

MINUTE: PPC/2015/01

Minutes of the meeting of the Pharmacy Practices Committee (PPC) held on Tuesday 11 August 2015 at 09:30 hours in Training Room 4, Law House, Airdrie Road, Carlisle, ML8 5ER

The composition of the PPC at this hearing was:

Chair: Mr Michael Fuller

Present: Lay Members Appointed by NHS Lanarkshire Board

Mr Charles Sargent

Mr John Woods

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

Mrs Janet Park

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

Mrs Yvonne Williams

Secretariat: Ms Anne Ferguson, NHS National Services Scotland, Scottish Health Service Centre (SHSC)

Observer: Miss Margaret Morris, Co-Chair PPC

1. APPLICATION BY MR CHARLES TAIT

There was submitted an application and supporting documents from Mr C Tait received 22 June 2015, for relocation of the existing Boots UK Ltd Pharmaceutical Contract with Lanarkshire NHS Board from 120 Windmillhill Street, Motherwell, ML1 1TA to Modyrvale Medical Centre, Toll Street, Motherwell, ML1 2PJ.

Submission of Interested Parties

The following documents were received:

- i) Letter received via fax on 15 July 2015 from Elixir Healthcare Ltd
- ii) Letter received via email on 21 July 2015 from Lloyds Pharmacy Ltd
- iii) Letter received on 22 July 2015 from Eskway Ltd
- iv) Letter received on 28 July 2015 from Shehri Pharmacies Ltd

Correspondence from the wider consultation process undertaken jointly by NHS Lanarkshire and Boots UK Ltd

- i) Consultation Analysis Report (CAR)

2. Procedure

- 2.1 At 09:30 hours on Tuesday, 11 August 2015, the Pharmacy Practices Committee (“the Committee”) convened to hear the application by Mr Charles Tait (“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 was 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. The Chairman informed members that the applicant, Boots UK Ltd, would be represented by Mr C Tait and that there would be representations from the following interested parties: Lloyds Pharmacy Ltd, Eskway Ltd, Elixir Healthcare Ltd and Shehri Pharmacies Ltd.
- 2.3 It was noted that Members of the Committee had previously undertaken site visits to Motherwell 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, churches, schools and sports facilities.
- 2.4 **The Chairman** advised that Ms Ferguson was independent from the Health Board and was solely responsible for taking the minute of the meeting.
- 2.5 Prior to the hearing the Chairman had taken advice from NHS Lanarkshire on any specific Regulations that applied to relocation. The advice received was that the statutory test remained the same and the application was to be treated as though the proposed premises in Modyrvale Medical Centre were a new pharmacy.
- 2.6 There was a brief discussion on the application and **the Chairman** then invited 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 Mrs Langan to invite the Applicant and Interested Parties to enter the hearing.

The open session convened at 1015 hours

3. Attendance of Parties

- 3.1 **The Chairman** welcomed all, apologised for the delay in starting then introductions were made. The Applicant, Mr Charles Tait was accompanied by Ms Tracy Wilson. From the Interested Parties eligible to attend the hearing the following accepted the invitation: Mr Imran Qayam – Shehri Pharmacies Ltd (trading as McIntyre & Cairns Chemists), Mrs Annette Wilson - Lloyds Pharmacy Ltd, Mr Iain Allan – Eskway Ltd (trading as I J Allan Pharmacy) and Mr Umar Razzaq – Elixir Healthcare Ltd (trading as Motherwell Pharmacy).
- 3.2 **The Chairman** advised all present that the meeting was convened to determine the application submitted by Mr Tait in respect of a relocation of premises from 120 Windhillmill Street, Motherwell, ML1 1TA to Modyrvale Medical Centre, Toll Street, Motherwell, ML1 2PJ. 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, and according to the statutory test as set out in Regulations 5(10) of the 2009 regulations as amended which the Chairman read out in part:
- 3.3 “5(10) an application shall be ... granted by the Board, ... only if it is satisfied that 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...”
- 3.4 **The Chairman** emphasised the three components of the statutory test and confirmed that the Committee, in making its decision, would consider these in reverse order, i.e. determine the neighbourhood first and then decide if the existing pharmaceutical services in and into that neighbourhood were adequate. Only if the Committee decided that existing services were inadequate would the Committee go on to consider whether the services to be provided by the applicant were necessary or desirable in order to secure adequate services. That approach was accepted by all present.
- 3.5 **The Chairman** advised that Ms Anne 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 Ms Ferguson was independent of Lanarkshire NHS Board and would play no part in either the public or private sessions of the Committee.
- 3.6 **The Chairman** also advised that Miss Margaret Morris, Non Executive Director of Lanarkshire NHS Board and Co-Chair of the PPC, was an observer at the public session of the hearing for training purposes only and would not participate at all in the hearing. All parties were consulted on the attendance of Miss Morris and no objections were received. The Chairman confirmed that Miss Morris had no interest in the application.

- 3.7 **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.
- 3.8 **The Chairman** confirmed that all members of the Committee had conducted site visits to the premises concerned on different days and at different times in order to understand better the issues arising out of this application. No member of the Committee had any interest in the application.
- 3.9 **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. Mr Tait highlighted that following a change in the rules, two people could now speak. The Chairman was unaware of such a change but was prepared to accept Mr Tait's word concerning this change.

4. Submissions

- 4.1 **The Chairman invited Mr Charles Tait, to speak first in support of the application**
- 4.2 **Mr Tait** apologised for the absence of a written statement but had attended this hearing during a period of annual leave.
- 4.3 Mr Tait noted that this application was novel, had been a very protracted process and the outcome of which was not at all certain. This application was initiated two years ago when the GPs at Modyrvale Medical Centre asked Boots to relocate one of the pharmacies in Windmillhill Street to the Medical Centre. The GPs were keen to build a closer relationship with a pharmacy given the move towards electronic prescribing. This pre-empted the Scottish Government's decision to make funding available for pharmacies in Health Centres.
- 4.4 As this application was for the relocation of a pharmacy, Mr Tait stated that the tests to determine the adequacy of pharmaceutical services in the neighbourhood were the same as for applications for new pharmacies but that this application for relocation was ultimately to be determined on the basis that the pharmacy at 120 Windmillhill Street was deemed to be closed.
- 4.5 Although relocation of the pharmacy only involved a move of 500 yards it improved distribution of Boots pharmacies and patients as two pharmaceutical contracts were currently 30 feet apart at 120 and 134 Windmillhill Street.
- 4.6 The neighbourhood as defined in the Boots application had been taken from the last PPC held in the area and was not specifically that defined by Mr Tait. At the time of the last hearing Lloyds had strongly argued for a neighbourhood in south Motherwell as there was already a defined neighbourhood in north Motherwell.

