

MINUTE: PPC/2013/06

Minutes of the meeting of the Pharmacy Practices Committee (PPC) held on Wednesday 6 November 2013 at 10:00 hours in Meeting Room 4, 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

Mrs Margaret Caraher

Mr Charles Sargent

Mr John Woods

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

Mr David Sinclair

Mrs Catherine Stitt

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

Mr Kenneth Mackenzie

Secretariat Ms Anne Ferguson, NHS National Services Scotland, SHSC

1. APPLICATION BY MR K AKRAM & MR M KHAN t/a MINT PHARMACY, 63 LAIGHSTONEHALL ROAD, HAMILTON, ML3 8PD

There was submitted an application and supporting documents from Mr K Akram and Mr M Khan, Mint Pharmacy received 19 July 2013, for inclusion in the Pharmaceutical List of Lanarkshire NHS Board in respect of a new pharmacy at 63 Laighstonehall Road, Hamilton, ML3 8PD.

Submission of Interested Parties

The following documents were received:

- i) Letter received on 20 August 2013 from Boots UK Ltd
- ii) Letter received on 21 August 2013 from Lloyds Pharmacy Ltd

- iii) Letter received on 30 August 2013 from Right Medicine Pharmacy Ltd
- iv) E-mail received on 30 August 2013 from Area Medical Committee

Correspondence from the wider consultation process undertaken by NHS Lanarkshire

- i) Letter received on 23 September 2013 from Ms Tracy Slater, Administration Officer, South Lanarkshire Council

2 Procedure

- 2.1** At 09.30 hours on Thursday, 25 September 2013, the Pharmacy Practices Committee (“the Committee”) convened to hear the application by Mr K Akram and Mr M Khan, 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”.
- 2.2** The Chairman welcomed all to the meeting and introductions were made. When asked by the Chairman, members confirmed that the hearing papers had been received and considered and that none had any personal interest in the application.
- 2.3** It was noted that Members of the Committee had previously undertaken site visits to the town of Hamilton 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 Chairman 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 Chairman 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 Chairman advised that Miss Ferguson was independent from the Health Board and would be solely responsible for taking the minute of the meeting.
- 2.5** The Chairman asked Members to confirm an understanding of these procedures. Having ascertained that all Members understood the procedures the Chairman confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers circulated. The Chairman then instructed Miss Ferguson to invite the Applicant, Interested Parties and Officers of the Board to enter the hearing.

The open session convened at 1010 hours

3 Attendance of Parties

The Chairman welcomed all and introductions were made. The Applicant, Mint Pharmacy was represented by Mr K Akram. From the Interested Parties eligible to attend the hearing the following accepted the invitation: Mr Noel Wicks accompanied by Mr Richard Stephenson – WEB Pharmacy Ltd (Right Medicine Pharmacy Ltd); Mr Tom Arnott - Lloyds Pharmacy Ltd; Mr Charles Tait accompanied by Mrs Maxine Smedley - Boots UK Ltd

- 3.1** Mr George Lindsay, Chief Pharmacist – Primary Care and Mrs Gillian Forsyth, Administration Manager – Primary Care also entered the meeting at this time.
- 3.2** The Chairman advised all present that the meeting was convened to determine the application submitted by Mint Pharmacy in respect of premises at 63 Lighthall Road, Hamilton, ML3 8PD. The Chairman confirmed 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.”

- 3.3** The Chairman advised all parties that the hearing would be conducted according to the procedure detailed within the Guidance Notes contained within the papers circulated. The Chairman 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 Chairman 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 Chairman then advised that Miss Ferguson, NHS National Services Scotland SHSC would be present throughout the duration of the hearing for the purposes of providing secretariat support to the Committee. The Chairman confirmed that Miss Ferguson was independent of Lanarkshire NHS Board.
- 3.4** The Chairman asked all parties for confirmation that these procedures had been understood. Having ascertained that all parties understood the procedures the Chairman confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers circulated.
- 3.5** The Chairman explained 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.

- 3.6 The Chairman asked for confirmation that all parties fully understood the procedures to be operated during the hearing as explained, had no questions or queries about those procedures and were content to proceed. All confirmed agreement. The Chairman concluded the procedural part of the hearing by reminding each party that there could only be one spokesperson. All confirmed understanding of this requirement.

4 Submissions

- 4.1 The Chairman invited Mr Khan to speak first in support of the application and the following pre-prepared statement was read aloud:

“Introduction

I would like to thank the panel for inviting us to represent our application at 63 Laighstonehall Road, Hamilton. I hope to keep my representation brief and concise and apologise if it becomes a bit lengthy at times, I'd like to open my representation to the panel during its presentation to further scrutiny and clarification if necessary.

Neighbourhood

I begin with the obvious, neighbourhood. In our original application our suggested neighbourhood consists of:

To the north, Earnock Burn from west to east, crossing between Wellhall Road and Chantinghall Road.

To the east, Chantinghall Road from Wellhall road to the green woodland area at Millgate Road.

To the south, the green woodland strip from the crossover at Chantinghall Road and Millgate Road towards the west till Muttonhole Road.

To the west, is Muttonhole Road between the two strips of green woodland.

Initially I believed this would represent our application as a neighbourhood best, but, having spent many months further studying the area and having spoken to numerous members of this area it is very apparent that the boundary currently toward the south is vague in reality. Due to the main amenities for either side of this line being based centrally, residents travel regularly back and forth on a daily basis, and do not see this as a definitive boundary between two neighbourhoods. Residents from the Woodhead and Fairhill region regularly use amenities freely within the initial neighbourhood, such as the large convenience store, Indian takeaway on the corner, the coffee/sandwich shop and the hairdressers. If you stand and observe, we find that this main disjointed parade is extremely busy. Residents currently from this locality of little Earnock, Laighstonehall, Woodhead, and Fairhill all regularly use St Peters Church. The church holds many events through the year and has strong attendance from these areas in speaking to a church representative. Furthermore the diversity of the school catchment areas in this area causes a regular visit back and forth from either region on a daily basis, this is further shown by the walk through

used during the day via Neilsland Park and Westwood Crescent to Millgate Road. Residents from the four before mentioned regions, little Earnock, Laighstonehall, Woodhead and Fairhill use the same local amenities, firstly as before mentioned the parade where our proposed site is consisting of a very large and busy store, Indian & Chinese takeaway, sandwich/coffee shop and hairdressers. Further down, approximately a two minute walk, there is a public house, another large store, betting shop and the local post office. The public house is freely used by the residents of the four mentioned areas, again emphasising the argument that the neighbourhood actually spreads further south. The South Lanarkshire lifestyle centre has been newly built and brought many excellent features to this area such as: community centre, library, day care centre, fitness centre, Hamilton Credit Union and hosts many local events for all ages. They are currently running an Arts campaign to encourage young children. I believe in reality the neighbourhood boundary to the south would be at some point with Fairhill and Woodhead, but the entire locality being such a vast area it becomes difficult to determine at what point a neighbourhood boundary could be achieved. In total there are three primary schools with the initial proposed neighbourhood and a fourth in Woodhead which we believe would be catered to by this application.

In respect, I believe the figures in the original application could be further added to, I have carried out a comprehensive breakdown of the entire 4 regions, and they house approximately 11,000 residents. I leave the determination of the neighbourhood open, but believe that the four mentioned regions are strongly bound by the centralised amenities and with the direction of daily travel being into the locality of our proposed site.

