build properties coming up though still on-going.

Majority of the patients within our neighbourhood are registered with GPs within Wishaw. They currently have to travel into Wishaw town centre for their prescriptions and healthcare services. From our door to door consultation we found patients felt they had no other option than to use a Lloydspharmacy and felt competition/choice would be of benefit when

accessing services. Most of the Pharmacies in Wishaw have been present over a long period of time and wouldn't have been based on a reasonable statutory test as we have now.

### **Desirability and Necessity**

Provision of services currently has a major impact on a patient's health. Having opened a new Pharmacy contract 7 months ago, we find face to face consultation is an essential tool in effectively providing healthcare services. The elderly and less able population currently find it extremely difficult to access services other than receiving prescribed medication through various means. By having a Pharmacy within their neighbourhood patients could access the ever expanding NHS services, with majority need a face to face consultation at times.

Currently a local convenience store on Cambusnethan Street has for the past years been carrying out a prescription delivery service on behalf of patients. The drivers delivering to these patients are not healthcare qualified and cant assist in explaining medication changes or healthcare issues. It is clear that the surrounding pharmacies have not been extending their provision of services as far as Cambusnethan. Residents would greatly benefit from having a pharmacy providing such services directly to them within their neighbourhood.

With regards to timescale we would be able to open the pharmacy within 6 months as lessons have been learned from last experience.”

**Noting that this concluded Mr Akram's representation, the Chair then invited questions from the interested parties. Mrs Melinda Setanoians, Lloyds Pharmacy Ltd was first to pose questions to Mr Akram.**

Ms Setanoians stated that she was unaware of any informal delivery process operating within Cambusnethan, and asked Mr Akram how he became aware of it. He replied that he had been told by the manager of the local shop, adding that previously the shop owner had submitted then withdrew an application for a pharmacy but that the medication delivery service remained in place was regularly delivered alongside the patient's grocery shopping. Ms Setanoians then asked which services the Pharmacy would provide in addition to the normal enhanced services provided within Wishaw by Lloydspharmacy. Mr Akram replied that the areas with existing pharmacies are well catered for and that they would provide the same services locally to their neighbourhood.

**Having ascertained that Ms Setanoians had no further questions, the Chair then invited questions from Mr Stephen Welch, Welch Chemists to Mr Akram.**

Mr Welch wanted to know more about the availability of parking as his understanding of the neighbourhood was that it also had its difficulties as cars parked on both sides of road, and that the pelican crossings, zigzag yellow lines and driveways also limit the space available similar to Kirk Road, Wishaw. Mr Akram replied that it was a significantly quieter area than Wishaw during the day and that there was substantially more parking spaces. He added that pelican crossings are an advantage not disadvantage. Mr Welch then commented that Cambusnethan Street has houses on it which does not support Mr Akram's claim that it is open ground and dangerous. Mr Akram clarified that he said it was open ground not as built up, with small percent green belt, not that it was dangerous. Mr Welch concluded by saying that he feels it is an appropriate, well lit, and safe area to walk.

**Having ascertained that Mr Stephen Welch had no further questions, the Chair then invited questions from, Mr John Connolly, Deans Pharmacy to Mr Akram.**

Mr Connolly was keen to learn more about the premises, their size and how they would be divided. Mr Akram advised that the unit would be approximately 1500 square feet. Mr Connolly then stated that he was not aware of any planning permission being granted by North Lanarkshire Council (NLC) for 2 units, but that information available on public record states that there was an application made for them to be sub-divided on 11<sup>th</sup> June 2010 which therefore renders your application is invalid. Mr Kuram replied that he was not aware that planning permission was for 4 units nor were his Architect or Lawyer, and that whilst he cannot dispute the website, he has been given assurance of the unit and that the building work has been initiated and everything looks to be okay. Mr Connolly then asked whether Mr Kuram felt that a unit approximately 180/190 square feet (as granted by NLC planning) would be sufficient to operate within. He was advised that Mr Akram would “make do” as they are currently operating within portacabin in another area.

