

MINUTE: PPC/2013/03

Minute of the meeting of the Pharmacy Practices Committee (PPC) held on Friday 13 September 2013 at 10:00 hours in Training Room 2, Law House, Airdrie Road, Carlisle, ML8 5EP

The composition of the PPC at this hearing was:

Chair: Mr Michael Fuller

Present: Lay Members Appointed by NHS Lanarkshire Board

Ms Margaret Caraher

Mr Charles Sargent

Mr John Woods,

Pharmacist Nominated by the Area Pharmaceutical Committee
(not included in any Pharmaceutical List)

Mr Billy Lang

Pharmacist Nominated by Area Pharmaceutical Committee
(included in Pharmaceutical List)

Ms Janet Park

Secretariat Mrs Gillian Gordon, Scottish Health Service Centre

1. APPLICATION BY MR C DALY, RUSHPORT ADVISORY LLP, 39 ST JAMES RETAIL CENTRE, EAST KILBRIDE, G74 5QD

1.1 There was submitted an application and supporting documents from Mr C Daly, Rushport Advisory LLP, received 4 September 2012, for inclusion in the Pharmaceutical List of Lanarkshire NHS Board in respect of a new pharmacy at 39 St James Retail Centre, East Kilbride, G74 5QD.

1.1.1 **Submission of Interested Parties**

The following documents were received:

- i) Letter received on 28 September 2012 from Boots UK Ltd
- ii) Letter received on 10 October 2012 from J P Fenton and Son Ltd
- iii) E-mail received on 4 October 2012 from the Area Medical Committee, NHS Lanarkshire
- iv) Letter received on 10 October 2012 from Wm Morrison Supermarkets Ltd
- v) Letter received on 10 October 2012 from Apple Healthcare Ltd
- vi) Letter received on 12 October 2012 from L Rowland & Co

(Retail) Ltd

- vii) Letter received on 15 October 2012 from Lloyds Pharmacy Ltd
- viii) Letter received on 15 October 2012 from Harvest Healthcare Ltd
- ix) Letter received on 16 October 2012 from Ernarxo Ltd

1.1.2 Correspondence from the wider consultation process undertaken by NHS Lanarkshire

- i) Letter received on 5 October 2012 from NHS Lanarkshire enclosing a letter intimating the views of the East Kilbride & District Public Partnership Forum
- ii) Letter received on 30 October 2012 from South Lanarkshire Council

2 Procedure

- 2.1** At 09.30 hours on Friday 13 September 2013, the Pharmacy Practices Committee (“the Committee”) convened to hear the application by Mr C Daly, Rushport Advisory LLP, (“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”.
- 2.2** The Chair welcomed everyone to the meeting and asked all present to introduce themselves and their title. The Chair then 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. All Members confirmed that they had received and considered the papers and none had any personal interest in the application.
- 2.3** It was noted that Members of the Committee had previously undertaken site visits of the town of East Kilbride independently during various times of the day and week to gather a sense of the natural working patterns of residents and visitors to the various premises. All confirmed that in doing so each had noted the location of the premises, pharmacies, general medical practices and other amenities in the area such as, but not limited to, banks, post office, supermarkets, and churches.
- 2.4** The Chair then reported that Mr George Lindsay, Chief Pharmacist – Primary Care and Mrs Gillian Forsyth – Administration Manager, Primary Care would enter and withdraw from the hearing alongside the applicant and interested parties. The Chair emphasised that Mr Lindsay and Mrs Forsyth were in attendance solely to clarify any matters of factual accuracy which could not be answered by Committee members or those attending to provide secretariat support. The Chair also reported that Mrs Margaret Morris was in attendance as co-chair of the PPC to observe proceedings only. The Chair then advised that Mrs Gordon was independent from the Health Board and would be solely responsible for taking the minute of the meeting.

- 2.5** The Chair further explained that should any questions or concerns arise during the closed session the Committee had the option of contacting the Central Legal Office (CLO) by telephone to obtain advice. Should this occur the meeting would return to open session to allow the applicant and interested parties to challenge or comment upon any advice given. This change in procedure complied with the recent Practice Note of 1 August 2013 issued by the Interim Chair of the National Appeal Panel. The Chair asked Members for confirmation that they understood these procedures. Having ascertained that all Members understood the procedures the Chair confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers circulated. The Chair then instructed Mrs Gordon to invite the applicant, interested parties, and officers of the Board to enter the hearing.

The open session convened at 10:10 hours

3 Attendance of Parties

- 3.1** The Chair welcomed everyone and introductions were made. The applicant Rushport Advisory LLP was represented by Mr Conor Daly. From the interested parties eligible to attend the hearing the following accepted the invitation as noted: Ms Danielle McTaggart, Apple Healthcare Group, accompanied by Mr Sanjay Majhu; Mr Alasdair Shearer, L Rowland and Co (Retail) Ltd, accompanied by Ms Kirstie Church; Mr David Henry, Lloyds Pharmacy Ltd; Ms Felicity Fenton, J P Fenton and Son Ltd, accompanied by Mr Lewis Campbell; Mr Charles Tait, Boots UK Ltd, accompanied by Ms Maxine Marshall; Mr Eric Brown, Harvest Healthcare Ltd, accompanied by Mr Allan Carswell; Dr Ash Ali, Ernarxo Ltd, accompanied Dr Rashid Ahmed.
- 3.2** Mr George Lindsay, Chief Pharmacist – Primary Care and Mrs Gillian Forsyth, Administration Manager – Primary Care also entered the meeting at this time.
- 3.3** The Chair advised all present that the meeting was convened to determine the application submitted by Rushport Advisory LLP in respect of premises at 39 St James Retail Centre, East Kilbride, G74 5QD. The Chair wished to confirm to all parties present that the decision of the Committee would be based entirely on the evidence submitted in writing as part of the application and consultation process, and the verbal evidence presented at the hearing itself, without prejudice, and according to the statutory test as set out in Regulations 5(10) of the 2009 regulations as amended:
- “5(10) an application made in any case other than one to which Paragraph (3) or (4) applies shall be granted by the Board, after the procedures set out in Schedule 3 have been followed, only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable 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.”
- 3.4** The Chair then advised the parties that the hearing would be conducted according to the procedure detailed within the Guidance Notes contained within the papers circulated. The Chair reported that Mr George Lindsay, Chief Pharmacist – Primary Care and Mrs Gillian Forsyth – Administration Manager, Primary Care had entered and would withdraw from the hearing alongside the applicant and interested parties. The Chair emphasised that Mr Lindsay and Mrs Forsyth were in attendance solely to clarify any matters of factual accuracy

which could not be answered by Committee members. The Chair then advised that Mrs Gillian Gordon, SHSC would be present throughout the duration of the hearing for the purposes of providing secretariat support to the Committee. The Chair confirmed that Mrs Gordon was independent of Lanarkshire NHS Board.

- 3.5 The Chair further explained that should any questions or concerns arise during the closed session the Committee had the option of contacting the Central Legal Office (CLO) by telephone to obtain advice. Should this occur the meeting would return to open session to allow the applicant and interested parties to challenge or comment upon any advice given. This change in procedure complied with the recent Practice Note of 1 August 2013 issued by the Interim Chair of the National Appeal Panel. The Chair asked all parties for confirmation that they understood these procedures. Having ascertained that all parties understood the procedures the Chair confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers circulated.
- 3.6 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 had any interest in the application.
- 3.7 The Chair asked for confirmation that all parties fully understood the procedures to be operated during the hearing as explained, and that they had no questions or queries about those procedures and were content to proceed. All confirmed their agreement. The Chair concluded the procedural part of the hearing by reminding each party that there could be only one spokesperson. All confirmed their understanding.

4 Submissions

The Chair invited Mr Daly to speak in support of the application.