Be it the initial or expanded area of my proposed neighbourhood the demographic data looks similar, the area has a higher percentage population:

Children 1% more, pensionable age 1.15% more, in every category of Jobseekers Allowance 2.2, 0.7, 0.7% more, income deprived 3% more, working age that are employment deprived 3.6% more, benefit claimants in every category 2.5, 4.4, 1.9% more, emergency hospital admissions 2071 per 100,000, and smoking prevalence in 16+ 0.8% more. Now these figures mentioned are based on the data comparison with Hamilton 2011 figures, not South Lanarkshire. The comparison in that respect or even against the national figures in each of the categories is substantially higher. I can leave a copy of the comparison charts for your discretion.

Looking further into the SIMD data in relation to health and SIMD rank, the central areas based around Fairhill, lower Woodhead region and Laighstonehall all fall into the, 0-20% quintile of health deprivation, and 0-20% quintile of SIMD rank. The surrounding areas vary in deprivation with health and SIMD rank both again in the 20-40% quintiles. Looking at the greater picture, this area in comparison to the rest of Hamilton, more specifically south Hamilton show income, SIMD rank and Health to be in the 0-20% quintile, lower than the surrounding areas. I can provide the mapped data for your information.

We spent a lot of time, as before mentioned, talking to residents all around the area and encouraged feedback. We arranged a meeting with the Parent Council head at St Peters Primary School. We had a lengthy discussion and encouraged the message of feedback to be relayed to parents and any concerns they had with our proposal. All the feedback came in way of email and the leaflet drops carried out. We invited councillors and representatives to the

premises and relayed the feedback we had gained in asking for their support, they had initial concerns as did some residents about the effect of methadone supervision on the premises and how that would be controlled to avoid ill incidents with the student child population. We explained our procedures at our current contract in Coatbridge and assured by instilling a zero tolerance policy the balance can be effectively achieved. In respect to satisfying the representatives, they also showed support to our application.

We carried out intensive feedback from the area to gain their thoughts and concerns, our initial public consultations didn't meet the requirements due to a typo and public holiday issue. We have still provided the feedback though but emphasise this should be looked on as general feedback over a set period of time as it did not meet the requirements to be used as public consultation feedback. During the entire year we periodically did leaflet drops in the area and encouraged feedback, we believe this gives a better representation of how residents feel, as with a petition they would feel obliged to remain positive to the application. This method allowed a better consensus to be achieved and residents were more likely to voice concerns.

Existing Services

Currently there are not Pharmaceutical service providers within the initial proposed neighbourhood and within the extending four regions of Lighthall, Little Earnock, Fairhill and Woodhead. Currently residents have to travel approximately 15-22 minutes by walking and approximately 17-22 minutes by bus to gain services. These are times taken by myself from the central locality of the neighbourhood. We can obviously extend these times for those who live on the edges or remoter streets of the area in question. There are numerous buses running regularly from the neighbourhood, but none actually overlap routes to give residents an option of bus service. The bus interval in this area is every 30mins. A typical round trip would be at least 1.5 hours, with a single fare between £1.55 and £1.85 or at least £3.00 return fare. Patients who get the bus have to pay each time to access services. The two nearest pharmacies are based on Hillhouse Road (Boots), and off Mill Road at Low Waters (Boots).

Hillhouse Boots is distinctively a separate neighbourhood as residents identify it as a speared area, and many in conversation commenting they do not travel in that direction. Hillhouse Boots, has a surrounding population of approximately 7900 (Earnock and Hillhouse) and is joined to a busy surgery. This is keeping predominantly the area covered in the Lloyds application for the Technology Park separate. Much of the east based residents will most likely also gain services from the pharmacies based around Burnbank area and Douglas Street. Residents from our locality would not travel by bus to the Boots at Hillhouse as it has no other amenities around it. This route took me approximately 15 minutes from our parade, there is an obvious geographical barrier between the areas and the route lacks pedestrian crossings at busy roundabouts and petrol station. I have pictures taken as a guide. For those who would argue on travel to Burnbank and Douglas Street, the same exists, as there are no substantial amenities at these locations that would encourage residents to travel to them over the town centre.

Mill Road Boots, is located at the edge of Low Waters and is also joined to a busy surgery. This alone, I believe is the pharmacy being used by residents in Eddlewood, Cadzow, lower region of Low Waters and the far north eastern

areas of Fairhill and Woodhead. This would encompass an approx. population of 8000. There again is no doubt that residents would travel to the amenities more likely in the town centre or on Portland Place. To travel to this pharmacy from our locality took approximately 22 minutes. Many residents take the shortcut via a foot path to Millgate Road and cross the unlit and unpaved Fairhill playing fields. Again I have pictures for you as a guide.

The pharmacies at Portland Place are at the locality of the area either side of Low Waters Road and Portland Place. There is a busy surgery within a stone's throw of both the Lloyds and Boots on this street. The said area I believe would have an approx. population of 7500.

Patients from our proposed locality would not travel to any of the other locations where pharmacies are situated as the amenities at these sites are not as vast as in their own neighbourhood's parade. Every resident we spoke to said their normal travel in such circumstances would be either into the town centre, or the lengthy walk to the two Boots nearest our area. Residents if catching the bus would travel to where they would gain the largest range of amenities. Most residents we spoke to advised they didn't have a need to leave their area as it had excellent amenities, such as the two large stores, post office, betting shop, takeaways, and public house. Many also emphasised that since the lifestyle centre has been erected, they gain many of their social needs from here and do not have to travel to the town centre. Most residents expect to travel into town at most once a week, and emphasised the parking and vastness of how the amenities in the town centre have spread.

Are they Adequate?

In relation to the findings, we believe the services being provided into the area are not adequate, as the numerous pharmacies catering into the neighbourhood have a systematic approach on which patients get delivery and which don't, this making it difficult for those that are unwell, with young children and less mobile to gain services. The representative from the parent council at St Peters Primary School also happens to be a local part-time carer, she voiced her concern at the lack of new MDS trays being taken on by the pharmacies in Hamilton and the extent of most having a minimum 2 month waiting list. Along with the representative, many residents highlighted the lack of delivery service being given to patients, as I believe there is not a set system for determining who is in need other than the staff asking a patient if they are registered as housebound. Many residents were concerned about hauling a sick kid into Hamilton town centre. Patients showed their frustration in feedback of waiting times at the surgery based pharmacies of up to 45 minutes. The patients have to pay for parking in the town centre if driving and again the parking close to pharmaceutical provisions is scarce, on many occasions I have travelled there is always a queue waiting to park. The nearest convenient free parking is situated further down in the lower section of the new developed town centre. Again patients would have to walk back to the older part of the town centre.

Would application secure adequacy

We believe this application would achieve much needed adequacy, especially as the area the premises is based in shows to have the highest possible quintile in health deprivation. As we would be providing all services possible alongside a free un-biased delivery service, everyone in the area would greatly benefit and have access to better information services regarding their health. Eventually we

would look to create an IP clinic in the area, to help improve health awareness and access to services.

We will be providing all services available such as:

Free collection and delivery service, EMAS, CMS, Compliance Aids, Unscheduled Care - Urgent Supply, health advice and consultations, sexual health advice, travel advice Methadone/Suboxone supervision and so on.

The premises we propose is sufficiently sized and would house a good sized consultation room, be DDA compliant and has enough room to provide all the services of the NHS contract and more. We already have the keys and have a full lease on the premises. As the letter from South Lanarkshire Council stipulated, no planning or building warrant would be required. There would be no issues in providing full services within six months. A rough plan of the property was circulated.