Mr Connolly then turned his attention as to how Mint Healthcare Ltd had arrived at the definition of their neighbourhood boundaries as he felt that the physical boundaries North and South were okay but that it was less than clear at the West and East. Mr Akram explained that at the East residents recognise the split between living in Cambusnethan and Newmains. Towards the West Cambusnethan does not merge in with Wishaw therefore they had looked at catchment areas for schools and the parishes, as apart from Coltness Road and perhaps Abbotsford Road there were no physical characteristics or barriers to the west side. There then followed lengthy discussion about routes of travel by residents towards schools, Tesco Express and existing pharmacies in relation to the distance taken from the same area to reach the proposed premises.

The focus then moved on to the current level of pharmaceutical provision as Mr Connolly was keen to learn what Mr Akram felt was inadequate about it. Mr Akram responded that he had already answered that point stating that all pharmaceutical services are already covered but not within their neighbourhood. This led Mr Connolly to ask him what evidence he had to support inadequacy, and was told that whilst they had not compiled a full report the outcome of their door to door survey identified that patients want a more local pharmacy, however that he would leave it to the Committee to determine.

Mr Connolly’s final line of questioning was in relation to ease of accessibility, asking if there was any evidence available that patients were unable to access existing services. Mr Akram said that during their survey they we met one person who faced access difficulties and had encouraged them to write in even if it was outwith the consultation period. This led Mr Connolly to ask if they had been encouraging patients to contact the Health Board, and was advised that this was not the case as they had only suggested it as an option. Moving on to discuss parking Mr Connolly asked if he was aware of the availability of parking spaces within Wishaw town centre and at Welch Pharmacy, Manse Road, Newmains, in addition to outside his pharmacy. Mr Akram replied that he was however questioned how many people would travel there as a natural flow. Mr Connolly remarked that he felt many people would and could access the pharmacies as a majority of Cambusnethan residents need to travel to Wishaw to access services required for daily life. Mr Akram did not agree with this as he feels that the majority people within the neighbourhood are elderly and tend to use the local convenience store, making trips to Asda or Post Office only in a weekly basis not regularly, and that there is sufficient local facilities to sustain them.

Mr Connolly asked if he would agree that the majority of people are happy with the current service, and was told that they are only because they have no choice if possible they want to have the services more local. This led to Mr Connolly asking what could be more local and adequate than having 3 pharmacies within 0.8 miles. Mr Akram disagreed stating that residents within his neighbourhood find it more convenient to stay within their own area. When Mr Connolly suggested that the argument was then based on convenience not necessity or desirability he was told that it would be easy to discuss the meaning of convenience/necessity/desirability all day however he was only stating what patients would say. Mr Connolly's final comment was in relation to Saturday opening times stating that a half day close would result in patients having to access pharmacies in Wishaw and Newmains. Mr Akram stated that they would no problems changing their proposed hours later down the line to adapt to the needs of their local population.

**Having established that there were no further questions from the interested parties in attendance, the Chair then invited questions from Members of the Committee in turn to Mr Akram.**

Mr Sergant remarked that Mr Akram appeared to be a bit vague regarding planning permission, and asked him if he had applied for any permission to alter the unit internally. Mr Akram advised that his understanding was that planning permission had been granted as he had been supplied with internal dimensions within a legal agreement however, if it transpired that the unit was smaller then he would accommodate that. Mr Sargent asked if he had not obtained planning permission personally and was advised that this had been left to the landlord. When asked about disabled access and parking he replied that there was an area for staff to park at the rear of the property and that he hoped that there would be level access to the unit however if it was not they would install a ramp.

When invited to ask questions Mr James Murray advised that his concerns over access to the unit for non-ambulant patients had been answered and that he had no further questions.

The Chair then took the opportunity to ask Mr Kuram for his estimate of the population who would prefer to walk as opposed to drive to a Pharmacy. He was told that the majority of residents would want to walk as car parking is such an issue in Wishaw. The Chair then asked for an estimate of the percentage of neighbourhood population who would shop at Asda or Morrisons. Mr Kuram replied that there would be a "good" percentage however it would not be on a daily basis, perhaps only a once per week occurrence, which led the Chair to ask what percentage within his neighbourhood would require more frequent access to Pharmacy. Mr Akram said that he could not put a figure on this, however that services locally would be easier for the elderly, infirm, and children who are ill more often.