- 4.1 Mr Daly introduced himself as a partner in Rushport Advisory and said that he was a qualified and practising pharmacist with a legal qualification however he was not a practising barrister. He referred to the papers he had submitted as part of his application and acknowledged that these were voluminous but he had done this in order to give the Committee an early opportunity to consider his submission. He said that he wished them to consider whether granting his application would secure adequate services in the relevant area.

He said he would refer to the area as Hairmyres and Mossneuk and noted that a previous application for the same site had been approved three or four years ago but had been overturned by the National Appeal Panel upon appeal. He did however recognise that this application was entirely distinct and should be taken on its own merits.

He also referred the Committee to the report he had commissioned from Inaltus Town Planning in support of the application.

As far as neighbourhood was concerned he referred to the map provided outlining his proposed area. This was based on many factors – urban areas layout, use of buildings, geography and topography. He referred to a decision in the Scottish Courts which had ruled that walking distance was a relevant consideration as it gave an idea of where one feels a neighbourhood is and can vary between urban and rural areas. The word neighbour had a connotation of closeness and nearness and there was also a social allegiance to an area. He

referred to his map and said that the neighbourhood he defined was relatively new and looking at the bigger map, it was obvious that East Kilbride had extended west and noted that this area of the town had seen the largest increase in population and service provision.

He wished to secure adequate pharmaceutical services for the area and noted that there was very rarely a discussion of what secure means. In his view this meant looking to the future to consider what was likely to happen with future developments and existing developments and that the Health Board should not wait for services to fall apart; where an inadequacy was seen in future provision an application should be granted.

He pointed out that it was a substantial neighbourhood and, if anything, was too big, but he had accepted the view of the expert town planner and was happy to adopt the following as his defined neighbourhood:

Bounded by the A726 to the north west and A726, Queensway to the north east, the open space between Dunedin Drive and Windward Road to the east and the open space south east of Wellesley Crescent/Eden Drive, connecting to the open countryside to the south west. This area included all dwellings either side of Greenhills Road as well as the Police Scotland Training Centre.

He said that this differed slightly from the defined neighbourhood in the previous application and that he had included Peel Park as people traversed the railway bridge.

He said that the population was currently 9000 with further housing developments under construction in the area and elsewhere in East Kilbride. There was also a resorting population of about 10,000 on a daily basis who were reliant on services available in St James Centre.

Referring to the centre, he stated that there were no other vacant units and that it was a very busy centre. This was in contrast to some of the other neighbourhood centres in East Kilbride which were relatively run down and partially occupied although the pharmacies did well because of the closeness of GP surgeries and patients were forced to go there. The neighbourhood round the St James Centre had a broad mix of properties - residential, the hospital, many offices, Peel Park Industrial Estate which brought a large number of people into the area on a daily basis who used the services within St James Centre due to their proximity and ease of access.

He pointed out that Hairmyres Train Station was the main commuting hub for Peel Park and surrounding business and office units, and that it was unlikely that commuters looking to access pharmaceutical services would know where the local, existing pharmacies were nor would they have any means of transport to reach them. He also recognised the influx of visitors and workers due to Hairmyres Hospital.

He said that it was myth that Hairmyres or Mossneuk were affluent areas, and in any event, illness did not discriminate. It was true that less affluent people may have higher demands for pharmaceutical services. His area was a normal area with normal demand for services which had to be met. He pointed out that there were about 50-60 responses to the consultation in favour of a pharmacy in the St James Centre and many gave detailed reasons for giving approval. A lot of the comments explained why they wanted a local pharmacy and these were genuine reasons, not just saying that it was something they would like. It was interesting to note that workers at Peel Park said they would like a

pharmacy at St James Centre as others were too far away and they had no means of getting to them.

He stated that, as with all areas, the majority of the resident population had access to a car but most had just one car and it was quite normal for this car to be used to go to work, leaving the person at home without a car. The distance and the topography of the land to other pharmacies made it difficult to access these without a car. He pointed that the walk to the closest pharmacy took at least 20 minutes, was mostly uphill and was unpleasant. The main users of pharmacy services tended to be those who would find walking difficult.

Whilst those working within Peel Park and some local people would walk to the St James Centre, there was a regular bus service however this was an hourly service which one might expect in a rural area not a township. Indeed upon his visit yesterday he had met a man and his wife who were looking at a 40 minute wait for the next bus. This was the reality of bus use; it was not reasonable to have to wait for this length of time.

The Centre was also used by many people using cars and there were about 100 spaces which could accommodate them.

It was therefore important that there were adequate services within the neighbourhood. It was therefore wrong to say that pharmacies further to the east served this neighbourhood; they were not designed to do so and it is only because people are forced to go there that they do.

He stated that demand was growing in this area and the Committee needed to look at today but also consider the future demand and balance this against the current provision. This demand is not speculative. Houses were being built and it could be assumed that these would be occupied. Other sites had planning permission and it could be accepted that developers do not let sites sit forever and will go ahead some time. In light of the ongoing development with an increase in demand then services must expand to secure adequacy of the service

Turning to the proposed location, there was a dentist next door which was the source of NHS prescriptions and it was unacceptable that people had to go outwith their neighbourhood to get these filled. The service in the neighbourhood was not adequate and not secure for the future and the committee had to decide whether it was necessary or desirable to grant the application.

Community pharmacies were more than just dispensing and were about providing a service to the local community and these additional services were increasingly important to the health strategy for Scotland.

In summary this is a substantial neighbourhood with a substantial reliant population and deserved a pharmacy which was designed to serve the people in that area. He urged the committee to recognise this and approve the application.

4.2 Questions from Interested Parties to the Applicant

In response to a question from Ms Fenton, Mr Daly replied that the adequacy of service needed to be secured in the future and that he believed that one should be looking at developments due for completion 3-5 years in the future. He confirmed that most of the residents in the neighbourhood would access services in the town centre but there was a substantial transient population of approximately 10,000 who worked in the area and needed access to pharmacy services during working hours. He did not think it was reasonable for them to have to travel into East Kilbride Town Centre for these services. He further stated that if you looked at the number of pharmacies per head of population, this was quite high and the pharmacy he proposed would help reduce the distance travelled and bring this into a reasonable level.

In response to a question from Mr Tait, Mr Daly confirmed that most of the people walked or took a car round the neighbourhood but would have to drive or take public transport, which was irregular, to access the closest pharmacy.

In response to questions from Mr Shearer, Mr Daly confirmed that he did not believe the bus service was adequate and that all the main shopping services, apart from a pharmacy, were available in the St James Centre.

Replying to a question from Dr Ali, Mr Daly said that he was unaware of any formal complaints made about the pharmacy service but many had been received as a result of the consultation. He also stated that in making his application, he was not looking at the profitability of any one business but at the needs of the patients.

In response to questions from Ms McTaggart, Mr Daly indicated that he would offer all the services in the current contract as none were available at present. He stated that he had not asked the Health Board about any complaints and the advertisement as part of the consultation was not about complaints but about the adequacy of the service currently provided. The leaflets available from pharmacies invited people to make complaints, not to comment on the adequacy of the service

Mr Brown asked Mr Daly to confirm what route one would have to follow to make the journey 20 minutes. Mr Daly referred to the map and described the route, pointing out that at some places, there was no footpath on some of the route.

4.3 Questions from the Committee to the Applicant

In response to questions from the Committee, Mr Daly replied that he would not be the responsible pharmacist on the proposed premises but he would seek to recruit a local pharmacist who would become a co-owner of the business and be the responsible pharmacist. He confirmed that he did not have precise figures for the residential population within a 300m radius of the site. He described how pedestrians would access the St James Centre and stated that pedestrian crossings were in short supply in the west of East Kilbride generally. He went on to describe the parking and the facilities for disabled access to the Centre which was compliant with DDA as there was level access from the car park.