- 4.7 Mr Tait estimated the population of the neighbourhood to be between 8,500 and 10,000 people. However the statistics indicated that the four remaining pharmacies in the proposed neighbourhood provided pharmaceutical services in excess of its population. This was because pharmacies in towns and business centres had a visiting population whereas those pharmacies on the outskirts were more reliant on the residential population.
- 4.8 Boots undertook a consultation process in conjunction with NHS Lanarkshire, the results of which strongly influenced Boots application. The proposal was changed to strongly reflect public opinion and drug addiction services were not to be provided in the proposed pharmacy at the Modryvale Centre.
- 4.9 The key issue arising out of the consultation was provision of addiction services in the Modyrvale pharmacy which were not currently provided at 120 Windmillhill Street. 90% of respondents did not want addiction services within the medical centre pharmacy and, because of that strength of feeling Boots was prepared to give that commitment.
- 4.10 Provision of addiction services also had a bearing on the answers provided for other questions. For example:
- Question 3 about the appropriateness of the location for the relocated pharmacy - 128 said no the location was not appropriate and of those, 71 were against the location because of the intention to provide addiction services.
 - 35 negative responses were received for Question 5 “Do you think that the proposed hours are appropriate?” An example of the reason for a negative response was “because drug addicts would be in the area at the time the school was open”.
 - The vast majority of people (107) thought the services listed at the proposed location were appropriate but 25 out of 58 responses that said “no” did so because of the drug addiction services.
- 4.11 There was currently no pharmacy in the part of the neighbourhood to which the pharmacy was to be relocated. Mr Tait said that the relocation would improve distribution of pharmaceutical contracts and thereby access to services. Boots also planned to improve the remaining pharmacy at 134 Windmillhill Street which could be vouched for by the Area Manager, Tracy Wilson, in attendance.
- 4.12 Mr Tait fully expected the interested parties to argue that this relocation was being driven to increase Boots business but if this was not the case then Boots would not be able to relocate as it was costly to close and open a pharmacy.
- 4.13 There was not one argument during the consultation process against the relocation and in fact Mr Tait quoted one respondent as saying they did not know why it was not there in the first place.

- 4.14 Mr Tait reported objections to the Modyrvale pharmacy because of increased traffic flow but did not think this a significant issue. People went to the Medical Centre primarily to go to the doctors and this would not change when the pharmacy opened. People who were there already and had received a prescription from the doctor may use the pharmacy.
- 4.15 Mr Tait believed the application to be highly desirable as did the vast majority of people involved in the consultation once the bias against the drug addiction service was removed.
- 4.16 The next closest pharmacy to the proposed location was Boots 1.8km away, Lloyds was 2km away and Elixir more than 3km. Mr Tait stated that opening of a pharmacy in Modyrvale Medical Centre would have little or no impact on the other pharmacies which were more distant and which would continue to collect prescriptions.
- 4.17 The current application had been made with half day closing on Saturday under consultation. Respondents to the consultation exercise thought it useful to open on a Saturday afternoon. Opening hours for this core hours application may be extended on a trial basis in agreement with NHS Lanarkshire. Uptake and usage would then be monitored. Mr Tait did not believe it appropriate for the proposed pharmacy to open on a Sunday.
- 4.18 Mr Tait concluded that this application was sensible for the people living in the neighbourhood. If this application was granted, Boots did not intend to desert its existing customers at 120 Windmillhill Street but instead would carry out improvements to the other pharmacy at 134 Windmillhill Street to improve storage and dispensing capability. Mr Tait said this application was highly desirable and believed it should be granted.
- 4.19 When asked by the Chairman Ms Wilson had nothing further to add at this stage.

This concluded the presentation from Mr Tait.

- 5. The Chairman then invited questions from the interested parties to Mr Tait. Mr Imran Qayam of Shehri Pharmacies Ltd was invited to question Mr Tait first.**
- 5.1 **Mr Qayam** requested a copy of the Consultation Document from Mr Tait. **Mr Tait** explained that it had already been distributed to all interested parties.
- 5.2 **Having ascertained that Mr Qayam had no further questions, the Chairman invited questions from Mrs Annette Wilson, Lloyds Pharmacy Ltd.**
- 5.3 **Mrs Wilson** noted that the PPC which assessed the Leven Street application deemed pharmaceutical services in the proposed neighbourhood adequate and asked Mr Tait what had changed since that application had been considered. **Mr Tait** explained that the Leven Street application was for a new contract not a relocation. In this instance, adequacy was to be assessed as though 120 Windmillhill Street were closed which was a different proposal entirely.

- 5.4 **Mrs Wilson** asked for clarification of the population statement Mr Tait had made. **Mr Tait** reiterated that it was evident that the many people using pharmaceutical services in the neighbourhood were not resident but from further afield which was in common with most town centres.
- 5.5 **Mrs Wilson** asked for it to be noted that the negative comments received during the consultation exercise were not only about addiction services. **Mr Tait** acknowledged that this but said these accounted for the majority of negative comments received.
- 5.6 **The Chairman** ascertained that **Mrs Wilson** had no further questions before making it clear that the **PPC** were not bound by any previous decision and that the decision in relation to this application would be made solely on the evidence submitted prior to the hearing and presented during this hearing. **The Chairman** then invited questions from **Mr Iain Allan, Eskway Ltd.**
- 5.7 **Mr Allan** asked if moving 500 yards significantly improved the distribution of pharmacies in the neighbourhood. **Mr Tait** said it would in this case because it crossed a main road.
- 5.8 When asked why Boots did not relocate elsewhere in the neighbourhood, **Mr Tait** replied that Boots had been asked to relocate into Modyrvale Medical Centre.
- 5.9 **Mr Allan** referred to statements made in the applicant's case that the relocation would have little or no effect on pharmacies in the area but at the same time hoped it would improve Boots business. Mr Allan asked Mr Tait to marry these two statements. If this application was granted **Mr Tait** hoped that the relocated pharmacy would retain as much business as possible from the contract it was going to lose. By relocating to an area of the neighbourhood that did not currently have a pharmacy, Boots hoped to pick up some business but as it was a large area the effect on individual pharmacies would be spread very thinly. Mr Allan did not agree with Mr Tait but acknowledged that it did answer the question.
- 5.10 **Mr Allan** checked the reasoning for Boots being asked to relocate to Modyrvale Medical Centre which was that the GPs were concerned about electronic transmission of prescriptions and multiple transmissions. **Mr Tait** said this was the case and because the GPs thought it sensible to develop closer links with a pharmacy.
- 5.11 **Mr Allan** went on to ask what the public benefit would be of having a pharmacy in the medical centre. **Mr Tait** said that patients accessing Modyrvale Medical Centre would have the option to obtain a prescription without having to travel 500 yards by car.
- 5.12 **Mr Allan** made reference to a statement made by Mr Tait at the Leven Street application hearing that all pharmacies within the town centre were easily accessible on foot and that residents south of Leven Street would access pharmaceutical services by car. **Mr Tait** noted that this application was not

about the south of Leven Street and that those comments had been made about a different application to that being considered today.

- 5.13 **Mr Allan** concluded by asking if Mr Tait knew what Torrance House was. **Mr Tait** said it provided addiction services nearby.
- 5.14 **Having ascertained that Mr Allan had no further questions, the Chairman invited questions from Mr Umar Razzaq, Elixir Healthcare Ltd.**
- 5.15 **Mr Razzaq** asked if Mr Tait agreed there were other reasons for negative responses from the public consultation although the majority were to do with addiction services. **Mr Tait** agreed there were some but that few were not based on the belief that there was to be addiction services on site.
- 5.16 **Mr Razzaq** noted that the application was to improve the distribution of pharmaceutical contracts and asked whether Mr Tait agreed that the proposed site was on the extreme edge of the neighbourhood. **Mr Tait** recognised that this could be said and that in the proposed neighbourhood Lloyds Pharmacy and Boots in Merry Street were also on the extreme edge in the opposite direction.
- 5.17 Mr Tait was then asked if there were not better sites to locate to within the proposed neighbourhood. **Mr Tait** was not aware of any better locations.
- 5.18 **Having ascertained that Mr Razzaq had no further questions, members of the Committee were invited to ask questions in turn of Mr Tait**
- 5.19 **Mrs Williams** enquired whether Mr Tait was actually talking about convenience when replying to Mr Allan's question about the public benefit of not having to go 500 metres by car to access pharmaceutical services. **Mr Tait** denied this and stated that better access and improvement to services was not just about convenience. Patients were able to obtain other services without a prescription being dispensed and were able to get advice from the pharmacist. The Scottish Government was keen on access to a minor ailments service within the pharmacy and would be considered by the Modyrvale GPs to free up time. The public benefit was about improvement to pharmaceutical care services.
- 5.20 **Mrs Williams** had been confused about the statement made by Mr Tait that there would be no increase in traffic flow. **Mr Tait** did not anticipate patients using another doctor's surgery in Motherwell to use the Modyrvale Pharmacy. Mrs Williams clarified that Boots were not relying on residents that had already picked up a prescription in another health centre to use the relocated pharmacy. Mr Tait said this was the case especially as patients would need to drive past another two or three pharmacies to get there.
- 5.21 When asked about the opening hours of 120 Windhillmill Street and the relocated pharmacy, **Mr Tait** confirmed that the opening hours were exactly the same i.e. 8am-5:30pm Mon-Fri and 8am-12:30pm Sat.
- 5.22 **Mrs Williams** noted the changes made to the plans for the relocated pharmacy and asked if the dispensary area had reduced from its original 27 square metres. Although the layout had changed **Mr Tait** did not believe that