Mr Mallinson was then invited to ask questions and he wished to know more about access to Wishaw, as a great deal of attention had been given to walking and driving at the expense of bus travel. Mr Akram intimated that there was a direct bus route operating approximately every 20 minutes frequency. Mr Mallinson remarked that he felt that this could be considered a good and accessible service and that on that basis patients would have no difficulty accessing existing pharmacy provision elsewhere. Mr Akram responded to say that it would take a reasonable amount of time for a return journey as you would have to wait for a bus after you had completed your trip to the pharmacy. Mr Mallinson referred to the age statistics of the neighbourhood and stated that a vast majority of residents would have access

to free bus travel which would be better value than driving and avoid any obstacles such as parking availability.

Mr Mallinson then turned his focus on their ability to open within six months as in their application it indicated that the Pharmacy could open within four months however from the site visit it appeared that building work was only just starting. Mr Akram said that his timescale would be directed by the application and any appeal process. Mr Mallinson then asked for the level of assurance given to them from the landlord over the availability and size of the unit as it was still unclear to him what the actual position was. Mr Akram confirmed that they had agreement in writing to dispose a unit of approximately 1400-1500 square feet to them, and that it would only be a shell inside, they were free to make internal modifications to suit. When asked about planning permission for ramp access he was advised that they didn't think it would be a problem for NLC to grant.

The Chair then requested clarification from Mr Akram as to his views on the information Mr Connolly had provided regarding planning permission for 4 units, which would result in the units being considerably smaller than what they had been planning around. Mr Akram remarked that if this was the case they would have to deal with it however that he had spoken with the landlord yesterday and he didn't mention any change in plan. The Chair asked him what was the smallest size of unit he could operate from and was advised that they are currently trading within a portacabin 450m x 12 metres in Coatbridge, and that they are able to incorporate everything within that they need.

Mrs Park was then invited to ask questions and asked him what layout plans they had in place for the 1500 square feet unit given that this was the assumption they had been working on. Mr Akram said that they had no plans and would do them "as they go along" given that they knew they had sufficient space.

Mr Sinclair was last to ask questions and enquired what the effect the 10-11% increase in population as a whole in Wishaw would equate to within their neighbourhood. Mr Akram was unsure as to what increase it would have.

**Having ascertained that there were no further questions for Mr Akram, the Chair then remarked that in accordance with the procedure outlined within the guidance notes, he would depart from the procedure outlined within the guidance notes by asking each of the interested parties in turn would now give their representations at this point, thereafter the applicant and then Members of the Committee would be given the opportunity to ask questions. All parties in attendance were in agreement to this approach. Accordingly, the Chair then invited Mrs Melinda Setanoians, Lloyds Pharmacy Ltd to state her representation.**

Ms Setanoians thanked the Chair prior to reading the following pre-prepared statement:

"Neighbourhood: In defining the neighbourhood to be considered we'd define that to be the township of Wishaw. The micro area of Cambusnethan is within Wishaw and as discussed there is no evidence of a physical barrier to enable this to be defined as a separate neighbourhood. Additionally there is no evidence that there is an emotional or psychological identification with the area described by the applicant as Cambusnethan and the disparate nature of the housing and residents further reduces this feeling of "neighbourhood".



The banks, library, supermarket and general everyday shops are mostly located with the town centre of Wishaw. In Cambusnethan only two convenience stores (Irn-Bru stop and Bobby's), a sub post office and a takeaway restaurant are in the immediate area, therefore it is fair to suggest that people regularly travel to Wishaw town centre and will probably choose to access the very good pharmaceutical services found there when they do.

Accessibility: Access to the pharmaceutical services in Wishaw from Cambusnethan can be via foot, bus or car: There is ample parking near all Lloyds Pharmacies in Wishaw. Car ownership in the area considered to be high. There are very frequent buses through Cambusnethan to Wishaw Main Street (two number X11 buses per hour, six number 267 buses per hour and a handful of local bus services). Pharmaceutical services in the area can also be easily reached on foot. Indeed in preparation for this meeting at the weekend I walked the following routes:

FROM	TO	TIME TO WALK
Proposed new pharmacy	Lloydspharmacy, Kirk Road, Wishaw	14 minutes
Proposed new pharmacy	Welch Pharmacy, Newmains	17 minutes
Auchter Road	Proposed new pharmacy	10 minutes
Auchter Road	Welch Pharmacy, Newmains	16 minutes

Service Provision: Wishaw has a population of around 28, 000 and this is currently served by 12 pharmacies in the immediate area. These pharmacies provide all services required by the Health Board and there has been a recent increase to the hours of service being provided by one Lloydspharmacy so there is now access to a 12hour, 7 day a week pharmacy.