Mr Daly also confirmed that if his application was approved, he would have the pharmacy up and running within 3-4 months. He confirmed that he had a pharmacist available who was a specialist in opening pharmacies who would be responsible for the set up. He would then recruit a local person who would be the co-owner.

He confirmed that his view was that it was not enough to have a barely adequate provision but that one had to ensure that the service was secure for the future and that the Committee should consider future developments which would have an impact on the population bearing in mind the time applications took.

Mr Daly confirmed that the Centre had been built about 5 or 6 years ago and that there had never been a pharmacy in the area. He contended that the fact that people always had to go to Westwood or Greenhills did not mean that the service was adequate but that they had no choice. Regarding the bus service, as far as he could tell, people had to take two buses to get to a pharmacy.

In answer to questions about the neighbourhood, Mr Daly replied that he had not used the railway as a barrier because many people going to and coming from Peel Park used the bridge. He said that he believed that you had to take into account walking distance and other features such as the small river which caused a natural break between houses and the way the houses were laid out with their backs turned to each other. He conceded that some parts of his proposed neighbourhood were just as close to existing pharmacies but that the neighbourhood had to be looked at as a whole. He stated that the fact that a large part of the population were car owners and could easily drive to other areas was not an argument for saying that the pharmacy services in the neighbourhood was adequate.

Mr Daly also acknowledged that a large part of pharmacy income was derived from dispensing and while the proposed premises were not near a GP or health centre, many people had their prescriptions dispensed near where they shop or where they work. Also as a large proportion of prescriptions were repeat, those did not require a visit to a surgery.

5 The Interested Parties' Cases

5.1 Ms Felicity Fenton, J P Fenton & Son Ltd

Ms Fenton read the following prepared statement:

I would like to start by telling you a bit about the pharmacy and the services we provide there.

We are situated at Greenhills Square next to the other neighbourhood facilities, GP surgery, dental practice, library and the community centre.

The shop itself is in an arcade which has fully DDA compliant doors as does our pharmacy, allowing easy wheelchair access.

There were plans to redevelop the site although these are not ongoing at the moment due to the economic climate. This uncertainty has prevented us from moving forward with refurbishment and possibly increasing the size of the pharmacy but when we can be sure this will not be a wasted exercise, not least financially we hope to improve facilities even further.

At the moment we provide all core services – minor ailments, smoking cessation/healthy start vitamins, stoma services, c card services, urgent supply, disposal of unwanted medicines, supervised consumption of methadone/suboxone/antabuse. We are also achieving targets with our chronic medication service, we have recently signed for the anaphylaxis campaign and are anticipating the new gluten free service.

We also provide dosette trays after assessment for those who are having problems managing their medication. For provision of these services within the pharmacy we have a private consultation area which also has full wheelchair access.

For those unable to call in personally we offer a free collection and delivery service which covers the whole of East Kilbride and all its surgeries. Patients can order their repeats either directly through us or we also have a website which offers a repeat prescription ordering facility. Another benefit of this is that patients receive e-mails updating them on the status of their order, whether it is ready for collection or delivery, ensuring multiple visits to the pharmacy are not an issue. There are also "prompts" sent via email when items require re-ordering, allowing better compliance and reducing the need for urgent supplies.

To consider the Legal Test with regard to the application,

Firstly the neighbourhood:

I would define the neighbourhood as bounded by the Glasgow Southern Orbital(A726) to the NW, and the Queensway to the NE down to the roundabout at Murray Hill, then south to Murray Road and SW along Westwood Hill to the junction at Lickpriveck Road. We would then travel SW through greenbelt to Greenhills Road, along Newlands Road to Jackton Road ,then travelling NW to meet Eaglesham Road and cross to meet the A726 again.

This neighbourhood is largely well established and has been accessing existing services within the network for many years. The more recent and planned residential development consists of high quality housing, homes in the region of £400,000,most with two cars in the driveway. These people use their cars to access their daily needs, such developments are designed for people who are mobile, not walking around. In fact there are no pedestrian crossings between the new developments and the St James Centre, further proving this point and also making it extremely dangerous to attempt on foot, people simply don't do it.

In fact the Scottish Government document which refers to the community growth area states that it will be "well related and accessible to the existing settlement" meaning that it will be built in an area where there is access to existing neighbourhood services.

The rest of the neighbourhood isn't even residential - a retail centre at St James, Peel Park industrial estate, a hospital and a police training centre, all people who are transient and who use pharmaceutical services in their own neighbourhoods.

So what are the existing services?

As is clear from the map there are two pharmacies in this neighbourhood, firstly at Westwood Square, only a mile away and the late opening Lloyds at Alberta Ave, under a mile and a half away - we're around the same distance away at Greenhills Sq and although in an adjacent neighbourhood we've been providing a service to many residents there for around 30 years or more. In fact this neighbourhood is largely well established, people already access existing pharmacies within the network, they're registered for minor ailments there and if appropriate are using the chronic service and have care plans already in place and active.

So, are these services adequate or not?

When considering adequacy the best indication of whether services can be described as this is to ask the people that use them, so this is what we did in the form of a survey which I believe you all have.

It was our intention to run this for around two weeks but to allow it to be distributed on time for today we had to curtail it a bit sooner than planned. We gathered about 70 responses from a variety of sources, some in the pharmacy/some online and some who were in receipt of a delivery. When considering the number of people using our service in the time period this amounted to around a 10% sample.

From the results we compiled a report which shows that with regard to general satisfaction and adequacy over 85% of responses were favourable. The same applied when we asked the question of accessibility.

We had many supportive comments and those which were less so we will use to positive ends to improve our service.

For internal purposes we also audited waiting times and balances issued. Balances were around the 1% mark which considering current supply issues seems quite acceptable. Waiting times averaged out at around 6 minutes and although I'm unsure of any National average I thought this was quite reasonable.

The pharmacy at Westwood Square is firmly embedded within the neighbourhood and also provides all core services. A large proportion of people in the neighbourhood could access services there on foot. For those requiring a late night or Sunday service Lloyds is also easy to access and covers all pharmaceutical needs.

So it's clear that existing services meet the needs of the population within the neighbourhood, this was previously agreed by a PPC and since little has changed it would be unusual for the services now to be deemed inadequate. Yes, there is an expected growth in population but considering there is a pharmacy within the neighbourhood which currently dispenses less than the national average number of prescriptions and we ourselves see a less than average yearly growth, the existing network is ready and able to absorb and embrace that growth.

There were only 48 responses over a five week consultation period by Rushport, this demonstrates that there is all round public satisfaction with existing services thus proving that it is not necessary to grant this application to secure adequacy or to plug a gap in adequacy.

It is undesirable to grant an application in a neighbourhood which is already adequately serviced: this would only have a destabilising effect on existing pharmacies, even threatening viability. In the application it was stated that Fentons shouldn't be concerned that it might be affected by the proposal, this is a naïve statement at best, when we're told that a large section of our customer base has now been regrouped into a "new" neighbourhood it's a very real cause for concern – on top of this there would also be a further drain on the already stretched global sum.

The applicant has not demonstrated they will provide any NHS services not currently undertaken by ourselves and other pharmacies within the neighbourhood. They have failed to provide any evidence of inadequacy as there is none.

It is for all these reasons that I deem the application to be neither necessary nor desirable and I ask respectfully that it may not be granted.

5.1.1 Questions from the Applicant to Ms Fenton

In response to questions from the applicant Ms Fenton replied that St James Centre would not have been existence when the Scottish Government document on community growth was written in 2006/07 but the new housing would be well covered by the existing settlement. She confirmed that she had taken £400,000 as an average price for the new houses and that it was likely that residents there would travel to the area where her premises were for their day to day shopping.