the dispensing area size had altered. This was contrary to the impression Mrs Williams had formed by talking to the Business Manager during the site visit.

- 5.23 Mr Tait advised that staffing levels were to include one pharmacist, two or three dispensers and a couple of assistants. **Mrs Williams** was concerned whether there was sufficient space to cope with the volume of work expected. **Mr Tait** thought it would and said the relocated site was bigger than 120 Windmillhill Street.
- 5.24 **Mrs Williams** drew attention to a number of responses received during the public consultation which said the service received from 134 Windmillhill Street was not as good as it could be and asked if the service at 120 Windmillhill Street was better, why 134 was not relocating instead. **Mr Tait** acknowledged there had been between half a dozen and a dozen comments to that effect which was not a lot given the total number of responses received. However 120 Windmillhill Street was the smaller of the two premises and that was why it had been selected for relocation. Being the smaller pharmacy, 120 Windmillhill Street probably gave a more personal service and that was why the service was better. Boots needed the largest unit possible to remain.
- 5.25 Mr Tait had said that it was hoped some business from 120 Windmillhill Street would transfer to 134 Windmillhill Street. If this was the case then less existing business would move to the relocated pharmacy. **Mrs Williams** asked where the increase in business to pay for the relocation would come from. **Mr Tait** explained that by having two pharmacies so close together it was a bit like one pharmacy. Being split by even 500 yards would change the flow. It was hoped there would be an increase from walk-ins which would be spread from all pharmacies in the area.
- 5.26 **Mrs Williams** wanted to know what would happen to the pharmacy at 120 Windmillhill Street if this application was rejected. **Mr Tait** was clear that something would need to be done with it to rationalise the business as it was not necessarily sustainable having two pharmacies so close together.
- 5.27 **Mrs Park** asked how the service at 134 Windmillhill Street would be improved should 120 be relocated. Boots intended to improve the dispensary layout and storage to help it function better. Plans for these improvements had already been drawn up.
- 5.28 Whilst there were clearly advantages for those patients of Modyrvale Medical Centre, **Mrs Park** asked about the impact of the relocation on patients registered with other health centres in the town. **Mr Tait** replied that these other patients would benefit from improvements to the remaining pharmacy at 134 Windmillhill Street. This application would not have been made without a guarantee to do that.
- 5.29 **Mr Tait** gave the timescale for opening as January 2016 adding that it had worked out well because the application had taken longer than anticipated.
- 5.30 When questioned about traffic flow, **Mr Tait** did not believe there would be a significant increase in traffic flow in the vicinity of Modyrvale Medical Centre estimating one or two extra cars at most in a day.

- 5.31 **Mrs Park** asked about the impact of moving the pharmacy from a main street site with a bus route. **Mr Tait** said the new premises were only marginally off the bus route and although the pharmacy at 120 Windmillhill Street was moving, there was still a Boots pharmacy staying at 134 Windmillhill Street.
- 5.32 Given that there was a restricted waiting area for the GP surgery, **Mr Tait** was asked if the waiting area to collect prescriptions at the relocated pharmacy would cause disruption within the Medical Centre. Mr Tait reported that the GPs did not think this would be an issue.
- 5.33 Although there was some discrepancy in the information provided by NHS Lanarkshire about the Boots pharmacies that did compliance aids and **Mr Tait's** recollection, it was noted that this service would still be available but just not made up on the premises.
- 5.34 **Mrs Park** asked for clarification about improvements for 134 Windmillhill Street and whether these would still go ahead if this application was rejected. **Mr Tait** explained that if this application was rejected then one of the premises would be improved and something else done with the other. There had been much consideration given to these two premises for some time. Relocation of 120 was the perfect opportunity to improve 134.
- 5.35 **Mr Woods** challenged the statement that traffic flow would not increase as the GP Surgery was not open on a Saturday morning so patients visiting the pharmacy would not normally have been there. **Mr Tait** said that whilst this was the case traffic was quieter anyway as the school was not open.
- 5.36 When asked, **Mr Tait** confirmed that patients in the GP waiting area would see a solid wall.
- 5.37 **Mr Woods** enquired whether there was a link between improving the distribution of pharmacies in an area and adequacy. **Mr Tait** said that the adequacy test was about a presumption which was not in existence in the current situation. As per the Regulations the contract relocating should be excluded from the adequacy test. To provide further explanation Mr Tait said that had the two contracts at 120 and 134 Windmillhill Street not existed then the previous application for a new pharmacy in Leven Street would probably have been granted. If this had been the case the conclusion would have been that the two contracts were needed, without which there would have been an inadequacy.
- 5.38 When asked by **Mr Woods** if Mr Tait was saying that the services could be better and were not currently inadequate. **Mr Tait** replied that the Regulations currently said adequacy had to be considered as if 120 Windmillhill Street was not there. The reason for this change was because otherwise pharmacies would never be able to relocate.
- 5.39 **Mr Woods** referred to the consultation analysis of Question 13 about gaps in existing provision of pharmaceutical services. Clarification was requested that adequacy could not be assessed by gaps in existing provision highlighted by the respondents as the survey was carried out on the presumption there were five pharmacies in the neighbourhood. **Mr Tait**

explained that this was indeed the case and was more relevant to a new pharmacy application rather than a relocation. Mr Woods suggested that adequacy was not the same as gaps in provision however it was important for the Panel to take into account the thoughts of the public on the present situation.

- 5.40 The first plan was drawn up over a year ago and at that time there was a methadone dispensing section. **Mr Sargent** asked if Mr Tait could remember when the new plan was drawn up. The new plan was thought to have been drawn up around the time of the new application in February 2015. Mr Sargent was surprised that these alterations had been made before the consultation was completed in May 2015. **Mr Tait** explained that the consultation exercise had started twice and it was apparent early in the proceedings that there was strong public opinion against drug addiction services.
- 5.41 **Mr Sargent** recalled that the reason for moving was partly because the relocated pharmacy was expected to be more profitable than that at 120 Windmillhill Street. **Mr Tait** believed that the two shops would be better off following relocation.
- 5.42 **Mr Sargent** then asked if the relocated pharmacy was likely to open all Saturday afternoon. However Saturday afternoon opening was dependent on the outcome of a trial. When asked what the residents thought about Saturday afternoon opening especially on match days, **Mr Tait** did not expect much business on a Saturday afternoon and if this was demonstrated during the trial then opening hours would revert to those on the application.
- 5.43 **Mr Sargent** also asked if the pharmacy at 120 Windmillhill Street would close if the application was rejected. **Mr Tait** explained that Boots needed to consolidate its costs as both pharmacies were in competition with each other.
- 5.44 Referring to the proposed improvements to 134 Windmillhill Street, **Mr Sargent** said that it was only about five years since it was last refurbished. **Mr Tait** agreed that this was the case but the dispensary layout needed adjusted and a larger storage area required for made up prescriptions. **Ms Wilson** added that the new plans also removed modules from the retail space making the waiting area bigger.
- 5.45 **Mr Tait** confirmed that the present staff at 120 Windmillhill Street would be relocated should the application be granted.
- 5.46 **The Chairman** enquired about the timetable for the move. **Mr Tait** confirmed it was to take place in January 2016 if the application was granted.
- 5.47 **The Chairman** then asked about the improvement in services defined in the application by moving into the medical centre. **Mr Tait** explained that the doctors wanted to work closely with the pharmacist to develop an alternative service provision so that the prescribing pharmacist could directly refer the patient to a doctor and vice versa.
- 5.48 **The Chairman** queried Wednesday afternoon opening when the surgery was closed. **Mr Tait** confirmed that although there were no GP appointments on a