Necessary & desirable to grant to secure adequate provision in neighbourhood

I believe as a whole, everything has to be taken into consideration. This southern portion of Hamilton has a vast population of approx. 16,000. Currently there are more homes being built which would increase this. With the deprivation indicators and health indicators it is obvious that the locality I propose is in need of this application being granted, to secure adequate provisions. The dispensing turnaround itself of the two nearest pharmacies boosts the need as they are extremely busy pharmacies. Though patients from my proposed locality obviously gain services from somewhere, there is no doubt to a degree provision is there, but unfortunately it has to be sought out with the area, and separate to the amenities for these residents. The access by foot to services is not appropriate as in one direction you would have to brave roundabouts and a non-built-up route and the other being at a constant incline with the regular route unfortunately being unpaved and unlit. We can understand the difficulties of the less able with the current provision and appreciate this further when there is snow and ice.

Thank you for your time and attention, and I again apologise if I made my representation lengthy, this was actually a shortened version. Feel free to ask questions, as I have all my data laid out. “

The Chairman explained to Mr Akram that the circulated photos, pharmacy plan, SIMD map and street guide map could be submitted but extra data (e.g. additional population information) could not be submitted at this stage. This was because the interested parties needed time to investigate and question it. Mr Akram was content that the hearing continued based on the original submission.

4.2 Questions from Interested Parties to the Applicant

The Chairman invited the Interested Parties in turn to question the Applicant.

Mr Wicks opened the questioning and asked for the boundary of the proposed neighbourhood to be clarified. Mr Akram said it was too difficult to define a clear southern boundary but it would be some point within the Fairhill and Woodhead Green area. This southern boundary was further south than that proposed in the original application.

Mr Wicks questioned the datasets used to determine the population of the proposed neighbourhood. Mr Akram explained that there was intentionally no specific mention of data zones in the application as there were seven data zones covering the area and another three overlapping slightly into other areas. The figures for these overlapping data zones were not included in the population estimate. The population of the original neighbourhood was estimated from the following information 5927, 5911, 5888, 5875, 5867, 5891 and 5869. Mr Wicks agreed with this population estimate of circa 5000.

Mr Akram was asked to specify the facilities in the defined neighbourhood. These were given as a gym, library, community centre, two churches, two large stores, takeaway, hairdressers, betting shop, post office and four primary schools. Mr Wicks questioned the post office being within the neighbourhood. Mr Akram stated that it was on the boundary.

The Chairman asked whether Mr Wicks was proposing a different neighbourhood. Mr Wicks was not but wanted to be clear on the exact boundaries and facilities within the proposed neighbourhood given that it had changed from that described in the original application.

Questions were then invited from Mr Arnott. Mr Arnott stated some confusion about the exact neighbourhood proposed and asked whether Mr Akram agreed that a neighbourhood was determined by the statutory test. Mr Akram agreed with this statement. In response to being questioned as to whether the neighbourhood had been determined in this application Mr Akram stated that it had and related to the yellow and orange sections highlighted on the map previously circulated.

Mr Arnott questioned why the burn beside Woodhead Crescent had not been used as a natural boundary when the Earnock and Cadzow burns had. Mr Akram thought it necessary to include the lower part of Fairhill due to the general flow of people from the southern area.

Mr Arnott asked Mr Akram whether residents of Virginia Grove would be considered neighbours of those in Pembury Crescent. In Mr Akram's opinion this would be the case.

Mr Arnott asked whether Mr Akram recognised the following statement "the fact that we are further away is a plus point as patients prefer to have this treatment [methadone] away from areas where they may be known." Mr Akram acknowledged he had said this at a recent hearing in Coatbridge and went on to clarify that this applied to some people not all.

When questioned about the statement that the delivery service provided to the area was not adequate, Mr Akram declined to comment further as it was not part of the NHS contract to provide this service.

Mr Arnott wanted to know how many people were waiting to get a MDS tray. The concern that there was a long waiting list for MDS trays had been highlighted when Mr Akram spoke to local carers but as no numbers were quoted this question could not be answered.

Mr Arnott asked how many complaints there had been about Hamilton's pharmaceutical services. Mr Akram did not think this indicative of the local view

of pharmaceutical services as only those who knew how to complain would do so.

With regard to responses from the leaflet drop, Mr Arnott noted that these had mostly come from a very small area of the neighbourhood concentrated around the site of the proposed pharmacy. When asked why there were none from further afield such as Sherry Drive or Woodhead Crescent the applicant stated that it was because there had been only one leaflet drop in that area.

Mr Arnott challenged the approximate population of the proposed neighbourhood as being just under 2000. Mr Akram disagreed.

The final questions from interested parties were posed by Mr Tait. Mr Tait expressed confusion as to the exact details of the proposed neighbourhood which had changed several times during this Hearing. In order to remove any doubt, Mr Akram was content to go back to the proposed neighbourhood as defined in the original application. The Chairman advised Mr Akram that it was not necessary to change the neighbourhood as a result of pressure from questioning by the interested parties as the Panel would make a judgement if there was no consensus on the neighbourhood boundaries. Mr Akram confirmed the intention to stick to the proposed neighbourhood as determined in the original application (the yellow area on the circulated map).

Mr Tait asked how people from the top end of Little Earnock would get to the site of the proposed pharmacy. Mr Akram replied that people living there would carry down Sherry Drive to Woodfoot Road then onto Lighthstonehall Road. Those living in Woodhead Crescent would carry down to Burnhouse Road go along Neilsland Road then onto Lighthstonehall Road. Mr Tait asked if people would have to walk as there was no bus. Mr Akram acknowledged that there was not a direct bus from these areas but there was a bus stop directly in front of the proposed premises.

4.3 Questions from the Committee to the Applicant

Mr Sinclair asked for an explanation of the logic in using a burn for the boundaries to the north and south as opposed to Wellhall Road or Strathaven Road. Mr Akram had considered this option but Earnock Burn was a physical boundary with no walkway into Earnock Gardens. Wellhall Road was not used as there was a large factory located there. The applicants did not think there was any point in trying to encompass the factory in the neighbourhood and felt the tree barrier was sufficient as it was a bigger boundary.

Mr Akram was asked to expand on the “up to 45 minute wait for a prescription” cited in the representation and whether this had been measured as part of the application. Mr Akram explained that this figure was given in customer feedback and an attempt to measure it proved to be very difficult. What could be said was that the pharmacies nearest the doctors’ surgeries were extremely busy with acute prescriptions.

Mrs Stitt referred to the parade of shops along Neilsland Road and asked where people in the area accessed banking services. These were available in the post office or online but people had to travel to the town centre to deposit cash. The nearest bank was in Portland Place though there was an ATM in the local store.

Mr Akram clarified the opening hours of the proposed pharmacy as being 9am-6pm Mon-Sat. Lunch breaks could be accommodated as there were three pharmacists within the family.

Mrs Stitt asked why some of the consultation responses seemed to be duplicate letters with different dates. Mr Akram explained that the consultation request appeared in the local press twice – the first time there was a typing error and the second time the required timescales were not met because of public holidays over Easter. The apparent duplicates were therefore the same people responding twice. In the original application this feedback was asked to be considered as general advice rather than official consultation responses.

Mrs Stitt had noticed that the timetable at the bus stop outside the proposed premises showed the journey time into the town centre as 10 minutes and wondered how the time of 1.5 hours had been established. Mr Akram explained that this was the return journey time as a whole including walking time to the bus stop from the far end of Highstonehall Avenue not just the bus journey alone.

Mr Mackenzie asked if the leaflet distributed as part of the public consultation process was a two page document as there was no indication of the proposed pharmacy location in the documents provided to the Panel. Mr Akram confirmed that this was the case.

In response to questioning about the viability of the proposed business, Mr Akram stated that information obtained using Freedom of Information for 2010-2011 indicated viability to be strong. When asked about the impact on the new pharmacy on existing pharmacies, Mr Akram did not believe it would have an impact on the core services provided by the interested parties stating that there was sufficient business for all to survive.