Regarding her survey, she confirmed that she had offered it to people who came into the pharmacy or who had received a delivery and were representative of her patients. She confirmed that 2 responses had come from the neighbourhood that the applicant had defined, 2 strongly agreed that there should be more pharmacies and 2 disagreed that the service was adequate. She could not however say from which area these responses came from.

Ms Fenton described the bus journey from St James Centre to her premises and confirmed that the 395 bus stopped on an adjacent street to her premises and that there was also a stop further up Greenhills Road. She acknowledged that there was no footpath from this but there was an underpass and a crossing which people used.

5.1.2 Questions from Interested Parties

There were no questions from the Interested Parties.

5.1.3 Questions from the Committee to Ms Fenton

Regarding her defined neighbourhood, Ms Fenton replied that, she would describe her neighbourhood as Greenhills, Whitehills and Lindsayfield. It ran along Murray Road at the top to Whitehills Terrace then along Stroud Road to Singer Road and west along Greenhills Road down Sheilds Road and along Jackton road then north along Newlands Road through the greenbelt up to Westwood Road where it joins Murray Road. She said that she had placed her boundary further east because of her local knowledge of the area.

She indicated that approximately 20% of her prescribing workload came from the neighbourhood defined by the applicant.

She replied that her survey was offered to a selection of patients and included those who received deliveries, ordered on line and visited the pharmacy. She confirmed that the survey was done both on line and on paper and all those who had prescriptions during the period of the survey were offered the chance to complete it. In noting that only 2 replies came from the proposed neighbourhood, she replied that she was on the very edge of that neighbourhood and it was likely that they would use a variety of other pharmacists available but may be an indication of the distribution of those who used her pharmacy.

Regarding the display of complaints/suggestion forms within her pharmacy, Ms Fenton said that these were available in the consultation room and that patients who were in the main body of the pharmacy would have to ask for these.

As far as the impact on her business was concerned, she said that approximately 20% of her prescription business came from the proposed neighbourhood and would expect to lose some of this if a new pharmacy

opened.

5.2 Mr Charles Tait, Boots UK Ltd

Mr Tait said that he was interested in presentation in terms of adequacy and neighbourhood and stated that neighbourhoods were definable in lots of ways - topography, demography, geography and land usage and did not necessarily involve boundaries that were unsurpassable. His definition was based around a sense of nearness, vicinity and purpose. He defined it as the area bordering Eaglesham Road on B764 from approximately the entrance into Overseas Development Organisation, along to Redwood Drive going north and south and then the railway line coming across the top. The large swampy area separating Peel Park provided a natural boundary. He noted that residential population in this area was small as there was little or no housing.

He said he had visited the site at least 8 times and at varying times of the day and agreed with the applicant on the bus services available in that there were approximately 2 buses an hour which was not a good service. However, from his observation, approximately 99% of people visiting St James Centre went there by car; he had seldom seen anyone walking there other than people going from the offices to buy lunch. People in Peel Park would not walk to St James Centre and could just as easily drive elsewhere.

His view was that the St James Centre had been designed for a wider catchment area and not as a neighbourhood centre as it did not offer all services. He questioned whether placing a pharmacy in what was in effect a drive through was an effective way of securing pharmacy services which were in any way different from those that were currently available where people normally used a car. He pointed out that the footfall in the centre was about 9000 which was small compared to the 80-100,000 in other centres. A new pharmacy would only offer convenience for those who visited the centre.

He contended that the area was already adequately served by pharmacies and asked the Committee to reject the application.

5.2.1 Questions from the Applicant to Mr Tait

Mr Tait confirmed that he had seen the reference in the planning statement and retail assessment to St James Centre as a neighbourhood centre but said that in reality St James Centre was a retail park which was accessed by car and was not a neighbourhood in terms of pharmacy provision.

He confirmed that the closest Boots to the proposed premises would be 37 The Plaza. He also confirmed that they delivered prescriptions and provided the full range of pharmacy services and also did telephone consultations.

5.2.2 Questions from Interested Parties to Mr Tait

The Interested Parties had no questions for Mr Tait.

5.2.3 Questions from Committee to Mr Tait

Referring to his defined neighbourhood, Mr Tait said that the Court of Session in Edinburgh had ruled that a neighbourhood need not have a residential population but did not say anything about the size.

He confirmed that Boots offered a delivery service and if customers had questions, the drivers had a phone number for them to contact. He also confirmed that complaints leaflets were displayed at every pharmacy and was part of the build specifications.

5.3 Mr A Shearer, L Rowland & Co (Retail) Ltd

Mr Shearer read the following prepared statement:

The first thing I would like to address is neighbourhood. I was under no illusion that this would be hotly debated at today's meeting, but our definition of the neighbourhood would be as follows:

To the north - the train line to Dunedin Drive, then running across open green land to the Junction of Mossneuk Road and Dunedin Drive. Then following the greenbelt in a south westerly direction across the open land between Newlandsmuir Road and Wellesley Crescent crossing Greenhills Road, and then the open land to the west of Greenhills Road to where it meets the train line, encompassing the new houses at Thornton Grange.

That is the same at the most recent National Appeal Panel hearing for this area, and again, very similar to the applicant's, with the exception to the land north of the railway line.

I do not believe we should be counting the business park to the north, in and around Peel Park. I struggle to see how a resident in a street such as Wellesley Crescent or Eden Drive would class themselves as a neighbourhood with a business park.

Whichever neighbourhood the panel decides on, there is a lack of a pharmacy in the neighbourhood defined by the applicant and myself. In terms of pharmaceutical services, a neighbourhood can be serviced by pharmacies in adjoining neighbourhoods, and there are numerous pharmacies in adjoining neighbourhoods, and more in the town centre itself. Greenhills pharmacy and Westwood pharmacy are just a stone's throw from the neighbourhood boundary.

Can the population access these pharmacies? The population in the neighbourhood has swollen thanks to the development at Thornton Grange. These are affluent residents with access to one or more cars, who will be used to travelling outwith the neighbourhood for services and work.

Is it really a challenge for these residents to access these existing pharmacy services? In the applicants own submission, East Kilbride is built based on "a wide and straight road network giving direct access to the centre". It is a new town - designed for those in the car.

My argument is not that the residents in this neighbourhood are affluent and should have to make a greater effort to reach a pharmacy, but, we must consider how it is most likely that they will access services, and I would argue that it would be by car. If not by car, they will be using a good public transport network, with a 10 minute service, to take them into the town centre. That is where, I would argue, many will access public services such as banks, libraries, newsagents and so on.

Resident's are used to travelling around East Kilbride for services. In terms of GP services, patients may be registered with any GP across the town. It would not be unusual for a patient in Thornton Grange to be registered at Alison Lea Medical Practice. As a result, these patients may actually use any

of the 11 pharmacies in the area, not necessarily the one in closest proximity to their house.

Are existing pharmacies providing an adequate service? Well, they all provide a comprehensive range of additional pharmaceutical services alongside the core services.

There are two extended hour pharmacies. The response level to the applicant's public survey certainly didn't suggest there was a widespread outcry regarding the current service levels. Existing pharmacies are providing all services required. They have the capacity to take on more if required, and can adapt to business needs by opening longer hours if it were required. This application brings nothing new to service provision.

A pharmacy in St James would be convenient, but let's not confuse that with desirable. I don't believe that St James Centre is a neighbourhood hub - it is on the very edge of a residential area, and I don't believe it has the day to day services you would expect in a neighbourhood setting - as far as I can see, there's not even somewhere to buy your morning paper with a bottle of water!

As a result, I don't believe that the application shows itself to be necessary, nor desirable, and as such would ask the panel to reject this application.

5.3.1 Questions from the Applicant to Mr Shearer

The Applicant had no questions for Mr Shearer

5.3.2 Questions from the Interested Parties to Mr Shearer

The Independent Parties had no questions for Mr Shearer

5.3.3 Questions from the Committee to Mr Shearer

The Committee had no questions for Mr Shearer.