Wednesday afternoon the pharmacy was open. The point of opening on a Saturday morning was to allow the public access to medicines and prescription medication. People may want to collect repeat prescriptions at that time. The public expected pharmacies to be open on a Saturday morning.

- 5.49 **Mr Tait** was unable to answer how much business the pharmacy in Modyrvale would attract. The impact on other pharmacies was expected to be small on an individual basis though significant collectively.
- 5.50 **The Chairman** explained that the PPC was obliged to give weight to the consultation document. There was comment in the consultation document that Boots would monopolise prescriptions from that Medical Centre but **Mr Tait** did not agree because all pharmacies in the area collected prescriptions from that surgery for repeat business.
- 5.51 When asked if the viability of the other pharmacies had been tested in the event of this relocation, **Mr Tait** said that there were no other pharmacies nearby. Most pharmacies operated a collection and delivery service and with the eventual move to electronic prescriptions the impact would be even less significant.
- 5.52 With no guarantee that 120 Windmillhill Street would close **the Chairman** queried whether adequacy was to be gauged by the pharmaceutical services available to the neighbourhood today. **Mr Tait** replied that Boots could not fully commit to closing this pharmacy should this application be rejected. However when dealing with a relocation the regulations stated that the adequacy test should be applied as if the pharmacy being relocated were not there. Mr Tait pointed out that the PPC was applying the old regulations and that there were new regulations which detailed how adequacy should be considered in the event of relocation. The Chairman highlighted that no party had challenged the regulations to be applied when read out at the beginning of this hearing. It was suggested that legal advice on this point be sought.
- 5.53 **The Chairman** asked if Mr Tait accepted that it was still possible for the PPC to find the existing pharmaceutical services adequate without including those provided by 120 Windmillhill Street. **Mr Tait** acknowledged that this was possible but did not think it was the case. Mr Tait was of the opinion that if one of the Boots pharmacies in Windmillhill Street closed then it would leave an opening for someone else to make an application and Boots was not inclined to give its business away.
- 5.54 The consultation exercise was praised for its level of detail and was very helpful for the Panel. **The Chairman** did not recall any mention that the existing pharmaceutical services were inadequate or concern about the distance between health centres and current pharmacy locations. **Mr Tait** said that was correct but the concept of a neighbourhood was difficult for the public to grasp.
- 5.55 **The Chairman** informed that previous PPC decisions did not set a precedent for example in terms of the neighbourhood definition. **Mr Tait** explained that the same neighbourhood definition had been used in this application as had

been defined by the PPC in the recent Leven Street application in recognition of the expert opinion of the Panel.

- 5.56 **The Chairman** asked why addiction services were included in the consultation exercise when the pharmacy at 120 Windmillhill Street did not offer this service. **Mr Tait** explained that most pharmacies offered addiction services and it was an opportunity to gauge public opinion. If this application was granted without addiction service provision, Mr Tait did not foresee any public reaction as very few people who responded to the consultation supported addiction services.
- 5.57 Despite the provision of addiction services not being included in the application, **the Chairman** was concerned that once relocation of the pharmaceutical contract had been granted, Boots would introduce these services to the Modyrvale pharmacy. **Mr Tait** provided assurance that the owners of the property from which Boots would lease the pharmacy did not want addiction services. Boots would only consider introduction of an addiction service when public opinion changed and the landlord i.e. the GPs requested its provision.
- 5.58 **Mr Tait** was confident that all of the issues highlighted in the consultation analysis could be resolved.
- 5.59 Having heard the responses to the questions asked so far the Chairman gave all interested parties and Panel members another opportunity to ask further questions of the applicant.**
- 5.60 **Mrs Williams** followed up on the dialogue that had taken place between Boots and the GPs and asked what conversations had taken place concerning prescription direction which was unethical. **Mr Tait** had not anticipated prescription direction, was not asking for it and was not looking for it. Boots business practices were totally straight.
- 5.61 There were no further questions for the applicant. The meeting adjourned for a short break.
- 5.62 When the hearing recommenced **the Chairman** notified that advice was being sought on how to determine adequacy in terms of relocation. It was hoped that a response would be received by the end of the hearing but in the meantime the hearing would proceed as normal.
- 6. Having ascertained that there were no further questions for Mr Tait, the Chairman invited Mr Imran Qayam to make representation on behalf of Shehri Pharmacies Ltd.**
- 6.1 **Mr Qayam** read aloud the following prepared statement:
- 6.2 “McIntyre & Cairns Pharmacy, 27-29 Craigneuk Street,Wishaw, ML2 7XD
- 6.3 Relocation of Boots from Windmillhill Street to Modyrvale health centre is not going to improve pharmaceutical services in the area rather it’s going to be detrimental for a number of reasons. This relocation premises are on the edge of the neighbourhood from where McIntyre and Cairns are providing

pharmaceutical services. By doing so they are neglecting the neighbourhood from where they are presently providing pharmaceutical services. Since the last application for a new contract, in the 12 months ago, there has been no material change in the provision of pharmaceutical services. We at McIntyre and Cairns provide comprehensive pharmaceutical services including collection and delivery and as we have large premises, we have spare capacity for increased services if circumstances change in future.

6.4 After all the public consultations, Boots have not provided a concrete proof that there is a need for further provision of pharmaceutical services in the area. This application is only for commercial benefit to Boots which will result in detrimental effect to other service providers. Therefore, in my humble opinion the application should be denied.”

6.5 The Chairman asked if Mr Qayam wanted to add anything further.

6.6 Mr Qayam remained uncertain as to whether addiction services would be provided. Although 83% of respondents to the consultation did not want addiction services, people using these services were vulnerable and needed to be protected. This application involved relocation from a small unit to another small unit. Mr Qayam found it difficult to see how this would enable Boots business to increase. Finally it did not make good business sense to Mr Qayam to open on a Saturday when the Medical Centre was closed.

6.7 **The Chairman** reiterated that any reference to the previous application would not influence the decision today.

This concluded the presentation from Mr Qayam.

6.8 **The Chairman then invited questions from Mr Tait to Mr Qayam.**

6.9 **Mr Tait** began by asking if Mr Qayam agreed with the proposed definition for the neighbourhood. **Mr Qayam** agreed.

6.10 **Mr Tait** then asked if the McIntyre & Cairns Pharmacy was in the neighbourhood to which **Mr Qayam** replied that it was not.