Mr Akram confirmed that compliance trays ordered on a Monday would be out by the Wednesday – this was the current timescale for the Coatbridge pharmacy and it would be the same at the proposed pharmacy.

Mr Mackenzie wondered if Mr Akram would be concerned if word spread that the proposed pharmacy would deliver any item within Hamilton. Mr Akram would not be concerned as this system was currently operating in the Coatbridge pharmacy and was found to be a real benefit to patients. Drivers could be given more hours to meet demand.

In response to questioning about why the shop floor plan had only be designed yesterday, Mr Akram explained that the landlord had a problem locating the keys and access was only available a few days ago to measure up properly.

Mrs Caraher enquired as to whether the corrugated steel roof would be DDA compliant. Mr Akram said that it would be changed if required and was prepared to spend whatever was necessary to meet building requirements. Mr Akram recognised that a building warrant may be required and so had been in touch with Lanarkshire Council. The timescale given by the council for issuing a building warrant was 3-4 weeks provided the plans were precise and no further adjustments necessary.

It was not the applicant's intention at this stage to put in a back door. Mr Akram did not think this would cause an issue with delivery security. Parking

was available at the back of the premises and the van would be locked when bringing medication round to the front.

Mr Sargent asked how the population of Hamilton had been derived at 53000. This figure had been determined from the SMS website from which the following population figures had also been obtained –

Earnock / Hillhouse area – 7000

Cadzow – 8000

Portland Place - 7500

The total population of these three areas added up to 22500 and included the population in the proposed neighbourhood.

Mr Woods noted that the supporting correspondence from Christina McKelvie MSP mentioned that the application for the proposed pharmacy was from Mr Arif Ali. Mr Woods enquired in whose name the pharmacy application had been made. Mr Akram explained that Mr Ali was involved in the business and had agreed to liaise with councillors for support. The application was confirmed as being from Mr Akram and Mr Khan.

Mr Woods asked whether Mr Akram would consider a round trip of 1.5 hours as excessive. Mr Akram did not deem this a good level of accessibility given the level of deprivation in the neighbourhood and the resulting cost to access a pharmacy service. Mr Akram did not go as far as saying the situation was unacceptable but did not consider it adequate. A more frequent bus service e.g. every 15 minutes and a lower fare would be better.

Mr Woods went on to ask whether most residents expected to travel into town once a week. Information gained from speaking to residents suggested people did not travel regularly to the town centre. Town centre trips were only made for large shopping trips when taxis could be shared or when able to access a vehicle.

On the issue of adequacy, Mr Woods asked whether Mr Akram thought the delivery service should be taken into account. Although not part of the core service Mr Akram believed it was an essential service provided by the pharmacy. However people also needed face to face consultations for good advice. Looking at the level of deprivation in the neighbourhood people were not accessing pharmacy services, a pharmacy within this neighbourhood would improve access.

Mr Woods referred to the reported frustration at the long waiting times for a prescription at the pharmacies closest to doctors' surgeries and asked how this information had been obtained. Mr Akram spent four hours two weeks ago outside one such Boots pharmacy and spoke to twenty people about the service received. Half said the waiting time for a prescription was too long.

Mr Woods suggested that the responses received from the public notice and surveys were more about convenience than adequacy of pharmacy services. Mr Akram responded to this suggestion by saying there was a patient focussed approach to care at Mint Pharmacy and the impact of a pharmacy on health was not always realised by the community. The extent of health deprivation indicated an obvious lack in general health in that small locality.

Mr Fuller had noticed that all the other existing pharmacies were near surgeries and wondered whether locating a pharmacy in Laihstonehall Road would be detrimental for business. Mr Akram did not think this would be the case as long as there was a population in the neighbourhood the business would be viable. It was agreed that income from prescriptions was important for viability. Mr Akram stated that income would come from repeat prescriptions, patients who wanted to avoid waiting at the pharmacies closest to the surgeries and general business. The Chairman enquired whether there had been any assessment of the proportion of income from repeat prescriptions at this stage. The majority was expected to be similar to the Mint Pharmacy in Coatbridge and Mr Akram noted that it took time to build up a customer base.

In the applicant's representation, Mr Akram talked about the population expansion of Hamilton. The Chairman asked if any further expansion was imminent. Mr Akram explained that in the representation reference was made to the population of Hamilton expanding between the census in 2001 and that of 2011. Private developments were currently being built in Hamilton though not in the proposed neighbourhood. Within the neighbourhood empty properties were being refurbished and would eventually be reoccupied but would not have a substantial impact on the population of the neighbourhood.

The Chairman made reference to an earlier statement that Mr Akram would be amazed if the opening of the proposed pharmacy would have any impact on the existing pharmacies when presumably the repeat prescription business expected in the new pharmacy currently used the Boots, Lloyds or WEB pharmacies. Mr Akram explained that it was difficult to see how opening the new pharmacy would have a detrimental effect to the core services currently provided by existing pharmacies. Mr Fuller suggested that there was a difference between no detrimental effect and a substantial detrimental effect. Mr Akram did not think that in this case there would be such a substantial detrimental effect that would result in staff being made redundant or services being reduced.

In response to further questioning by the Chairman, Mr Akram confirmed that previous access to the premises had been gained though brief. The application made in July stated that the pharmacy expected to be open in November. As this application took longer than expected to be heard Mr Akram allowed the previous tenants to use the premises as a store. The building was now empty and so provided the application was approved, the pharmacy could open within six months. Mr Akram confirmed that there was capacity for a consulting room and the full lease for these premises was currently being paid.

In order to consider the issue of convenience versus adequacy in this case, Mr Fuller asked whether the application was based on improvements to pharmacy services or a remedy for a deficiency in existing services. Mr Akram explained that there was never any question about the professionalism of existing pharmacy services. The application was based on distance to access services and a provision that was not adequate in such an area of high deprivation.

When asked for by the Chairman no issues were raised that had been prompted by others questions.

Mrs Forsyth left the meeting. The hearing was adjourned for 10 minutes and recommenced at 12:22pm.

5 The Interested Parties' Cases

5.1 Mr N Wicks, WEB Pharmacy

Mr Wicks read out the following prepared statement:

“Good morning ladies and gentlemen and first of all may I say thank you for allowing me to present today. You’ll all be pleased to know that I’ve kept this presentation as short as possible.

First of all I would like to consider the neighbourhood in which the proposed application site lies. Whilst I appreciate this area provides challenges in defining boundaries I am afraid do not agree with the applicant’s proposed neighbourhood as it stands.

I believe that a more accurate definition of the neighbourhood would be as follows:

On the western boundary Earnock Road leading into Wellhall Road running west to east till it meets Union Street.

To the north Chantinghall Road and Mill Road running along until it meets the A723 (Strathaven Road, Low Waters Road)

To the east the A723 - Strathaven Road

To the south the boundary of the neighbourhoods are the fields that run along the southern edge from the A723 to Earnock Road.

The applicant’s neighbourhood could not in my opinion be considered a neighbourhood for all purposes.

Within the proposed neighbourhood lie several different areas such as Chantinghall, Laighstonehall and Little Earnock. The proposed neighbourhood doesn’t fit with any existing boundaries such as that of community council or school catchment areas. I would also suggest that people within the applicant’s proposed neighbourhood do not stay within it in order to conduct the things which make up the daily fabric of their lives. There are few facilities within the applicant’s neighbourhood and people within it are already making journeys to access things such as the post office, banks and of course their GP.

Whilst I appreciate the applicants have provided some statistical information covering their proposed neighbourhood the data sets included also span some significant areas of housing not defined in the applicants neighbourhood and therefore it is very difficult to determine a precise population but I do not believe it would be the 5000 quoted as this includes data from outside the proposed neighbourhood.