5.4 Mr David Henry, Lloyds Pharmacy Ltd

Mr Henry stated that he agreed with Mr Shearer that the neighbourhood has been defined by the national appeal panel in 2010 so we can see no reason to depart from this, and made the following prepared statement:

Neighbourhood

Railway line to the north.

To west the extent of the new housing development at Thornton Grange ending in the open land.

To east the strip of land between Dunedin Drive and Windward Road separating the areas of Hairmyres and Westwood and on the south from the junction of Dunedin Drive and Mossneuk, across the open space between the self contained areas of Mossneuk and Newlandsmuir to meet Greenhills Road between Leven Way and Rydal Place, then north along Greenhills Road to Eaglesham Road taking in all the housing on either side of Greenhills Road.

1. We provide extended hours of opening 8.30am to 10.30pm 5 days a week and 8.30am - 8pm at the weekends, provide four consulting rooms to provide extra services in addition to a full range of pharmaceutical services including a hearing testing, podiatry and beauty & sports therapy, all core NHS services, advice to Care Homes, compliance aids for vulnerable patients and a

comprehensive collection and delivery service. There are also plenty of car parking facilities and disabled access.

2. Mossneuk, Gardenhall and Hairmyres are affluent, low density housing areas with multiple car ownership. Mossneuk and Gardenhall residents have double the national average of cars. Hairmyres residents have 1½ times the national average of cars. These areas have below the national average of prescriptions and considerably below the national average of pensioners.

3. The residents of the new housing do not create a huge burden on the NHS and they can certainly be easily absorbed into the workload of the existing pharmacies as could the occupants of any other new housing. The residents of the neighbourhood can choose from a plethora of easily accessible pharmacies within around 2 miles, providing all services and availability of late opening 7 days per week, this equates to easy access to pharmaceutical services, all of which have been proven to be adequate. The residents of the neighbourhood might well like a new pharmacy, but that would be for reasons of convenience rather than because the existing services open to them are in any way inadequate.

4. The residents of Westwood, Mossneuk, Gardenhall and Hairmyres live within 5 minutes driving time of 4 community pharmacies. Lloyds Pharmacy and Morrisons Pharmacy at Stewartfield provide extended hours of opening and Morrisons currently have an application for a pharmacy contract outstanding in Lindsayfield. If that contract is granted then the provision and availability of services in the area will be increased further. If the application in Lindsayfield is refused then it substantiates further the adequate provision.

5. The applicant's premises are inaccessible by foot from the residential areas which are all surrounded by walls and, in any event, the residents of the neighbourhood would tend to access their daily needs by car. A further minute's drive would take them to existing services.

6. The proposed site is within a small limited retail area on the very western edge of East Kilbride. There is very little to the west of the site. There are no dedicated crossing points to the retail area the nearest being at the station. There is limited parking at the proposed unit due to the other retail units. Lidl's own car park cannot be used.

7. Redwood Drive (a busy road) has no crossing points so residents of Callaghan Crescent and round that area cannot easily cross to access the proposed Pharmacy so basically anyone using this pharmacy will travel by car

8. There are no other major retailers so people will access other services - GPs, banks, supermarkets elsewhere

Accessibility is the main theme other than there is no need as no inadequacy has been shown and also the residents closest to his premises are affluent

In conclusion, there is no gap in adequacy in this neighbourhood and so this application should be refused.

5.4.1 Questions from the Applicant to Mr Henry

The Applicant had no questions for Mr Henry.

5.4.2 Questions from the Interested Parties to Mr Henry

Mr Henry confirmed that his opening hours were 0830-1000 hours on weekdays and 0830 - 2000 weekends and that his premises were on a bus route

5.4.3 Questions from the Committee to Mr Henry

Mr Henry indicated that as they were open late and people used them when they had finished work the proposed new pharmacy would have minimal impact on his business.

5.5 Dr Ash Ali, Ernarxo Ltd

Dr Ali read out the following prepared statement:

Westwood Square is a small independent community pharmacy which was run for over 20 years by Fraser family, and there has been a pharmacy at this site for over 30 years. Historically there used to be a doctor's surgery at Westwood Square, but unfortunately this was closed over 10 years ago. Since taking over the pharmacy just over a year ago, we first made sure of continuity of care by offering all the original staff new contracts, and we were pleased that they all accepted. Also we employed a new member of staff as delivery and collection driver. We started methadone supervision.

A Tesco Express has recently opened in Westwood centre, and there have been new signs erected showing what services are available in the centre. We have also distributed leaflets widely showing the services which we offer.

ASSESSMENT OF NEIGHBOURHOOD

I broadly agree with the neighbourhood as described by Mr Henry. We have outlined the Westwood neighbourhood as follows: along Westwood Road to the west, to The Murray Road, then south along Westwood Hill, continuing to the junction with Mossneuk Road, then Avenue to join with Greenhill Road, north to join Eaglesham Road, then eastward along Eaglesham Road as far as the junction with Westwood Road, then travelling along Westwood to the starting point. The boundary to the north is vague, but includes part of the area to Queensway. Other parts of boundary may overlap other pharmacies.

In summary, the areas covered are Westwood, Hairmyres, and Mossneuk. As we have no doctor's surgery, we rely on collecting prescriptions from the local surgeries. Our business would get into difficulties if a new contract at St James Avenue were granted. A significant proportion of our patients are the elderly or young mothers from a socially-deprived background. The loss of their pharmacy would be catastrophic on both a health and social reasons. At worst it would also affect the viability of the business and result in the redundancy of our managing pharmacist one full-time dispenser, and three part-time counter assistants.

Driving around the boundary by car takes no more than 15 minutes.

A drive from the proposed site to Westwood Pharmacy takes no more than 5 minutes during a reasonably busy period just after school.

We estimate that the travel time, by car, to Westwood Square Pharmacy from any area of the neighbourhood is no more than 5-10 minutes.

We did our own little unscientific survey from the car park at Lidl, watching the entrance to St James Centre for 2 hours mid afternoon on a sunny warm dry day and noted that the vast majority of customers to the retail centre were travelling by car, a small number by taxi, and only a handful of people were

noted to be on foot. There were 4 taxis constantly sitting at the taxi rank. I would expect on a cold, wet, dark winter afternoon, there would be less than even a handful of people on foot. Pedestrian and cycle routes are noted to be mainly used for leisure.

A walk from even the nearest houses to the retail centre is a difficult one due to the terrain, gradient, roads, traffic, and crossing points, and even once at the entrance of the retail centre, there is a further 200 yard walk to the site of the proposed pharmacy.

The location of all existing pharmacies are well within easy reach of anyone in the neighbourhood, maybe not on foot, but certainly by the commonest modes of transport within our area.

It is a fact that the resident population is already used to, and quite happy to use services within the neighbourhood, to access such as general practice services, post office services, bank services, dental services, hospital services, petrol stations, libraries etc. etc

ADEQUACY OF EXISTING SERVICES

East Kilbride is well-served by the current 11 community pharmacies. In any case, existing community pharmacies are well able to absorb any growth in population. The applicant could only survive by taking business from other pharmacies thereby jeopardising the services we currently provide and those we will provide in the future.

Most patients are aware of pharmacy collection and delivery services, which have been rapidly expanding in all areas. I would certainly not expect any patient to walk 50-60 minutes to access pharmacy services. However anyone needing to access the proposed location would still have quite a journey on foot.

Westwood Square, as well as all other local pharmacies, supply all core services, including methadone supervision.

NECESSITY AND DESIRABILITY

Common sense tells that people are happy to travel by car for convenience.

People leave their neighbourhood to visit a Pharmacy because they choose to do so and feel it is important enough to make the journey by car.