6.11 When asked how far away the McIntyre & Cairns Pharmacy was from Modyrvale Medical Centre, **Mr Qayam** did not know but said it must be within a 5 mile radius to have been invited to the hearing. **Mr Tait** suggested that it was 2km. Mr Qayam questioned the benefit of moving 500 yards into another small premise adding that it would take business away from other contractors in the area and so it was in everyone’s best interest for the application to be denied. Mr Tait did not agree with this statement.

6.12 **Having ascertained that Mr Tait had no further questions, the interested parties were invited to ask questions in turn but there were no questions for Mr Qayam from Mrs Wilson, Mr Allan or Mr Razzaq.**

6.13 **The Chairman then invited questions from Members of the Committee in turn to Mr Qayam**

- 6.14 **Mrs Williams** asked what proportion of McIntyre & Cairns business was accounted for by collection of prescriptions from Modyrvale Medical Centre. **Mr Qayam** could not give an exact number but said it would be a small proportion as the majority of prescriptions were collected from Wishaw. McIntyre & Cairns was probably the smallest entity to be affected if this application was granted but it was important to support other pharmacies in the area that would be more significantly affected. Mr Qayam wanted to point out that with the eventual introduction of electronic prescribing it would not matter where the pharmacy was located. It was also becoming extremely difficult for pharmacists to work with GPs unless the pharmacy was physically in the health centre. Mr Qayam stated that there was no way of knowing whether the GPs in the Medical Centre would direct prescriptions to Boots.
- 6.15 **Mrs Williams** sought clarification that the application would not have much of an impact on the McIntyre & Cairns pharmacy. **Mr Qayam** did not think it would have a significant impact.
- 6.16 **Mrs Park** wanted to know if this application were not granted and the Boots pharmacy at 120 Windmillhill Street closed whether it was **Mr Qayam's** view that the remaining pharmacies would be able to provide an adequate service to the neighbourhood. Mr Qayam did not think there would be sufficient service provision for the area but someone else could apply for a new contract. It made good business sense not to have two Boots pharmacies so close together.
- 6.17 **The Chairman** asked what spare capacity was available at McIntyre & Cairns should the application be unsuccessful and Boots decided to close one pharmacy in Windmillhill Street. **Mr Qayam** explained that there would be extra staff and pharmacists available for the pharmacy to take on more services. The pharmacy currently did not do a lot of addiction services but it was segregated, easy and convenient.
- 6.18 When asked by **Mr Woods** if the premise was DDA compliant, **Mr Qayam** did not know what that was and would need to check.
- 6.19 **Mr Sargent** had no questions.
- 7** **The Chairman explained that there was provision in the Regulations for the Panel to seek expert advice as long as it was given in front of the interested parties and the applicant so that it could be questioned. Proceedings were therefore interrupted to seek advice from Mrs Gillian Forsyth, Administration Manager for Primary Care, NHS Lanarkshire who joined the hearing for this part of the proceedings.**
- 7.1 **The Chairman** said that an issue had been raised by Mr Tait about the definition of adequacy in the Regulations as it applied to a relocation. Mr Tait had said that whatever Boots intentions, the Panel had to proceed on the presumption of closure of 120 Windmillhill Street when assessing adequacy.
- 7.2 **Mrs Forsyth** consulted the Regulations and advised that the statutory test remained the same for relocation. The question to be addressed was, were the existing services adequate and if not would that inadequacy be

addressed by the pharmacy relocating. **The Chairman** explained that the issue for the Panel was whether five pharmacies in the neighbourhood were to be considered when determining whether the service was adequate or four. **Mr Tait** referred Mrs Forsyth to the section in the new Regulations for not minor relocations which stated the presumption of closure. **Mrs Forsyth** was unable to find this in the Regulations but agreed to consult with Central Legal Office. In the meantime Mrs Forsyth advised that the definition of adequacy should be based on five pharmacies.

7.3 Clarification was also sought on the person allowed to speak during the hearing. The Regulations stipulated that an assistant would be allowed to speak provided that assistant was nominated by the applicant to present the case. Only one person was allowed to speak for each applicant or interested party. **Mr Tait** acknowledged that position and continued to present the application by Boots on his own.

8. Having ascertained that all were content following the discussion with Mrs Forsyth, the Chairman invited Mrs Annette Wilson to make representation on behalf of Lloyds Pharmacy Ltd.

8.1 **Mrs Wilson** read aloud the following pre-prepared statement:

8.2 "Thank you for the opportunity to make representations to the Committee. I would wish to make a few observations.

8.3 With regards to the neighbourhood definition we have no objection to that proposed by the applicant as it follows the definition adopted by the PPC for an earlier application to Leven Street by Mr Ian Nicholson determined on 28th October 2014.

8.4 Although the application is effectively for a relocation of a pharmacy it is still considered as to whether it is necessary or desirable to secure in the neighbourhood the adequate provision of pharmaceutical services.

8.5 From the results of the survey we note that in response to Question 3 the majority of those surveyed do not think the proposed location is appropriate. This equates to 63.4 per cent. A further 7.4 per cent didn't know. The Committee can see the responses as to the reasons given as part the results for Question 4. For example "The site is not on a bus route and is too far to get to on foot from the nearest main road bus stop". There are also concerns about proximity to the Primary School. I do not propose to rehearse all the comments made but draw the Committee's attention to those results as part of its determination of the application.

8.6 Question 5 of the survey related to proposed opening hours: 46.5 per cent felt the proposed hours were not appropriate and a further 8.6 per cent did not know.

8.7 Question 9 of the survey relates to the proposed provision of Methadone from the proposed new premises. An overwhelming majority of those do not support this in fact 83.6 per cent oppose this. The comments made by those surveyed as part of question 10 provides evidence of strong feelings against this which I draw the Committee's attention to. I note that Boots has said it

proposes to withdraw provision of this service. By withdrawing from a potential new service this surely reduces any benefits to the application.

- 8.8 Although this application by Boots will not increase the number of pharmacies in Motherwell it was determined as part of the previous application to Leven Street that there were 5 contracted pharmacies in the neighbourhood which were all readily accessible by public or private transport and that currently provided services to the neighbourhood. As provision has been previously assessed as adequate the redistribution of services would not fill any gaps. Boots has two pharmacies within 30 metres of each other and I would submit to the Committee the current adequacy of services would not change should Boots seek to close their pharmacy at 120 Windmill Street without relocation.
- 8.9 For the above reasons we do not believe the Committee can conclude the application is necessary or desirable to secure in the neighbourhood the adequate provision of pharmaceutical services.”
- 8.10 When asked by the Chairman if there was anything further Mrs Wilson would like to add, Mrs Wilson gave the following information in anticipation of questions –
- Lloyds and the existing pharmacies could provided pharmaceutical services to the neighbourhood if the Boots Pharmacy at 120 Windmillhill Street closed
 - 11% of prescriptions were collected by Lloyds from Modyrvale Medical Centre. This was unlikely to grow further if Boots moved into the health centre.
 - Lloyds were also concerned that patients would be guided to use Boots.
- 8.11 **This concluded the presentation from Mrs Wilson.**
- 8.12 **The Chair then invited questions from Mr Tait to Mrs Wilson.**
- 8.13 **Mr Tait** made reference to the statement that Boots were withdrawing its addiction service in the relocation and highlighted that Boots can't withdraw a service it did not provide at 120 Windmillhill Street. **Mrs Wilson** acknowledged that this wording should have been changed.
- 8.14 Mrs Wilson was asked how far away Lloyds was from Modyrvale Medical Centre and if patients were likely to walk there to access services from Lloyds. The reply was 2km and patients would not walk from Modyrvale to Lloyds.
- 8.15 **Mr Tait** then asked where those 11% of people whose prescriptions were collected by Lloyds lived. **Mrs Wilson** did not know exactly but they had chosen to use Lloyds pharmacy.
- 8.16 Reference was made to the statement that Mrs Wilson anticipated business would stay the same and couldn't grow if the relocation was granted. **Mrs Wilson** did not anticipate all business to stay the same but expected Boots business to grow.