There is no indication or suggestion that the pharmaceutical provision is inadequate within the area. All required services are provided and there have been deliberate moves to improve services to substance misusers by:

- Increasing the hours they can have access to services
- Providing a unique and forward thinking needle exchange service 12 hours a day, 7 days a week
- Providing BBV testing and immunisation from the pharmacy on 156 Main Street

Service levels of pharmaceutical provision have been regularly monitored in the Lloyds Pharmacies in Wishaw and have been graded as above the company average. The range of services provided by the Lloyds pharmacies in Wishaw are considered to be better than adequate.

We are not aware of any complaints to the Health Board about the provision of services. I would therefore conclude that this application has no evidence of inadequacy and is purely based on convenience. It is therefore neither necessary nor desirable and respectfully ask the panel to refuse this application.”

**The Chair then invited Mr Stephen Welch, Welch Chemists to state his representation.**

Mr Welch stated that he wished just to read a few brief points:

- There are no new services being proposed that are not already being provided and no new extended hours of opening, indeed the applicants are not even proposing to open on a Saturday afternoon.
- The new site proposed is also on a busy main road near a pedestrian crossing and mini roundabout with limited parking which is no better than Wishaw Town Centre.
- The proposed site is 0.8 miles from 88 Manse Road and 0.7 miles from nearest pharmacy in Wishaw. There is also a new contract pharmacy in Coltness a similar short distance away and all cover the area of the proposed site therefore the area is well catered for.
- The transport routes are excellent on Main A Class Road to Wishaw or Newmains Health Centres and Pharmacies so patients are in no way isolated. The new Pharmacy in Coltness is also on Main A Class Road. There are no safety issues and the roads are well lit.
- 80-85% of business (NHS) for 88 Manse Road comes from prescription generated in Wishaw Health Centre so the proposed new site will have a detrimental effect on a current NHS provider's business.

**The Chair then invited Mr John Connolly, Deans Pharmacy to state his representation.**

Mr Connolly thanked the Chair then read from the following pre-prepared statement:

“I am the owner of Deans Pharmacy in Coltness. We opened in June this year at Innerleithen Drive and have just this morning moved to brand new purpose premises on Coltness Road (1400sq ft).

We are a fledgling business and are nowhere near the level of business required to have a viable and sustainable business. I fear that granting the new contract, based on convenience, in Cambusnethan could have a serious detrimental effect on my own pharmacy and our ability to provide the high quality service that we currently offer.

In terms of the Legal Test of regulation 5(10), and the neighbourhood in which the premises are located: The applicant has chosen to draw fantasy Eastern and Western boundaries in an effort to create a neighbourhood that doesn't actually exist. These boundaries are not natural or manmade and in fact do not exist at all. There is no boundary to movement across these lines, the residents all access the same facilities and their children go to the same schools.

The area defined by the applicant has virtually no amenities at all and residents require to travel to Newmains and Wishaw for their basic daily needs. The proposed premises are on an arterial route which takes people to these services located just a short distance along that same road in either direction.

The neighbourhood could more sensibly be considered to be Wishaw, Cambusnethan and Newmains, as the housing is continuous from Manse Road, down Cambusnethan Street and Kirk Road. This can be considered a neighbourhood for all purposes, people from Cambusnethan need to go to Newmains and Wishaw as part of their daily lifestyle.

We need to consider what the existing services in the neighbourhood are:

There are seven contract pharmacies within the neighbourhood, with my pharmacy and others located a short distance outside the neighbourhood.

We then need to consider whether these services are adequate or not:

I believe they are more than adequate and hence the application fails the legal test at the first hurdle. All the core NHS services as well as numerous extended services are provided by all these pharmacies. There is extended opening to 9pm 7 days a week and plenty Saturday afternoon opening, with Lloyds, Welch Chemist and Deans Pharmacy all being open on Saturday afternoon. I note that the applicants' proposal is to only open to 1pm on Saturdays. The applicants would not do anything to increase or improve access to services.

Cambusnethan is one of the most affluent areas of Wishaw, there are small confined pockets of deprivation, but the vast majority of people are pretty well off.