We currently provide an excellent service to the patients of Westwood, Mossneuk, Gardenhall and Hairmyres. These are affluent, low-density housing areas, with multiple car ownership. This population does all their shopping at supermarkets throughout East Kilbride. The residents of these areas are within five minutes' driving time to four community pharmacies, one of which provides extended hours. In addition, Morrison's at Stewartfield also provides extended hours of opening.

People have not complained about existing services because they are of the opinion that existing services are perfectly adequate, and they are aware and intelligent enough to know how to make best use of their existing Pharmacies.

On the basis of the foregoing, we consider this proposal to be both unnecessary and undesirable and we respectfully recommend that the application be rejected.

In summary, the application at St James Avenue is neither necessary nor desirable. Losing Westwood Square Pharmacy would have a devastating effect on the local population, and would deprive them of an essential pharmaceutical service.

5.5.1 Questions from the Applicant to Dr Ali

In reply to questions from Mr Daly, Dr Ali replied that those without a car would have to walk to visit his pharmacy but pointed out that he did offer a collection and delivery service for elderly, disabled and anyone who had difficulty. He also indicated that the normal means was to travel by car throughout the area to access services and that they were well used to doing so. Mr Daly pointed out that just because the residents were used to travelling did not mean that the service was inadequate. He also said that he was not aware of any complaints about the existing service and that those in response to the consultation were small in relation to the number of patients.

5.5.2 Questions from the Interested Parties to Dr Ali

Dr Ali said that he did not know what proportion of his income came from the applicant's proposed neighbourhood but believed that this was significant. He also confirmed that his pharmacy was on the bus route which also stopped at the St James Centre. He confirmed that this was an hourly service.

5.5.3 Questions from the Committee to Dr Ali

Dr Ali confirmed that the neighbourhood served by his pharmacy would encompass Westwood, Hairmyres and part of Mossneuk. He stated that he had based his case regarding the threat to his business on that made by the previous owners. He believed his business was under more threat than others because he was closer to the new premises but did not have figures. He acknowledged that if a disabled person needed to access his pharmacy, then they would be reliant on a member of staff opening the door.

In response to a question on how people would know how to complain about the service, Dr Ali stated that it would be probable that they would mention it to the pharmacist who would provide them with information and guide them through the complaints process.

Dr Ali confirmed that he offered a collection and delivery service for those who had difficulty. He also said that he believed that the resident population was insufficient to sustain another pharmacy and doubted the impact that those coming to work in the area would have on a pharmacy business.

Dr Ali said that he had 6 staff altogether but could not say if any would lose their job as a result of a loss of business. He said that the business would continue but a new pharmacy would have a major impact.

5.6 Ms D McTaggart, Apple Healthcare Group

Ms McTaggart read the following statement:

Apple Pharmacy is one of a small network of independent pharmacies that has been operational from 37 Murray Square for over six years. During that

time we have invested heavily in our services and are proud to offer two full time pharmacists, an accredited checking technician, and ten dispensing staff. We employ two delivery drivers and can offer access to not one but two private consultation rooms when required. We offer all the core services of the new contract as well as the skills of a fully qualified independent prescriber. We recently welcomed the enhancements to the Murray Square whereby steps onto the precinct were improved as was access for the disabled. The previous parking problems have been resolved with no employee from any outlet on the square permitted to park there for long durations and therefore an abundance of parking is available to the public including disabled bays.

Apple Pharmacy perceives a neighbourhood to be one that residents can sustain themselves with basic needs without leaving the defined boundaries. The neighbourhood offered by the applicant is not fit for all purposes; fundamentally it does not have a GP surgery, a bank or indeed a post office. When we contacted the Health Board we were informed that there were no plans or applications for a new GP surgery in the defined neighbourhood or indeed the whole of East Kilbride. We present our neighbourhood as: following the railway line to the North along to join Dunedin Drive then travelling southwards to meet Mossneuk Road, cutting through greenbelt in a South Westerly direction to join Jackton Road, thereafter taking a line northwards adjacent to Newhouse Farm passing across Eaglesham Road to reach the railway line.

The characteristics of this neighbourhood being largely affluent, with low unemployment and a low percentage of elderly residents are such that residents are used to travelling out with these boundaries to access other services and the high car ownership in the area is conducive to this. Apple pharmacy accept that the residents in this neighbourhood may find it convenient to have a pharmacy at the proposed premises but have yet to recognise any evidence of inadequacy in the current provision of pharmaceutical services to the neighbourhood. The applicant himself makes reference to the current economic climate in his application therefore we view any future housing developments to be an inappropriate consideration at this time. Housing being built and houses being sold are two quite different scenarios and in any case Apple Pharmacy are confident that the potential increase in population is one that could be easily absorbed by the current contractors in the area.

The public responses received in support of this application must be viewed with some scepticism. Whilst respecting the fact the Mr Daly wanted to protect the privacy of those in favour of the application it does not permit the interested parties to verify the authenticity of the support. Furthermore previous applications had in excess of 200 letters of support for the exact same premises yet this received 48. Is this indicative that support has fallen? One particular letter refers to the benefits of employees at Peel Park. I ask you to consider where those who have commuted to work would have received their original prescription? Our final point to make in regard to the public responses is that they all appear to refer to "close proximity", "handiness" and the proposed pharmacy being "easier to walk to" Not one response has provided evidence of inadequacy and is clearly based on the notion of convenience.

To conclude, this application has failed to prove any inadequacies in the pharmaceutical provision of services to residents within this neighbourhood and therefore the granting of this application is neither necessary nor desirable. We respectfully ask that the application be refused.

5.6.1 Questions from the Applicant to Ms McTaggart

In response to a question about convenience to customers, Ms McTaggart said it should be taken into account if another business was at risk. The chair pointed out that the Committee was bound by a definition of adequacy and not convenience although they would take all relevant factors into account.

5.6.2 Questions from the Interested Parties to Ms McTaggart

There were no questions from the Interested Parties for Ms McTaggart.

5.6.3 Questions from the Committee to Ms McTaggart

When asked to confirm where her complaints information was displayed, Ms Taggart stated that she had a poster on the front door and one on a pillar next to the waiting area and information was also available in the area designated for public information. She confirmed that anyone could pick up a form without asking. She pointed out that she also did customer surveys to see where there were areas for improvement. She acknowledged that the door was cluttered with posters and she would look at this but it was all information about organisations who worked in the community.

In response to a question Ms McTaggart said that she was aware that a large proportion of the population was ageing and would become pensioners soon but did not think that this would affect the ability to provide pharmacy services to the area.

Regarding the impact on her business of a new pharmacy, Ms McTaggart replied that about 10-15% of her business came from the proposed new neighbourhood which her business could sustain but she was present to protect the viability of all the pharmacies.

5.7 The Interested Parties' Case – Mr Eric Brown, Harvest Healthcare

Mr Brown read the following statement:

We are here today to consider the application for inclusion in the Pharmaceutical List by Rushport Advisory LLP in St James Retail Park, East Kilbride.

I would like to object to the application being granted as it is neither necessary nor desirable. There have been a number of applications in recent years, in this area which have been rejected and always for the reason that the population within this area already has access to adequate levels of pharmaceutical services. There are a number of pharmacies already providing adequate services to this locality, as highlighted in the application, as well as our own pharmacy in Eaglesham, which has been omitted from the application. We, like every other pharmacy in the surrounding area, offer all the services expected of a modern community pharmacy.