Next I would like to look briefly at the existing pharmacy services provided to the neighbourhood that I defined earlier. This neighbourhood has one pharmacy located within it (Boots at Mill Road) and a further one on it's

boundary at Wellhall Road. I know from my own pharmacy at Brandon Street that we currently deliver (free of charge) a number of prescriptions from various surgeries across Hamilton into this neighbourhood, I am led to believe that other local pharmacies also offer this service. We also look after a number of MDS tray patients from our bespoke MDS facility located in the upstairs of the pharmacy at Brandon Street. This facility has capacity for many further MDS trays, a fact which we regularly communicate to the local surgeries, CPN's, mental health nurses and carer organisations in the Hamilton area and surrounding.

In addition to the two pharmacies in or bounding the neighbourhood there are a further six pharmacies within a one mile radius of the proposed location, making eight in total within such a short distance.

These pharmacies are easily accessible by car and by public transport, indeed our own pharmacy sits adjacent to the central bus station. There are a multitude of bus services in the area many of which run into Hamilton town centre four or five times an hour. An example of this would be the x1 service which leaves from Laighstonehall Road five times an hour and takes fourteen minutes to get into central Hamilton.

The paths and streets in the area are well lit and make accessing the pharmacies within the neighbourhood a relatively short walk, which in many cases would be under fifteen minutes. In fact I would argue that those people living near the south eastern boundary of the applicant's neighbourhood would have a longer walk (and subsequent journey time) to reach the proposed site than they would accessing the existing pharmacy at Hillhouse Road.

In terms of the existing provision for this neighbourhood it has access to eight pharmacies within a one mile radius some of which are open for longer hours than the applicant proposes. These pharmacies currently offer all contractual services and many others beside. In this respect the applicant is not offering to provide anything that is not already available.

I appreciate that the public awareness campaign generated from the applicant's visits and direct leafleting has generated people to comment that a pharmacy would be more convenient however I am unaware of any official complaints being received to the Health Board regarding the current provision of services in the area. I know in our own pharmacy waiting times, even at busy periods, are not more than ten minutes and I am not aware that other local contractors are any different. Of course with current stock shortages pharmacists do find themselves spending longer on the phones trying to access supplies for patients.

I believe that the current provision of pharmaceutical services currently available to this neighbourhood to be both accessible and more than adequate. The services are located in many cases close to patients GP surgeries or near places where they would go to do the day to day activities such as in the town centre. These local services offer better parking, such as the dedicated disabled spaces in the Hillhouse Road site.

In summary then I would propose to the committee that the neighbourhood (under either definition) currently enjoys the benefit of more than adequate service provision and that the granting of a new contract at the proposed premises is neither necessary nor desirable in order to secure adequate

provision. I would therefore urge you to reject this application.

Thank you for your time ladies and gentlemen.”

5.1.1 Questions from the Applicant to Mr Wicks

Mr Akram referred to the neighbourhood proposed by Mr Wicks and asked for an indication of the population in that area. Mr Wicks said that it was difficult to determine as the datasets did not correspond to the proposed boundaries. However an estimate was made of just under 9000.

Mr Akram then asked if Mr Wicks would be surprised to learn that datasets recorded this population as 10687 excluding the low water surgery area. Mr Wicks was surprised by this information.

Mr Akram asked whether the defined neighbourhood in the application did not contain the same types of amenities highlighted in the area proposed by Mr Wicks. Mr Wicks' proposed neighbourhood had more amenities. There was no supermarket in the applicant's neighbourhood only small convenience stores. Mr Akram disagreed saying that there was a large co-op with 60 parking spaces. Mr Wicks considered this shop of intermediate size.

Mr Akram acknowledged that people could walk from Little Earnock to the Hillhouse pharmacy but the route was not ideal because of traffic lights and roundabouts. Mr Wicks said that neighbourhoods were never ideal as there were always obstacles when on foot. Mr Wicks was of the opinion that the area was a fairly safe place to walk as it was well paved and lit with not much traffic calming. Mr Akram asked whether Mr Wicks had looked into any side streets in the area as some streets that were not bus routes had traffic calming measures in place. The route walked by Mr Wicks had no traffic calming measures other than around schools.

Mr Wicks was asked to clarify the boundary within the Cadzow area and subsequently informed that Mill Road had been used as the south eastern neighbourhood boundary. As Low Waters Road had also been used as a boundary, the Boots pharmacy in Portland Place was within the neighbourhood proposed by Mr Wicks. Mr Akram stated that almost 16000 people had access to the Portland Place pharmacy and asked Mr Wicks whether this was not a substantial population for one pharmacy to provide a service. Mr Wicks could not state with confidence that people used the closest pharmacy.

5.1.2 Questions from Interested Parties to Mr Wicks

The Interested Parties had no questions.

5.1.3 Questions from the Committee to Mr Wicks

Mr Sinclair noted that the neighbourhood proposed by Mr Wicks was considerably larger than applicant's and asked if Mr Wicks agreed that 10600 was a fair estimate of the population. Mr Wicks "guestimated" the population to be under 10,000. Mr Wicks was then asked if it would be unusual for a second pharmaceutical contractor in the neighbourhood if there was already a current contractor on the boundary. Mr Wicks explained that there were

already two pharmacies in the larger neighbourhood (one in and one on the boundary) and the question was whether a third was required.

Mr Sinclair had been unable to accept the invitation from Mr Wicks to visit the hub that prepared MDS trays. Mr Sinclair asked for an indication of where the majority of MDS patients lived that used WEB Pharmacy. Mr Wicks advised that the vast majority came from a five to ten mile radius of the store. Mr Sinclair wanted to know why there was a perception within the healthcare profession that it was difficult to obtain the MDS tray service. Mr Wicks suggested that either the carers or other healthcare professionals hadn't heard about the service provided by WEB or the other contractors in the area. WEB Pharmacy certainly did not have any capacity issues.

Mrs Stitt enquired about the timescale for prescription delivery. Mr Wicks confirmed that a prescription received in the morning would typically be delivered the next day unless it was urgent and then it was usually delivered the same day.

Mr Wicks was asked whether pharmacy services stopped during the pharmacist's lunch break. Services continued as the pharmacist remained on the premises.

In response to a question about the number of tray patients WEB Pharmacy had in the original neighbourhood, Mr Wicks gave thirty as a ballpark figure.

Mr Mackenzie enquired as to the impact of a new pharmacy on WEB Pharmacy should this application be granted. Mr Wicks explained that being located in the town centre WEB Pharmacy had significant overheads so any shift in business would have an effect. Losing a portion of patients that visited the town centre even only once a week would potentially have a detrimental effect.

Mr Wicks was asked about tray capacity at the Brandon Street store. The pharmacy had dedicated staff to prepared these trays. Hundreds more could be produced from the hub which was currently doing two hundred a week. The number could be doubled comfortably.

Mrs Caraher asked how long WEB Pharmacy had been open in Brandon Street. Mr Wicks replied that the store was bought in 2009.

Mr Sargent referred to the statement that no-one should wait more than ten minutes for a prescription and asked whether that was an average or guaranteed time. Mr Wicks struggled to see a scenario that would result in a time longer than ten minutes.

Mr Woods expanded on this by asking how Mr Wicks knew it was not more than ten minutes. This timescale was judged from Mr Wicks' own personal experience working there as a pharmacist and the annotations on the prescriptions as to the waiting times given to patients. Pharmacists knew this measure was a key performance indicator (KPI) and as such was monitored and reported if not achieved.