Car ownership is much higher than compared with the national average with the number of households with no car being 8% lower than average and the number of households with 2 cars being 6% higher. So we can see that the population is highly mobile.

The population is healthy with fewer people being classed as not in good health compared to the average for Lanarkshire. Of the 4000 people in the applicants' neighbourhood only around 400 were not in good health. Unemployment is also lower than the national average and a greater number of people own their own home compared to the national average. Even the less affluent areas in the applicants neighbourhood are not even in the bottom 20% of the national population in terms of deprivation.

**It was at this moment in the meeting that Mrs Janet Park was contacted to take an urgent telephone call and withdrew from the meeting. The Chair asked all parties present if they had any objections to taking a small break in the proceedings. All parties present agreed. Mrs Park then returned to the meeting and the Chair invited Mr Connolly to resume his representation.**

For many of the residents in the area the application has defined as their neighbourhood they would actually be closer to my pharmacy in Coltness or one of Mr Welch's pharmacies in Newmains or Lloyds Pharmacy in Kirk Road. The applicants' eastern boundary is 0.2 miles from the pharmacy in Newmains, and 0.6 miles from the applicants' premises. Residents would be far more likely to be travelling towards Newmains, to access shops such as ASDA or other amenities that are not available in Cambusnethan. Those around the Coltness area would be far more likely to visit my pharmacy in Coltness when accessing shopping facilities at Tesco. The walk to access a pharmacy is along a flat, well maintained pavement next to a main road. This walk is a perfectly acceptable distance and route for someone to travel to access a pharmacy. There is an excellent bus service that operates between Cambusnethan and Newmains, Wishaw and Coltness, providing access to pharmaceutical services in a matter of minutes. There are local buses, plus many other services too numerous to list that travel through Newmains, Cambusnethan and Wishaw to other destinations.

Even if you were to agree with the applicants' definition of the neighbourhood, the existing services provided by other contractors into the neighbourhood are more than adequate, I

would go as far to say that they are excellent. At Deans Pharmacy we strive to provide the highest level of patient care and customer service. We provide a free to all prescription collection and delivery service, home visits by a pharmacist when required, we have a stock of palliative care medicines, despite not being on the list for this, and we participate in all aspects of the new pharmacy contract as well as providing numerous additional services, such as flu vaccination clinics and weight management clinics.

Our premises are purpose built, fully Disability Discrimination Act compliant and measure around 1300 sq ft in size, we have 2 consultation and treatment rooms to allow us to deliver a raft of services and also bring other healthcare professionals into the area. The provision of multiple consultation rooms will also allow us to run independent prescribing clinics in conjunction with local surgeries when the pharmacist going through training qualifies. We have plenty free parking with 3 disable spaces immediately outside the pharmacy.

I have documents/planning information taken from NLC website last night which shows the proposed unit is only 294 square feet. By his own admission the applicant says they could not work within such limited space, and in my experience this size of space is not big enough for a modern day pharmacy facility. If an application for further amendments to the unit is required to be submitted to NLC planning department it would take approximately 9/10 weeks, with a further 4 weeks to obtain building control warrants, so the applicant has no chance of opening within 6 months.

Furthermore, the applicants have provided absolutely no evidence of inadequacy whatsoever. They have based their application on falsely creating a neighbourhood around their site and claiming that because there are no pharmacies in that area, that means there is an inadequacy. In doing that, I think, they have failed to understand the legal test. In the regulations the question is whether it is necessary or desirable to grant an application where a defined neighbourhood has been determined to have an inadequate pharmaceutical service, it is essential that you determine this first.

Including the wider consultation process there have been no complaints about access to pharmaceutical services and the applicants' level of service would actually be less than that which is currently offered. The neighbourhood is Wishaw, Cambusnethan and Newmains. The excellent services provided by the 7 contractors in the neighbourhood, and numerous other contractors in adjacent neighbourhoods is more than adequate to meet the needs of residents. The applicant has provided no evidence of inadequacy and granting this contract would not improve services in the any way. The application fails the legal test and I would respectfully ask the panel to reject it."

**Following Mr Connolly's representation, the Chair then invited Mr Akram to ask questions of the interested parties in attendance.**

Mr Akram thanked the Chair and advised that he had no questions to pose to the interested parties.