In order to test the merits we must first discuss the neighbourhood. I believe that the neighbourhood designated at the last hearing and subsequent National Appeal Panel hearing should be regarded as the neighbourhood with regard to Pharmaceutical services. The neighbourhood should be defined as to the north the railway, on the west the extent of the new housing development at Thornton Grange and ending in open land, on the east the strip of land between Dunedin Drive and Windward Road separating the areas of Hairmyres and Westwood and on the south from the junction of Dunedin

Drive and Mossneuk Road, across the open space below Wellesley Crescent and through the open space between the self-contained areas of Mossneuk and Newlandsmuir to meet Greenhills Road between Leven Way and Rydal Place, then north along Greenhills Road to Eaglesham Road taking in all the housing on either side of Greenhills Road. All areas to the north of the railway would be seen as separated by the physical barrier of the railway line and as industrial development. The inclusion of a superstore does not mean that the neighbourhood is automatically extended into that area. The new developments proposed for the Jackton area currently 46 units are difficult because of the barriers of the main roads.

As well as the geographical neighbourhood, we should consider what a neighbourhood actually is. The location of the proposed pharmacy itself is hardly at the hub of the community. The St James Centre is not a neighbourhood shopping centre. There are no what could be considered as "local shops" e.g. newsagent or butcher but there are an abundance of "take away" units. There is no church or school, library or anything else that would constitute a community neighbourhood.

We are of the view that the majority of residents would choose to access pharmaceutical services using private transport, often at the same time as accessing other necessary services such as banking, a post office, a major supermarket or their GP, none of which are located here.

I would accept that there are no pharmacies within the neighbourhood but a number of pharmacies are situated in relatively close proximity to the neighbourhood, all at distances of less than 2½ miles from the premises. A large proportion of the population of the neighbourhood live a lot closer than that to existing pharmacies as the proposed location is at the opposite side of the neighbourhood. In addition, patients choosing to do so, can access services at one of three pharmacies situated within East Kilbride Shopping Centre or the extended hours pharmacy at Alberta Avenue. Together these pharmacies provide a comprehensive range of services, over extended hours, fulfilling the core requirements and meeting the needs of the elderly, the less mobile, mothers with young children, those requiring addiction services, those employed in the area and those travelling through it.

I would also contend that patients living on either side of Mossneuk Road would find it easier to access services at the Westwood Pharmacy as there is no access through Hairmyres, but an open recreation ground for people walking and simple vehicular access if that is your chosen mode of transport. For anyone walking to the St James Centre they would have to cross the very busy Eaglesham Road or from the west Peel Road and Redwood Drive. Not easy with a pram as there is no crossing, as Allan [Carswell] will testify. With regards to the new Jackton developments, as stated currently 46 units, the people occupying those houses will have their own transport, and will use cars to access services. It would be reasonable to assume that they will have no difficulty in accessing services via our pharmacy in Eaglesham or any of the others in East Kilbride. Those residents will not choose to access the St James Centre by foot because of the difficulties in crossing the roads.

For those choosing or requiring to use public transport, regular buses are available from the neighbourhood allowing reasonable access to pharmaceutical services.

Collection and delivery services are available from our own pharmacy and others, in fact we already provide services to around 500 patients in the Jackton area and a number of those patients are registered with GP surgeries

in the Greater Glasgow area in Clarkston. For our patients in those circumstances; we order, collect scripts and have them ready for delivery or deliver to patients' homes if required. Our pharmacist lives in the village of Jackton and regularly personally delivers to patients homes there. The new Chronic Medication Scheme has just started to roll out properly and we have begun to dispense prescriptions to selected patients via the new long term instalment prescriptions.

The population of the neighbourhood, estimated to be in the region of 7,000, is accepted as largely affluent, with low unemployment, a low percentage of elderly residents and high car ownership. The housing at the moment is of larger style homes and the future developments will be the same. There has been no mention of addiction services within the application which highlights that the applicants understand the population to be affluent.

The primary school for pupils within the neighbourhood is Mossneuk Primary which is at the opposite side of the neighbourhood. A number of pupils from the Jackton area go to Eaglesham Primary and some of them and their families use our pharmacy for services.

When the latest proposed building developments to the Jackton area are completed, then the distance from the edge of the proposed area to our pharmacy in Eaglesham is almost the same as that to the proposed pharmacy site. The difference being one tenth of a mile (approx 50m). There are pavements and no crossings on that whole route.

I would summarise that this speculative application is one of convenience, not necessity or desirability. I would go further to suggest that a pharmacy would do more to promote and benefit the St James Centre and its owners than the local community. It would also be to the detriment of the existing services, especially in Westwood, as noted at the previous National Appeal Panel hearing. As always with this type of application any new pharmacy has to affect other pharmacies as they try to build up their business.

This is not an area of deprivation and the health of the population is not compromised in any way by their lack of a pharmacy.

I would ask that the committee reject the proposal.

5.7.1 Questions from the Applicant to Mr Brown

Mr Daly had no questions for Mr Brown.

5.7.2 Questions from the Interested Parties to Mr Brown

The Interested Parties had no questions for Mr Brown.

5.7.3 Questions from the Committee to Mr Brown

When asked to clarify the population of his defined neighbourhood, Mr Brown replied that it was approximately 7000.

6 Summaries

6.1 After the Chair had confirmed that nobody present and participating in the hearing had any further comments or questions, he asked the various parties to sum up their arguments, proceeding in reverse order of their earlier presentations.

6.2 Mr Brown stated that he had nothing to add to his previous statement.

- 6.3** Ms McTaggart stated that she was not convinced that there was inadequacy in the current neighbourhood so the application was neither necessary nor desirable and should not be granted.
- 6.4** Dr Ali indicated that he had nothing to add to his previous statement.
- 6.5** Mr Henry said that he had nothing further to add and the application should not be granted.
- 6.6** Mr Shearer said that as there were already 11 pharmacies providing contract and additional services which were all easily accessed, there was no need to grant this application.
- 6.7** Mr Tait indicated that he believed the neighbourhood was the retail park and as such was not big enough to be classed as a neighbourhood. Also a neighbourhood became a neighbourhood because of the way it was used and how it related to the districts around it. He stated that the Centre was not related so did not satisfy the criteria of a neighbourhood. Everyone who arrived at the retail park came and went by car so they had absolute ease of access to other services in other places.
- 6.8** Ms Fenton said that she was content with all that had been said already and had nothing to add to her statement.
- 6.9** Mr Daly said that none of the other pharmacies had indicated that the new pharmacy would pose a risk that they would close only that there would be an impact on their business. What the Committee had heard today was that the services are adequate in other areas but that did not mean that they were adequate in his neighbourhood. He acknowledged that not every area required a pharmacy but stated that there was a large unmet demand in his neighbourhood.

He stated that to get to the closest pharmacy without a car, you would have to use the hourly bus service as walking was not a viable prospect. He stated that the town centre pharmacies were too far away and could be accessed if you had a car and did not mind going into the town centre.

He pointed out that there was an NHS prescription source, a dentist, in his area with no ready access to a pharmacy.

In conclusion, Mr Daly asked the Committee to approve the application which would secure adequate services for the neighbourhood.

- 6.10** The Chair thanked all parties for their contributions.

7 Retiral of Parties

- 7.1** The Chair then invited each of the parties present participating in the hearing to individually and separately confirm that they had received a fair hearing and that there was nothing further that they wished to add. Having been advised that all parties 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 who wished 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.

- 7.2** The Chair reminded the Applicant and Interested Parties that they may wish to remain in the building until the Committee had completed its private deliberations should the Committee require factual or legal advice, at such time they would all return to an open session.
- 7.3** At the Chair's request Mr C Daly, Ms D McTaggart, Mr S Majhu, Mr A Shearer, Ms K Church; Mr D Henry, Ms F Fenton, Mr L Campbell, Mr C Tait, Ms M Marshall, Mr E Brown, Mr A Carswell; Dr A Ali, Dr R Ahmed, Mrs M Morris, Mr G Lindsay and Mrs G Forsyth withdrew from the meeting.

The hearing adjourned at 1415 hours.