Mr Woods asked how provision of an adequate service was measured in terms of the Regulations. Mr Wicks explained that this was very subjective though there were pharmacy inspections and complaints were monitored. Proactive

comment from customers was not sought because what customers wanted and an adequate service level under the Regulations were two different things. Mr Wicks did not know how to phrase a question to customers that would produce the answer Mr Woods was seeking.

Mr Wicks confirmed that no analysis had been done on prescription postcodes as systems were not available that would enable such analysis. However a rough guesstimate was that 5-10% of prescriptions were received from the neighbourhood proposed in the application.

The Chairman commented that Mr Wicks had defined a larger neighbourhood and asked how many prescriptions were received from that bigger area. Mr Wicks had not sought information on this so could only give an answer of more than 5-10%.

In response to Mr Fuller's question about transport access to the Brandon Road pharmacy, Mr Wicks explained that there was a bus service which, as the applicant said, patients used weekly. There were also a number of car parks but there was a parking charge at the multi-storey.

Should this application be granted then Mr Wicks considered the impact of losing 10% of prescriptions as well as trays substantial.

5.2 Mr Tom Arnott, Lloyds Pharmacy Ltd

Mr Arnott read aloud the following pre-prepared statement making adjustments as necessary to account for the neighbourhood changes:

"I would like to thank the Panel for allowing me to speak today.

The Applicant's main argument seems to be that the Pharmaceutical Services provided by current Contractors is inadequate only because there are no pharmacy premises in his definition of the neighbourhood.

There are, as the Panel is aware, numerous examples from Pharmacy Practice Committee Hearings and numerous National Appeal Panel Hearings that adequate Pharmaceutical Services can be provided to a neighbourhood from Pharmacies situated out-with that neighbourhood.

I am confused as to the Applicant's definition of neighbourhood. For his northern boundary he has chosen the Earnock Burn but has chosen to ignore another burn as his southern boundary. This burn runs from Cameron Crescent virtually all the way to Muttonhall Road. His site is hardly the centre of a neighbourhood with two convenience stores, two takeaways and a hairdressers. No post office. No bank.

However in this case I believe the applicant has defined his neighbourhood with the sole intention of excluding existing pharmacies and chooses to ignore the fact that there are four pharmacies within one mile of his proposed pharmacy (two of which are within 0.6 miles). Hamilton has a population of 48,546 currently served by twelve existing pharmacies. Therefore is better served than the Scottish Average Population to pharmacies.

The Applicant states his Application is supported by the local people and has submitted supporting documentation. The Applicant states there are 5000

people in his proposed neighbourhood, however there have only been seventy-seven responses at least thirteen of which show no address, one is basically a job application and three are from out with the neighbourhood.

When you actually break down the responses and look at where the respondents live they all live within a very small area with Sherry Drive to the West Stonewall Avenue to the north, Tirie Grange to the south and Highstonehall Road to the East, a population of approximately 2,000. Data zones SO 1005875, SO 1005888, SO 1005891.

The vast majority of the population of his proposed neighbourhood have not responded. A population estimate of 5,000 seems extremely excessive.

The Area Pharmaceutical Committee do not support the Application as they see existing Services as adequate.

There have been no complaints to the Health Board regarding the adequacy of existing Pharmaceutical Services. Eight pharmacies within 1.5 miles and two within 0.6 miles.

The applicant recently objected to a pharmacy application in Coatbridge and stated that a bus service every fifteen minutes was adequate and that eight or nine surrounding pharmacies adequately served the neighbourhood, absolutely no different from the adequate services currently provided to his proposed neighbourhood where there are eight Pharmacies within 1.5 miles and two of which are within 0.6 miles, a fifteen minute walk as stated by the applicant

In Summary

The applicant has shown no inadequacies in current pharmaceutical provision other than there is no pharmacy in his proposed neighbourhood. He has created a neighbourhood with the sole purpose of excluding existing Contractors. There have been no complaints about current service provision. I would therefore ask the Panel to refuse this application as it is neither necessary nor desirable in order to secure the adequate provision of Pharmaceutical Services in the neighbourhood *in* which the premises are located.”

5.2.1 Questions from the Applicant to Mr Arnott

Mr Akram asked whether Mr Arnott did not regard a post office as an amenity people could use. Mr Arnott replied that it depended on the definition of the neighbourhood being used. In any case Mr Arnott considered the post office to be located on the boundary.

When asked how often Mr Arnott went to the bank the answer was twice a week. Mr Akram asked whether this was normal especially with online banking. Mr Arnott had no idea as it depended on the individual.

Mr Arnott was asked where the figure of 48000 for the population of Hamilton was obtained. This data was obtained from NHS Lanarkshire. Mr Akram suggested that this information related to data from the 2001 census. The figure given in the 2011 census was 53000. Despite this increase Mr Arnott said that there were still twelve existing pharmacies in Hamilton.

Questioning continued on the frequency of the bus services in the neighbourhood. If the bus service was every thirty minutes and a patient just missed it then this would have an impact on the patient. Mr Arnott disagreed as journeys would be planned based on the bus timetable.

Mr Akram asked Mr Arnott to define the neighbourhood. Mr Arnott proposed the whole of Hamilton and stated that Mr Akram was trying to create a neighbourhood with no pharmacy in it. However Mr Akram retorted that every application could be viewed in that manner e.g. Edinburgh. Mr Arnott did not agree explaining that all pharmacies and GP surgeries were in the periphery.

If 53000 was accepted as the population of Hamilton then Mr Akram asked whether it was appropriate for thirteen pharmacies each to provide services to 4000 people. Mr Arnott advised that the Scottish population average was 4500 per pharmacy.

Mr Akarm asked if Mr Arnott had ever driven down Wellhall Road/ Chantingham Road and whether it was busy and difficult to cross. Mr Arnott had but it was not busy at the time the journey was made.

5.2.2 Questions from Interested Parties to Mr Arnott

Mr Wicks asked if there was any information on the average prescription waiting times in Hamilton. There were no waiting time issues when Mr Arnott was Area Manager.

Referring to a neighbourhood with sufficient amenities, Mr Arnott was asked for an opinion as to how often people would make a difficult journey into the town centre. In such a case Mr Arnott did not think people would make that journey. However this was dependent on people's mobility.

Mr Tait had no questions.

5.2.3 Questions from the Committee to Mr Arnott

Mr Sinclair questioned the reasoning behind the entire town of Hamilton being suggested as a neighbourhood. Mr Arnott proposed this area because everyone was accessing services all over Hamilton and went on to say how interesting it was that the area from which most responses were received was reasonably affluent in the deprivation figures.

Mrs Stitt noted that Mr Arnott had mentioned two pharmacies which were 0.6 miles from the proposed pharmacy. Mr Arnott said that was correct – Boots Pharmacy at Mill Road and Boots Pharmacy at Hillhouse Road. These distances had been measured by driving. Mrs Stitt highlighted that the information NHS Lanarkshire had provided was different as this stated Lloyds Pharmacy was closest at 0.9 miles. On request, and with permission, Mr Lindsay provided an explanation for this difference – the Health Board used AA route finder to estimate the distances and because postcodes referred to an area rather than a dot on the map it was accepted that there would be inaccuracies over short distances. This was the best way the Health Board had been able to estimate distances but further reflection on this may be required.

Mr Arnott advised that all Lloyds pharmacies provided lunchtime cover.

Mr Mackenzie asked what impact the opening of a new pharmacy would have on the five Lloyds pharmacies already in Hamilton. Mr Arnott couldn't say but any new pharmacy would have an impact.

Regarding the capacity for compliance trays, Mr Arnott confirmed that there no problems with capacity at Lloyds.

Mrs Caraher had no questions for Mr Arnott.

Mr Sargent asked how many post offices/banks were located in Hamilton Retail Park. Mr Arnott did not know.