- 8.17 When asked, **Mrs Wilson** confirmed that the relocation was not likely to affect staffing of the Lloyds pharmacy but was likely to lose some business.
- 8.18 **Having ascertained that none of the other interested parties had any questions for Mrs Wilson, the Chairman invited Members of the Committee to question Mrs Wilson in turn**
- 8.19 **Mrs Williams** mentioned the relationship between the surgery and Boots and asked about the relationship Lloyds Pharmacy had with the surgeries in Motherwell. **Mrs Wilson** explained that there was normal daily contact between the pharmacist and other pharmacy staff including the delivery drivers with surgery staff and GPs.
- 8.20 **Mrs Williams** then asked if Lloyds was approached by the owners of Modyrvale Medical Centre about relocating. **Mrs Wilson** confirmed Lloyds had not been approached.
- 8.21 **Mrs Park** asked about the impact on the current number of prescriptions collected from Modyrvale by Lloyds if the application was granted. **Mrs Wilson** did not think it would be potentially too significant.
- 8.22 **Mrs Wilson** clarified for Mr Woods that 11% of prescriptions were collected from Modyrvale not from all surgeries in Motherwell. Although these people were registered with Lloyds at the moment the situation may change if a pharmacy opened in the Medical Centre.
- 8.23 **Mr Woods** asked how Mrs Wilson knew that current pharmaceutical services were adequate. **Mrs Wilson** said that services had been determined adequate last year for the Leven Street application and because Lloyds still had the capacity to grow. Demand did not currently outstrip supply.
- 8.24 **Mr Sargent** mentioned that the Lloyds statement included reference to question 4 and asked if Mrs Wilson agreed that the proposed relocation site was too far from the nearest main bus stop. **Mrs Wilson** said it was dependent upon the ability of the customer and whether there was any mobility impairment. **Mr Sargent** noted that the distance was less than 100 yards.
- 8.25 When asked by **the Chairman**, **Mrs Wilson** agreed with the proposed neighbourhood.
- 8.26 **The Chairman** enquired whether Mrs Wilson accepted that people may have answered the consultation questions in the belief that addiction services were to be available. **Mrs Wilson** accepted that addiction services may have had a bearing on some of the answers given but was not as certain as Mr Tait.
9. **Having established that there were no further questions for Mrs Wilson, the Chairman invited Mr Iain Allan to make representation on behalf of Eskway Ltd**
- 9.1 **Mr Allan** read from a pre-prepared statement but made adjustments as necessary:

- 9.2 “The crux of this argument is a very simple one: adequacy. Are the current provisions in this neighbourhood adequate?”
- 9.3 Please do not be deflected from this basic principle by talk of desirability of addiction services or hypothetical closures – this is to all intents and purposes smoke and mirrors.
- 9.4 The critical test, irrespective of the application being for a new contract or a relocation, is that if the existing services are deemed to be adequate then the application must fail. There is no provision in the regulations for convenience, distribution or commercial viability - adequacy is the sole test.
- 9.5 The neighbourhood population is relatively affluent and has little trouble accessing any required services including pharmaceutical ones in the general area of Motherwell.
- 9.6 The PPC met last October to discuss an almost identical neighbourhood and found the provision to be adequate then and I do not believe that any evidence has been shown today by the applicant to contradict that conclusion.
- 9.7 That being the case, I would respectfully direct the committee to reject this application.”
- 9.8 This concluded the presentation from Mr Allan.
- 9.9 The Chairman reminded the hearing that the PPC could not be influenced by a previous decision.**
- 9.10 **Mr Allan** was content with the neighbourhood definition proposed when asked by the Chairman.
- 9.11 The Chairman invited Mr Tait to question Mr Allan**
- 9.12 **Mr Tait** asked how far away Mr Allan’s pharmacy was from Modyrvale Medical Centre to which **Mr Allan** replied 2km. When asked if Mr Allan expected people to walk from Modyrvale Medical Centre to this pharmacy, **Mr Allan** said possibly. **Mr Tait** questioned this response as town planners expected people to use a car for destinations more than 400 yards.
- 9.13 When asked if Mr Allan would close or reduce staff numbers as a result of this relocation, **Mr Allan** estimated 10-20% of business from Modyrvale prescriptions but did not have the foresight to predict the effect of the relocation. Mr Allan added however that a pharmacy on the way out of the health centre was bound to have a detrimental effect.
- 9.14 The Chairman invited questions from Mr Qayam, Mrs Wilson and Mr Razzaq in turn to Mr Allan but all declined the opportunity.**
- 9.15 Having established that there were no questions from the interested parties, the Chairman invited Member of the Committee in turn to ask questions of Mr Allan**

- 9.16 **Mrs Williams** had no questions for Mr Allan
- 9.17 **Mrs Park** made reference to Mr Tait building closer links to the surgery and asked if that would have an effect on Mr Allan's business. **Mr Allan** said it was bound to have an effect and added that if the doctors were so keen to build relationships with the pharmacists then the opportunity should have been opened to others in the area.
- 9.18 It was confirmed that if 120 Windmillhill closed then **Mr Allan** had capacity to react and take on extra business.
- 9.19 **Mr Woods** asked for the view of Mr Allan on adequacy of pharmaceutical services in the neighbourhood. **Mr Allan** agreed that current provision was adequate – there were very few complaints or errors highlighted in the report from NHS Lanarkshire whilst the pharmaceutical care services plan did not indicate any problems.
- 9.20 **Mr Sargent** wanted to know about the loyalty of patients using the I J Allan Pharmacy. **Mr Allan** was unsure as people were fickle and usually chose the easiest option.
- 10 Having established that there were no further questions for Mr Allan, the Chairman invited Mr Umar Razzaq to make representation on behalf of Elixir Healthcare Ltd**
- 10.1 **Mr Razzaq** read aloud the following pre-prepared statement –
- 10.2 “Thank you for giving me the opportunity to speak.
- 10.3 In terms of the neighbourhood, we agree with the applicant's definition of the neighbourhood which is -
- North - The A723 Hamilton Road from the River Clyde to the town centre along Muir Street and Menteith Road
 - East - Continuing on to Brandon Street, to Crosshill Street then along the railway line to the roundabout at the Junction of the B754 with Windmillhill Street, along Windmillhill Street to Dalzell Drive
 - South and West - Follow the road past the cricket ground to the Dalzell Burn to Manse Road, along the unnamed road until it meets the River Clyde, then follow the river to rejoin Hamilton Road.
- 10.4 This neighbourhood was agreed recently by another PPC hearing for a new contract application in Leven Street. In this PPC hearing, which was only 10 months ago, the PPC concluded that the existing pharmaceutical services to this neighbourhood were adequate. And since then we believe nothing has changed.
- 10.5 Just to point out the applicant also attended that hearing as an interested party and agreed the existing services to this neighbourhood were adequate.
- 10.6 The applicant has stated the reason for the relocation is for improved distribution of pharmaceutical contracts in the neighbourhood, however it is quite clear from looking at a map that the proposed location is on the extreme edge of the

neighbourhood which would not improve distribution at all but actually worsen it - and would only be convenient for a small number of residents in the area, most likely the ones that use Modyrvale Medical Centre