**The Chair then invited questions from Members of the Committee to the interested parties in turn.**

Mr Sargent wished to ask Mr Connolly that by choosing Wishaw, Cambusnethan and Newmains as his neighbourhood did he not accept that residents within those areas would

consider themselves residing within different communities. Mr Connolly replied that he disagrees with the applicants' east and west boundaries as there are no clear divisions. Mr Sargent proffered that historically residents would have classed themselves from distinct villages (mining areas); Mr Connolly agreed that traditionally this would have been the case when communities were smaller and distinct and not now when they are merged and intertwined. When asked how many Cambusnethan patients use his pharmacy he advised that they were presently unaware as due to the preparations to move from Innerleithen Drive they have held back advertising, however as they had now relocated they would begin their marketing and leaflet drops therefore he would expect to see more.

When invited Mr Murray stated he had no questions to ask.

Mr Mallinson asked Mr Welch if he knew what proportion of his patients came from Cambusnethan, and how they travelled. Mr Welch replied that he didn't know other than how many scripts were generated from Wishaw Health Centre, however that mostly his patients travelled by bus or car. When the same question was posed to Ms Setanoians she said that she was unsure however that no patients appeared to have suffered a particularly torturous journey to reach them.

Mrs Park wanted to learn if Mr Welch was aware of the unofficial grocery/prescription pick service discovered by Mr Akram. He replied that he was not and that apart from care homes collecting scripts for residents he was not aware of anyone attempting to have prescriptions dispensed from his pharmacies under this guise.

Mr D Sinclair asked Mr Connolly if he could provide details on when the planning application was lodged for the proposed unit, and was advised that he had dates for the plans as proposed and passed. The Chair asked if he had documented evidence and was told that he had been able to access and print off the information from NLC website, which at the consent of all parties present were passed round to the Committee members.

The final question came from the Chair and he wished to hear what Ms Setanoians and Mr Welch considered the neighbourhood to be. Ms Setanoians said she considered it to be the township of Wishaw, Mr Welch remarked that he considered it to be part of Wishaw as to him Branchal Road led into Newmains, which was separate.

**Having ascertained that there were no further questions from Members of the Committee to the interested parties, the Chair then invited the interested parties to ask questions of each other.**

The interested parties had no questions to ask of each other

**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 Melinda Setanoians, Lloyds Pharmacy Ltd was first to speak.**

Accessibility of pharmaceutical services to patients and residents in Cambusnethan are more than adequate, indeed excellent nor is there any evidence of inadequacy. This application has just been made on an argument of convenience therefore I ask that the application be refused.

**The Chair then invited Mr Stephen Welch, Welch Chemist to sum up his representation.**

The neighbourhood suggested is not a distinct area. The proposed new site is approximately at the centre of a triangle of evenly spaced current providers. There are good transport links and all current contractors provide full NHS service requirements. The proposed contract will add no new services but will have an increased cost pressure on the NHS budget. Therefore I do not believe that the proposed new site is necessary or desirable for the provision of adequate NHS services to the area.

**The Chair then invited Mr John Connolly, Deans Pharmacy to sum up his representations.**

The application is not based on a credible neighbourhood and no evidence of inadequacy has been given. There is 1<sup>st</sup> class pharmaceutical provision already in place. Residents within the neighbourhood are highly mobile and affluent so do not use a pharmacy regularly and, for those that do, there are no barriers to access existing services. Again, there is no evidence of inadequacy – the crux of the legal test - therefore the application fails on that basis.

Furthermore the application is incompetent as the proposed premises cannot come to fruition, and the existing unit could be insufficient in size to host a pharmacy, and any revision to planning would take in excess of the six month rule which would result in the application failing too.

**The Chair then invited Mr Akram to sum up in relation to his application.**

We feel the application is necessary and desirable to secure adequate services within Cambusnethan. As mentioned before, pharmaceutical services are not being adequately extended out to residents within Cambusnethan. Whilst there has been a difference in opinion regarding East and West boundary of our neighbourhood we argue that residents have a sense of belonging. Existing Pharmacies cater for 5000 patients so there is a substantial need, and some patients currently have to access partial NHS services through unreliable means. Accessibility currently for those with young children, elderly and the infirm is inadequate due to distance and access. Cambusnethan is its own neighbourhood with an expanding population, and they need such a healthcare provision.