If Mr Arnott was asked to define a neighbourhood for a new pharmacy application would it not be designed to exclude existing pharmacies. Mr Arnott explained that it was very difficult to define a neighbourhood for Hamilton as there were no clear boundaries. Other than the two burns, the roads were crossable being B class roads. For that reason it was difficult to define a neighbourhood that excluded pharmacies in Hamilton.

Mr Woods asked how Lloyds measured prescription waiting time. Lloyds used a bar code scanning system which recorded the time a prescription was received and issued. No waiting time issues had been raised about Lloyds Pharmacies with the typical prescription waiting time of eight to ten minutes. Mr Arnott was not aware of the claim made in the application of waiting up to forty-five minutes for a prescription at a surgery based pharmacy. It was stressed that in busy surgeries prescription volume was not the issue but staffing level.

Mr Woods pointed out that in Lloyds letter dated 21 August challenging this application the following statement had been made "there were already pharmacies in the vicinity of the proposed site close to existing medical practices". Mr Arnott was asked what should be read into this statement if anything. Mr Arnott had not written the letter and did not read anything into it other than there were already adequate services in the area.

Mr Woods went on to ask how Mr Arnott knew that the services were adequate. Complaints would have been made to the pharmacies if services were inadequate. No complaints had been made to Lloyds pharmacies in this regard. Lloyds also used mystery shoppers to assess pharmacy service. Lloyds pharmacy staff had developed good customer relationships with regular pharmacy customers and received regular feedback. Even if customers did not complain, Mr Arnott had found that pharmacy managers/staff were not slow to raise concerns.

The Chairman had no questions.

5.3 Mr C Tait, Boots UK Ltd

Mr Tait believed the neighbourhood very difficult to define. Whether the definition went big or small the neighbourhood could be defined in many different ways. These difficulties had been reflected in the applicant changing the neighbourhood's boundaries during the Hearing.

Mr Tait had also measured the distances from the proposed pharmacy to other Boots pharmacies and found it was 0.8 miles to Boots Burnbank, 0.8 miles to Boots Mill Road and 0.5 miles to Boots, Hillhouse Road. These distances were checked both by driving and walking. It took Mr Tait approximately fifteen minutes to walk to Boots Mill Road, ten to twelve minutes to Boots Hillhouse Road and the same to Boots Burnbank.

The majority of bus routes in Hamilton run north to south with few going east to west (around one per hour). There are not many buses that go to the proposed pharmacy site. The time to travel by bus from the proposed site at Laighstonehall Road to Hamilton bus centre was eight minutes. Buses ran this route every thirty minutes.

Mr Tait explained that only one complaint was reported to NHS Lanarkshire from this area in the last eighteen months and had been made because of a dispensing error.

Boots requested unsolicited feedback on its till receipts. Patients told Boots that over the last six months, two Boots pharmacies had 240 responses. 96% of respondents were satisfied with the time taken to hand in a prescription, 95% were satisfied with the time to get a prescription (in general under ten minutes), 97% thought Boots pharmacies were well organised and 95% were satisfied with their visit to Boots.

A carer, not healthcare professional, stated a problem with trays. Boots had a dedicated hub to deal with trays and so not all pharmacies did them. As far as Mr Tait was aware, there had been no issue with MDS trays in the Hamilton area in the last two years. Given that the Royal Pharmaceutical Society's opinion was that MDS trays could be inappropriate because of either the medication or suitability of the patient this was clearly an issue.

There was no proof or indication of any inadequacy in pharmacy services from the proactive patient feedback. Mr Tait did not believe there was any evidence of inadequacy no matter how the area was carved up and the neighbourhood defined. Regardless people had around a ten minute journey to a pharmacy in Hamilton though both the distances involved and bus journey times were relative.

Mr Tait added that Boots did not close for lunch.

For these reasons Mr Tait did not believe this application should be granted.

5.3.1 Questions from the Applicant to Mr Tait

Mr Akram asked Mr Tait whether school catchment areas were a good way to assess how people moved around the area. Mr Tait did not think school catchment areas useful as these were a political concoction which only indicated where children went to school.

Mr Akram asked to be reminded of the level of Boots customer feedback. Mr Tait reiterated that there had been 240 responses in a six month period. Mr Akram then asked if patients were given any incentive on the receipt to provide this feedback. Mr Tait explained that customers who responded were entered into a draw for a prize provided by a third party. No incentive was given by

Boots. To the question whether customers would wait for a receipt if annoyed by poor service, Mr Tait explained that details of the questionnaire were also provided on the prescription.

Mr Tait was asked to define the neighbourhood but declined as the area was too confusing and one of the most complicated Mr Tait had encountered.

5.3.2 Questions from the Interested Parties to Mr Tait

There were no questions from the Interested Parties.

5.3.3 Questions from the Committee to Mr Tait

Mr Sinclair asked whether the hub in Douglas Street solely provided trays to the local area or a larger catchment. Mr Tait confirmed that it was the local area. In that case Mr Sinclair asked if all MDS prescriptions from the proposed neighbourhood handled by Boots would be fulfilled at the Douglas Street hub. No there was a mixture as some were made up at other Boots pharmacies.

It was noted by Mr Sinclair that both Boots pharmacies closest to the proposed site dealt with substantial prescription numbers. Mr Tait agreed explaining that both had two pharmacists, six dispensers and a pre-registered student. Furthermore if not required at another pharmacy, the relief dispenser would also work there. Mr Sinclair asked whether there was room to expand capacity at these stores. Mr Tait informed the hearing that Boots was about to renovate the pharmacy at Mill Road. An improved IT solution was also imminent to improve efficiency.

Mr Tait was asked for the typical prescription waiting time at Boots and how it was measured. Boots did not have a scanning system but waiting time was measured by staff and was under ten minutes.

In response to questions about the delivery service, Mr Tait confirmed that Boots had a dedicated Scotland wide delivery service. The drivers' routes were dependent upon where prescriptions were to be delivered on the particular day. One driver may therefore cover various pharmacies depending on volume. Prescriptions were usually delivered the next day unless in an emergency.

Mr Mackenzie enquired as to the impact on Boots six pharmacies if another opened in the area. Mr Tait confirmed that it would have an impact on Boots. There was a constant drip effect on Boots business – no one thing had a substantial impact but the combination of factors had a significant effect.

According to the applicant twelve people showed frustration at waiting up to 45 minutes for a prescription. Mr Woods asked Mr Tait to comment on this statement. Mr Tait had no evidence of this which was in total contrast to customer feedback. Mr Akram asked whether the email evidence did not satisfy Mr Tait to which the reply that it did not strike a true chord was given. Mr Tait was also unable to comment on the allegation that Boots staff were extremely rude as specific details of this were not provided.

All complaints received by Boots whether formal, written or oral were reported to the NHS Board under the Patient Rights Act.

Mr Akram challenged Mr Tait about Boots delivering to anyone in Scotland as the applicant was told by Boots pharmacists that the delivery service was available to housebound customers. Mr Tait confirmed that people did not need to be housebound for a prescription to be delivered by Boots.

Mrs Caraher directed a question to Mr Lindsay to find out if there had been any complaints about Hamilton pharmacies relevant to this application. Mr Lindsay was unable to give specific details but confirmed that all pharmacies were obliged to report complaints to the Health Board. There had been a relatively small number Lanarkshire wide with none of any great concern.

Mr Akram pointed out that the reporting procedure in place did not guarantee that negative feedback was relayed. Mr Lindsay accepted this comment as there was no clear way to find out if pharmacies were deliberately falsifying information. However from a reputational viewpoint it would be foolish to provide a false return. Analysis of the information that had been reported did not show any outliers which led Mr Lindsay to suspect that the information that had been provided was genuine.