- 10.7 Finally, it is evident from the consultation analysis report that the vast majority of the public are against this proposed relocation for a variety of reasons.
- 10.8 There is no evidence to suggest this relocation would improve distribution of pharmaceutical contracts in the neighbourhood and we believe the existing pharmaceutical services to the neighbourhood are adequate.
- 10.9 We ask the committee to refuse this application.”
- 10.10 This concluded the statement from Mr Razzaq.
- 10.11 The Chairman invited Mr Tait to question Mr Razzaq.**
- 10.12 **Mr Tait** asked how far the proposed pharmacy was from Motherwell Pharmacy (the trading name of Elixir Healthcare Ltd). **Mr Razzaq** said 3km on foot but 4.5km by road. **Mr Tait** noted that this was quite a long way away.
- 10.13 **Mr Razzaq** did not know when questioned, how many patients used Motherwell Pharmacy from the proposed neighbourhood.
- 10.14 **Mr Tait** asked about the impact of granting this application to which **Mr Razzaq** said the pharmacy would not close but it would have a negative impact.
- 10.15 The other interested parties were given the opportunity to question Mr Razzaq but no questions were asked by Mr Qayam, Mrs Wilson or Mr Allan.**
- 10.16 Having ascertained that there were no questions from the interested parties, the Chairman invited Members of the Committee to question Mr Razzaq in turn.**
- 10.17 Neither **Mrs Williams** nor **Mrs Park** had any questions for Mr Razzaq.
- 10.18 **Mr Woods** asked why Mr Razzaq made the statement that services to the neighbourhood were adequate. **Mr Razzaq** repeated the reasoning given by Mr Allan regarding the care plan, there were no major barriers to access, it was not a particularly deprived neighbourhood and the majority of the population owned a car. The last PPC hearing only ten months ago also concluded pharmaceutical services to be adequate and nothing had changed in that time.
- 10.19 **Mr Sargent** asked Mr Razzaq to explain how the relocation would worsen the distribution of pharmaceutical contracts. **Mr Razzaq** said that the current location was more central in the neighbourhood and that relocating to the edge worsened access to services.
- 10.20 **The Chairman** checked whether Mr Razzaq agreed with the proposed neighbourhood. **Mr Razzaq** accepted the definition proposed.

10.21 When asked about the percentage of current business that came from Modyrvale Medical Centre, **Mr Razzaq** estimated 20-25%. **Mr Tait** challenged this figure but **Mr Razzaq** was adamant that that it was realistic.

This concluded the presentations.

11. Summaries

11.1 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.

11.2 The Chairman invited Mr Umar Razzaq, Elixir Healthcare Ltd to sum up first

11.3 Mr Razzaq concluded that the applicant had shown no evidence of an improved distribution of pharmaceutical contracts by moving to the extreme edge of the neighbourhood. The recent PPC had judged existing pharmaceutical services to the neighbourhood to be adequate and nothing had changed since then. Mr Razzaq agreed with the majority of the public and was against this relocation because it was neither necessary nor desirable.

11.4 The Chairman then invited summing up from Mr Iain Allan, Eskway Ltd

11.5 Mr Allan stated that a lot of words had been said by the applicant about desirability but not much about adequacy. Mr Tait had not been asked why current services were inadequate and Mr Allan noted disappointment that this had not been teased out by the Committee. If current services were adequate then the application must fail.

11.6 Mrs Wilson, Lloyds Pharmacy was then invited to provide a summary.

11.7 Mrs Wilson had nothing further to add to the statement already provided.

11.8 Mr Qayam, Shehri Pharmacies Ltd was invited next to sum up.

11.9 In addition to the statement already provided, **Mr Qayam** wanted to add that the distances from the proposed pharmacy to the others serving the neighbourhood were irrelevant as all were in close proximity.

11.10 Finally the applicant Mr Charles Tait, Boots UK Ltd was invited to sum up

11.11 Mr Tait maintained that distances were important because of the five pharmacies in the neighbourhood, only one had attended the hearing, Lloyds, and it was located at the other extreme edge of the neighbourhood.

11.12 It was easy for all interested parties to say the existing pharmacies could cope with any slack but this application was actually in favour of the general public accessing improved services. Patients could always walk the two kilometres to Elixir but that was unlikely. The inhabited part of the

neighbourhood was the Windmillhill area. This application was about people living their lives in the neighbourhood. This was a sensible application about a relocation not a new contract, a redistribution not a reduction in services currently provided. It was not exactly going to harm anyone but provide a better service. Mr Tait was astounded by the degree of fight against it considering it would have next to no impact on the people round this table. The people it would impact on were those that lived near and used Modyrvale Medical Centre. As a supplier Boots just needed the chance to do it.

11.13 **The Chairman** acknowledged the point Mr Tait was making but the Committee was obliged to comply with the statutory test. The Chairman suggested that for an urban area this size it was not unusual for services to be provided into the neighbourhood. **Mr Tait** said inadequacy was based around actual access to a pharmacy – 2km to go to Lloyds was not practical. Within the populated part of the neighbourhood there were two pharmacies, both Boots, right next door to each other. That was inadequate. This application was about actual service provision and pharmaceutical care.

11.14 **The Chair thanked all for contributing and the written statements provided.**

12. Retiral of Parties

12.1 **The Chairman** then invited each of the parties present that had 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.

12.2 **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 in which case, the hearing would be reconvened and the parties would be invited to come back to hear the advice and to question and comment on that advice. All parties present acknowledged an understanding of that possible situation.

The hearing adjourned at 1330 hours after which Mrs Gillian Forsyth advised the Committee that expert legal advice had been received from Mrs Joy Atterbury, Central Legal Office.

The hearing therefore reconvened at 1350 hours

13 **The Chairman** handed over to **Mrs Forsyth** to explain why the hearing had been reconvened. After leaving the hearing, Mrs Forsyth had thought over the interpretation of the regulations that was actually being asked and decided to speak to Joy Atterbury from the Central Legal Office. Mrs Atterbury offered to dial in to provide that advice in front of the full hearing. Although there was no phone line in the meetings room, all agreed that a

mobile telephone should be used and placed so that the Committee could hear that advice.

- 13.1** Contact was made with Mrs Atterbury on a mobile telephone which was put on loudspeaker and placed on the desk so that all could clearly hear the conversation. **The Chairman** explained to Mrs Atterbury that advice was required on how to define adequate services involving relocation as opposed to a new application. The PPC needed to know whether all existing services were to be taken into account or whether there was a presumption of closure for the pharmacy being relocated.
- 13.2** **Mrs Atterbury** advised the Committee to look at the 2009 Regulations as amended in 2011 which brought this matter into Regulation 5. 10A stated that when considering applications to which paragraph 10 applied, which was of the type described in 2b2, where the situation of a person whose name was already included in the pharmaceutical list intended to relocate or open additional premises, the board shall disregard premises already listed to such applicant.
- 13.3** The Regulations were clear that the PPC needed to consider adequacy from the remaining four premises i.e. the PPC needed to determine if the other four premises without 120 Windmillhill Street provided adequate pharmaceutical services to that neighbourhood.
- 13.4** **The Chairman** asked if that was still the case given that there had been previous cases by other applicants for pharmacies in this particular neighbourhood. **Mrs Atterbury** confirmed that was still the case and explained that if the PPC decided a fifth pharmacy was necessary or desirable then the location of the new premises should be taken into account.
- 13.5** **Mrs Atterbury** also confirmed that there were no particular conditions to be applied for relocation to a health centre over any other type of premises.
- 13.6** **The Chairman** offered everybody present the opportunity to ask additional questions of Mrs Atterbury or to seek further clarity around her responses but nobody wanted to take up that offer. **The Chairman** confirmed that all were content with the legal advice received and adjourned the hearing at 14:10 hours.
- 13.7** **The Applicant** and interested parties were reminded that should further expert advice be required then the Panel would again be reconvened. It was therefore in the interest of each party to remain in the building until a decision had been reached. All parties present acknowledged an understanding of that possible situation.