The hearing reconvened at 1430 hours.

8 Supplementary Information

Following consideration of the oral evidence, the Committee noted:

- i. That they had each independently undertaken a site visit of the town of East Kilbride noting the location of the proposed premises, the pharmacies, general medical practices hosted and some the facilities and amenities within.
- ii. A map showing the location of the proposed Pharmacy in relation to existing Pharmacies and GP surgeries within East Kilbride.
- iii. A map of East Kilbride and surrounding areas.
- iv. Prescribing statistics of the Doctors within the town of East Kilbride
- v. Dispensing statistics of the Pharmacies within the town of East Kilbride.
- vi. Demographic information on the town of East Kilbride taken from the 2001 Census.
- vii. Comments received from the Area Pharmaceutical Committee and Interested Parties in accordance with the rules of procedure contained within Schedule 3 to the Regulations.
- viii. Report on Pharmaceutical Services provided by existing pharmaceutical contractors within the town of East Kilbride
- ix. Letter dated 5 October 2012, from Mrs J Arthur PFPI Project Assistant, NHS Lanarkshire, intimating the views of the East Kilbride and District Public Partnership Forum.
- x. Letter received on 30 October 2012 from South Lanarkshire Council
- xi. The application and supporting documentation provided by the applicant on 4 September 2012.
- xii. Pharmacy Services Adequacy Survey – Greenhills and Lindsayfield provided by Mrs Felicity Fenton of J.P Fenton & Son Ltd, Interested Party.

9 Decision

9.1 The Committee in considering the evidence submitted during the period of consultation, presented during the hearing and recalling observations from their site visits, first had to decide the question of the neighbourhood in which the premises, to which the application related, were located.

9.2 Neighbourhood

The Committee spent a considerable amount of time examining the various suggestions by the applicant and the interested parties as to what constituted a neighbourhood for the purposes of this application. Clearly, there was little unanimity amongst those present at the hearing as to the boundaries of the neighbourhood so the Committee systematically considered, discussed and weighted those factors that had been raised at the hearing and reached a number of conclusions based on the Committee's local knowledge and experience.

The factors that were considered in detail included, but not limited to, the following: the layout of natural boundaries such as railways, roads and open land, the driving and walking distances in the area to St James Centre and other local facilities, the amount of car ownership in a relatively affluent neighbourhood and the mobility of the local population, the access to shops and churches and NHS and other public facilities (including the nearby hospital of Hairmyres and the proposed Hospice), and the provision of public transport by buses (which ranged from every 10 minutes to every hour) and trains from the nearby Hairmyres Station.

The Committee then agreed that the neighbourhood should be defined as having the railway until it met the A726 to the west and east along the B764 (Eaglesham Road) to its junction with Westwood Road as the northern boundary since this was a defined boundary with no residential property north of it. The eastern boundary would run south down Westwood Road to the stream on the recreation ground. The southern boundary would follow this stream westwards through the green belt until it met Greenhills Road between Rydal Place and Leven Way. The western boundary would be where the Thornton Park Estate ended and then run south through the green belt behind the Mossneuk Estate to meet Greenhills Road.

The Committee went on to consider in depth the current usage of the St James Centre as well as the proposed development of the rest of nearby Peel Park, the combination of which had been described at the hearing as the largest expansion in East Kilbride. In particular, it had been accepted by all the parties that there was already a population in the neighbourhood of about 9,000 and that there were a number of housing developments in and around St James Centre that were currently coming to fruition. The residential population was likely to increase even further during the next three to five years.

Finally, the Committee noted that in addition to the resident population of 9,000, there was also a transient population of an estimated 10,000 people that travelled to the nearby industrial estate every day and who were reliant on the facilities of the St James Centre. Lidl's claimed to have some 8,000 customers a week and planning permission had also been granted for extensions to the

shopping area, such as for a Tesco supermarket, a hotel and a Dobbies Garden Centre. It had been suggested that there was a growing social allegiance to the Centre, which was fast becoming a natural hub for the neighbourhood.

The Committee duly weighed up all these factors as it moved to decide how best to secure the provision of pharmaceutical services in the neighbourhood for the near future.

Adequacy of existing provision of pharmaceutical services and necessity or desirability

9.3 Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of existing pharmaceutical services in the neighbourhood, and whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.

9.4 In the neighbourhood as defined by the Committee, it was noted that there were no contract pharmacies within that neighbourhood. However it was recognised that Fenton's, Apple, Lloyds and Westwood were all within relative proximity and oral evidence provided claimed that they currently served the area. In addition there were a number of pharmacies in the town centre which were also accessible to the neighbourhood by road

Whilst the Committee accepted that services were available to the neighbourhood from outwith, and that there were other pharmacies within relative proximity, they were mindful to recognise that they had to consider accessibility for all members of society including those vulnerable members such as the elderly, infirm or people with young children in prams. The Committee was not satisfied that persons without access to private transport could easily traverse the pedestrian routes that would lead them to existing pharmacies, nor could they rely on infrequent public transport which made the journey unreasonable.

The Committee agreed that existing services could not be considered adequate given the growth, and further projected growth, in the population of the neighbourhood, and specifically the western boundary further away from the existing Pharmacies. Furthermore the transient population increase which occurred during the working week and during the weekend from people accessing services within St James Centre, presents challenges upon the demand for the services of the existing Pharmacies and their capacity to cope.

9.5 The Committee also had regard for the viability of these pharmacies should the application be granted. It was noted from the oral evidence that whilst all would remain viable it had been emphasised by a number of parties that granting the application could have a slight detrimental effect on their business. None of the interested parties to the application argued or presented evidence during the hearing to the effect that granting the application would pose a serious threat or risk to the continuation of the existing provision of pharmaceutical services to the neighbourhood in question.

- 9.6** The Committee noted that the resident population was likely to increase when the approved new housing developments were completed. It was also noted that there was no doubt that the area would grow even further, the only question being when. Within the defined area there was a resident population of about 9000 coupled with a large transient population and this was recognised as being a large population not to have a pharmacy. The Committee recognised that all the existing pharmacies provided services to this neighbourhood to a greater or lesser degree. It was also recognised that the services provided included not only dispensing of prescriptions but the full range of pharmaceutical services and that people had to travel outwith the neighbourhood to access these.
- 9.7** The Committee recognised that this was an area of relatively high car ownership however the Committee also considered the needs of those reliant on public transport and found that although there was a bus service available for some, the residents on the western edge of the neighbourhood were a considerable distance away. The Committee considered that none of the existing pharmacies, nor a combination of all the existing pharmacies, provided an adequate service to the neighbourhood or to large parts of the neighbourhood, especially the residential and industrial areas to the west of the neighbourhood, and that that situation would be exacerbated by the current and proposed residential and industrial developments in the neighbourhood. In reaching that conclusion, the Committee took into account both the needs of the people who lived in the neighbourhood and the people who came into the neighbourhood on a daily basis to work and to shop, the distance of the existing pharmacies from large parts of the neighbourhood, the difficulties of accessing the existing pharmacies (especially on foot or for the disabled) and the normal patterns of travel across and through the neighbourhood.
- 9.8** Finally, the Committee went on to consider whether granting the application would be either necessary or desirable to secure the provision of pharmaceutical services to the neighbourhood and felt that it would be desirable for the reasons discussed during the hearing and set out in detail in this minute.
- 9.9** Following the withdrawal of Ms Park and Mr Lang 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 Committee, for the reasons set out above, considered that the existing pharmaceutical service in the neighbourhood was not adequate. Accordingly, the decision of the Committee was that the provision of pharmaceutical services at the premises was 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 granted. This decision is made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.
- 9.10 Ms Park and Mr Lang were then requested to return to the meeting, and advised of the decision of the Committee.**

The meeting closed at 16:30 hours