There were no other questions from the Committee.

6 Summaries

- 6.1** After the Chairman had confirmed that there were no further questions or comments from those present and participating in the hearing, the various parties were asked in reverse order to sum up the arguments
- 6.2** Mr Tait declined to provide a summary as the Boots representation had just concluded but asked that the application be rejected.
- 6.3** Mr Arnott said that the applicant had shown no inadequacies in current pharmaceutical provision other than there being no pharmacy in the neighbourhood proposed. This neighbourhood was created with the sole purpose of excluding existing Contractors. There had been no complaints about current service provision. Mr Arnott therefore asked the Panel to refuse this application as it was neither necessary nor desirable in order to secure the adequate provision of pharmaceutical services in the neighbourhood *in* which the premises were located.
- 6.4** Mr Wicks concluded that the neighbourhood had been shown to have been defined for the purposes of this application and that people did not stay within its boundary during daily living. There was no evidence that the existing provision was inadequate and pharmacies were easily accessible. Mr Wicks asked the Committee to reject this application because another pharmacy was not necessary or desirable.
- 6.5** Mr Akram read the following pre-prepared statement

“As mentioned in my representation earlier, I feel there is no doubt in the population numbers in my proposed neighbourhood, though what I ask may not have a definitive boundary, I strongly believe the evidence I have provided shows it to be consistent with what I have suggested. This overall area houses over 5000 residents and has the lowest SIMD comparable and lowest health figures; there is again no doubt that the locality requires additional services to improve patient wellbeing and provide provision adequacy. The

feedback I have provided I believe speaks for itself, and shows the feeling of the residents towards the services they have to seek. The population of Hamilton has increased since the 2001 census to approximately 53000, this continuing rise is being met by surgery located pharmacies and not with neighbourhoods which house what we would deem as local amenities. The pharmacies in question have been present for many years and structured around the traditional item count catchment, rather than the population count catchment. I believe this application should be granted to gain adequacy in the pharmaceutical provision to be provided. I do strongly believe that if neglected this will just allow this area to further suffer. I thank you all again for your time and attention.”

7 Retiral of Parties

- 7.1** The Chairman then invited each of the parties present that participated in the hearing to individually and separately confirm that a fair hearing had been received and that there was nothing further to be added. Having been advised that all parties were satisfied, the Chairman advised 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 issued to all parties as soon as possible. The letter would also contain details of how to make an appeal against the Committee’s decision and the time limits involved.
- 7.2** The Chairman reminded the Applicant and Interested Parties that it was in their interest to remain in the building until the Committee had completed its private deliberations. This was in case the open session was reconvened should the Committee require further factual or legal advice.
- 7.3** Mr Lindsay was unable to remain in the building but provided Miss Ferguson with a mobile number on which contact could be made in exceptional circumstances.

The hearing adjourned at 1415 hours and reconvened at 1430 hours.

8 Supplementary Information

Following consideration of the oral evidence, the Committee noted:

- i. That each member had independently undertaken a site visit of the town of Hamilton 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 Hamilton.
- iii. A map of Hamilton and surrounding areas.
- iv. Prescribing statistics of the Doctors within the town of Hamilton
- v. Dispensing statistics of the Pharmacies within the town of Hamilton.
- vi. Demographic information on the town of Hamilton taken from the 2001 Census.
- vii. Report on Pharmaceutical Services provided by existing pharmaceutical contractors within the town of Hamilton

- viii. The application and supporting documentation provided by the Applicant on 19 July 2013
- ix. The map, store plan and photos left by the applicant that were circulated during the meeting.

9. Decision

9.1 The Committee in considering the evidence submitted during the period of consultation, presented during the hearing and recalling observations from 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

9.2.1 The Committee noted the neighbourhood as defined by the Applicant and the views of the Interested Parties. A number of factors were taken into account in defining the neighbourhood, including those resident in it, natural and physical boundaries, general amenities such as schools/shopping areas, the distances residents had to travel to obtain pharmaceutical services and also the availability of public transport.

9.2.2 The Panel considered the burns to be good natural boundaries. However the entire length of Earnock Burn was not used as Woodfoot and Wellhall Roads were defined as part of the neighbourhood due to the flow of people and traffic. The burn at the Western boundary was used instead of Highstonehall Road/Sherry Drive in order to include Skye Wynd, Coll Lea and Tiree Grange in the neighbourhood. The Panel viewed Earnock to the north and Woodhill Green to the south as separate communities.

9.2.3 The neighbourhood proposed by the Committee contained three primary schools, a new community facility south Lanarkshire lifestyle centre and the Philips factory. There was also a post office on the boundary.

The Committee agreed that the neighbourhood should be defined as:

- To the North - Earnock Burn to Woodfoot Road then Wellhall Road to the junction of Chantinghall Road
- To the East - Chantinghall Road following an unnamed burn south from Chantinghall Bridge
- To the South - the unnamed burn through Neilsland Park to Muttonhole Road
- To the West - the tributary of Earnock burn across the Kennedies

9.3 Adequacy of existing provision of pharmaceutical services and necessity or desirability

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

- 9.3.2** The Committee had no reason to dispute the informed data work prepared by Mr Akram which indicated a population of 5000 in the smaller original neighbourhood proposed in the application. The population for the neighbourhood as defined by the Committee was therefore estimated at 6000. However the Committee noted the difficulty in measuring precise population figures and the fact that around one third of the neighbourhood proposed by the Committee was green space. The Committee took the view that the resident population was unlikely to increase in the foreseeable future.
- 9.3.3** It was noted that there were no contracted pharmacies within the neighbourhood as defined by the Committee. However it was recognised that there were twelve pharmacies (five Lloyds, six Boots and 1 WEB) which were within reasonable proximity, readily accessible by public or private transport and that currently provided services into the neighbourhood. Many of these existing pharmacies were within walking distance of GP services, major food and other retail outlets. All provided the whole range of pharmacy services to the neighbourhood as well as a delivery service which was not part of the NHS contract. In addition none of the existing pharmacies had any capacity issues.
- 9.3.4** The Committee did not put much weight on the anecdotal account of waiting up to forty five minutes for a prescription because there was no evidence of any complaints about such matters. Furthermore although two Boots pharmacies (9 Mill Road and 2a Hillhouse Road) dispensed a substantial number of items (3000 per week) there was no evidence of a link between a high number of prescriptions and waiting time.
- 9.3.5** The committee recognised that parts of the neighbourhood were areas of high deprivation and considered how level of deprivation could be linked to adequacy. Pharmacists were being encouraged to be more involved with patients by providing minor ailments services. However there was no evidence of any transport problem in the neighbourhood that would prevent residents accessing such services at existing pharmacies.
- 9.3.6** Responses to the public notice and survey that could be identified as coming from a particular area were concentrated around the site of the proposed pharmacy – e.g. Stonehall Road, Laighstonehall Road, Neilsland Road. The Committee considered the majority of feedback received to be more about convenience than adequacy of services.
- 9.3.7** Weighing up the differing views on the evidence provided and presented during the hearing the Committee agreed that the 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 and available to the residents of the neighbourhood including vulnerable members of the community
- 9.4.1** Following the withdrawal of Mr Sinclair, Mrs Stitt and Mr Mackenzie 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 into the neighbourhood was adequate.
- 9.4.2** Accordingly, the decision of the Committee was that the provision of pharmaceutical services at the premises was neither necessary nor desirable

in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the application was rejected. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.

9.5 Mr Sinclair, Mrs Stitt and Mr Mackenzie were requested to return to the meeting, and advised of the decision of the Committee.

The meeting closed at 15:20 hours