With regards to the premises we need to discuss the issues raised with our landlord immediately, we will work round about the difficulties – if necessary we will take two units providing pharmaceutical dispensing in one whilst using the other unit for storage and a consultation area. We understand the timescales for opening and will try to open within six months.

**Retiral of Parties**

The Chair 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 Chair 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 Chair's request Mr Akram, Mr Khan, Ms Setanoians, Mr Welch and Mr Connolly withdrew from the meeting.

### **Supplementary Submissions**

Following consideration of the oral evidence

#### **THE COMMITTEE**

noted:

- i. that they had each independently undertaken a site visit of the village of Cambusnethan and town of Wishaw, noting the location of the proposed premises, the pharmacies, the general medical practices, and some of the facilities and amenities within.
- ii. map showing the location of the Doctors' surgeries in relation to existing Pharmacies in the town of Wishaw and villages of Newmains and Overtown, and the site of the proposed pharmacy
- iii. prescribing statistics of the Doctors within the town of Wishaw and village of Newmains, during the period May to July 2010
- iv. dispensing statistics of the Pharmacies within the town of Wishaw and villages of Cleland, Newmains and Overtown during the period May to July 2010
- v. demographic information on the town of Wishaw taken from the 2001 Census
- vi. comments received from the interested parties including existing Pharmaceutical Contractors in the town of Wishaw 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 town of Wishaw and villages of Newmains, Cleland and Overtown.
- viii. communications received from one member of the public (personal details redacted in order to comply with the Data Protection Act 1998) and two elected representatives, as a result of the public consultation exercise undertaken upon receipt of the application, as directed within Schedule 3 to the regulations

### **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 2009 (S.S.I. 2009 No. 183 ), 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 visits, deemed the neighbourhood in which the proposed premises were located to be the area bounded on the West by Coltness Road at the site of the Cambusnethan signpost down to Kirk Road continuing to Meadowburn Road, and downwards to include Cambusnethan cemetery. The Southern boundary being the area of green belt crossing to meet Woodhall Road. To the East extending across Cambusnethan Street to include the residential area around Lewis Avenue. With the Northern boundary being the Coltness Road boundary point up towards Branchal Cottages.

**THE COMMITTEE**

in reaching this decision was of the opinion that the area was clearly signposted as Cambusnethan, and that the residents would have a sense of belonging and identify themselves as residing within that community not the town of Wishaw.

(ii) Existing Services

**THE COMMITTEE**

recognised that there were no existing contract Pharmacies within the defined neighbourhood, however from the evidence provided including the report collated by the office of the Chief Pharmacist – Primary Care, it was demonstrated that the population has access to eight Pharmacies located within a triangular area on the periphery (1 in Coltness at the North, 5 within Wishaw in the West, and 2 in Newmains to the East). Indeed the nearest Pharmacies were located approximately 0.5 miles from the boundaries of the neighbourhood and approximately 0.8 miles from the proposed premises. All of the pharmacies provide a comprehensive range of Pharmaceutical Services alongside the core requirements of the new contract and as the characteristics of the neighbourhood are such that residents are used to travelling outwith to access their daily needs all of the Pharmacies within Wishaw and Newmains could be considered to be providing services to residents within the neighbourhood.

(iii) Adequacy

**THE COMMITTEE**



discussed the test of adequacy paying due regard to the findings set out above, and included deliberation as to any transport challenges for patients. The health statistics within the census which suggested a relatively mobile population were noted and consideration was also given to the needs of vulnerable members of society e.g. those who are elderly, non ambulant or parents with young children in prams. Having noted the private and public transport routes available, and the health statistics within the census which suggested a relatively mobile population, it was considered that existing services could be deemed adequate as they provide a breadth and range of NHS contract services in line with contemporary standards, and were easily accessible to the residents of the neighbourhood by foot, car or public transport.

### **THE COMMITTEE**

also noted that the applicant was unable to provide assurance with regards to the size of the unit or layout, and whether any modifications would be required to make access to it DDA compliant. Indeed the Committee noted from the applicant's summation that they would "try" to have the unit ready to commence services within six months however there remained significant uncertainty about their ability to do so.

Following the withdrawal of Mrs J Park and Mr D Sinclair in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services)(Scotland) Regulations 2009, 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, accordingly, the 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 2009, as amended.

**Mrs Park and Mr Sinclair were then requested to return to the meeting, and were advised of the decision of the Committee.**