The Committee reconvened at 14:25 hours

14. Supplementary Information

Following consideration of the oral evidence, the Committee noted:

- i. That each member had independently undertaken a site visit of Motherwell noting the location of the proposed premises, the pharmacies, general medical practices hosted and the facilities and amenities within.
- ii. A map showing the location of the proposed Pharmacy in relation to existing Pharmacies and GP surgeries within Motherwell and the surrounding area.
- iii. Prescribing statistics of the Doctors within Motherwell and surrounding areas
- iv. Dispensing statistics of the Pharmacies within Motherwell and surrounding areas
- v. Demographic information for Motherwell taken from the 2011 Census.
- vi. Deprivation information for Motherwell as supplied by the applicant
- vii. Report on Pharmaceutical Services provided by existing pharmaceutical contractors within Motherwell.
- viii. Information extracted from pharmacy quarterly complaints returns to NHS Lanarkshire April 2007 – June 2015
- ix. The application and supporting documentation including the Consultation Analysis Report provided by the Applicant on 22 June 2015.

15 Summary of Consultation Analysis Report (CAR)

Introduction

- 15.1 NHS Lanarkshire undertook a joint consultation exercise with Boots UK Ltd regarding its proposed application to relocate its pharmacy at 120 Windmillhill Street, Motherwell, ML1 1TA to within Modyrvale Medical Centre, Toll Street, Motherwell, ML1 2PJ.
- 15.2 The purpose of the consultation was to seek views of local people who may be affected by this move, or use the pharmacy at its proposed new location. The consultation also aimed to gauge local opinion on whether people felt access to pharmacy services in the area was adequate, as well as measuring the level of support for the relocation.

Method of Engagement to Undertake Consultation

- 15.3 The consultation was conducted via SurveyMonkey to capture respondents' definitive responses and free text views for accurate reproduction graphically and textually. The consultation link was hosted on NHS Lanarkshire's (NHSL) public website www.nhslanarkshire.org.uk
- 15.4 Posters were used to advertise the consultation and leaflets produced. It was publicised via a press release, NHSL internal staff briefing, NHSL Facebook page, Twitter account, rolling banner on the NHSL website homepage and statistically on the Get Involved page. North Lanarkshire Council was also notified for dissemination to local groups and elected representatives and the relevant Public Partnership Forums.

15.5 Summary of Questions and Analysis of Responses

Question	Response Percent			Response Count		
	Yes	No	Don't know	Yes	No	Don't know
Q1 do you agree this describes the neighbourhood to be served?	62.4%	23.3%	14.4%	126	47	29
Q2 please explain your answer	Answered		48	Skipped		154
Q3 do you think the proposed location is appropriate	29.2%	63.4%	7.4%	59	128	15
Q4 please explain your answer	Answered		130	Skipped		72
Q5 do you think the opening hours are appropriate	44.9%	46.5%	8.6%	89	92	17
Q6 please explain your answer	Answered		85	Skipped		117
Q7 do you think that the services listed are appropriate from this proposed new location	58.5%	31.7%	9.8%	107	58	18
Q8 please explain your answer	Answered		61	Skipped		141
Q9 do you agree with provision of an additional addiction service?	10.9%	83.6%	5.5%	20	153	10
Q10 please explain your answer	Answered		126	Skipped		76
Q11 do you agree with the relocated pharmacy providing additional services if asked by NHS Lanarkshire eg. Pharmacist prescribing?	43.7%	37.2%	19.1%	80	68	35
Q12 please explain your answer	Answered		64	Skipped		138
Q13 do you believe there are any gaps/deficiencies in the existing provision of pharmaceutical services in the neighbourhood?	13.1%	72.1%	14.8%	24	132	27
Q14 please explain your answer	Answered		68	Skipped		134
Q15 do you believe there are any advantages for patients with this proposal?	39.6%	53.8%	6.6%	72	98	12
Q16 please explain your answer	Answered		82	Skipped		120
Q17 do you believe this proposal would have an impact on other NHS services?	32.4%	39.0%	28.6%	59	71	52
Q18 please explain your answer	Answered		52	Skipped		150

15.6 There were a number of other questions that related to contact information.

15.7 In total 202 responses were received, 198 via SurveyMonkey with 4 paper questionnaires returned out of 5 requests. All submissions were made and received within the required timescale, thus all included in the Consultation Analysis Report.

- 15.8 From the responses 200 were identified as individuals and 2 as responding on behalf of a group/organisation. Neither of the 2 Group/Organisation respondents completed the contact details section to allow further identification.
- 15.9 The rate of response was consistent throughout the consultation period except for a sharp increase noted on 5 February when 60 responses were made on the one day. This may be attributed to an article that appeared in the Motherwell Times. A second article was published on 20 April. There was also an awareness of a local FaceBook page "Motherwell Past & Present" discussing the topic circa 10 March 2015 but could not be evidenced.

Consultation Outcome and Conclusion

- 15.11 The joint consultation exercise resulted in a healthy response rate. The use of SurveyMonkey allowed views to be recorded and displayed within the full Consultation Analysis Report in a clear and logical manner for interpretation.
- 15.12 It was inappropriate for NHSL staff or Boots UK Ltd to offer any advice or opinion on the outcome of this joint consultation.

16 Decision

- 16.1 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.

Neighbourhood

- 16.2 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 when defining the neighbourhood, including those resident in it, natural and physical boundaries, general amenities such as schools/shopping areas, the mixture of public and private housing, the provision of parks and other recreational facilities, the distances residents had to travel to obtain pharmaceutical and other services and also the availability of public transport.
- 16.3 There was complete acceptance by the Interested Parties of the neighbourhood proposed by the Applicant.
- 16.4 The Committee was in agreement with the northern, southern and western boundaries proposed by the Applicant but not the eastern boundary. Instead the eastern boundary was to continue due south after reaching the roundabout at Windmillhill Street and continue down Shields Road until it turned into Burnside Street and then continued south down that road until it rejoined Dalzell Drive and, in turn, Manse Road and, eventually, the River Clyde. Members recognised the need to include in this large neighbourhood the streets and schools and works between Shields Road/Burnside Street and Dalzell Drive as people living in that area considered themselves a part of the one and same community as those living to the west and north of

Dalzell Drive. That was confirmed by the members' experience, by the movement of people between areas of housing and shopping and entertainment and by the consequential traffic flows.

- 16.5 The neighbourhood proposed by the Committee contained schools, other education establishments, parks, cemeteries, a civic centre, concert hall, housing both council & private developments and encompassed the town centre.
- 16.6 The Committee agreed that the neighbourhood should be defined as:
- To the North - The A723 Hamilton Road from the River Clyde to the town centre along Muir Street and Menteith Road. Continuing along Brandon Street then joining Crosshill Street at the roundabout before following the railway line as far as the roundabout at the Junction of the B754 with Windmillhill Street.
 - To the East – After reaching the roundabout at Windmillhill Street continuing due south down Shields Road until Burnside Street then following the road round the cricket ground to rejoin Dalzell Drive.
 - To the South - Continuing along Dalzell Drive to Manse Road and eventually the River Clyde.
 - To the West - The River Clyde until joining Hamilton Road

Adequacy of existing provision of pharmaceutical services and necessity or desirability

- 16.7 Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of pharmaceutical services in that neighbourhood and, if the committee deemed them inadequate, whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.
- 16.8 **The Chairman** reminded the Committee that 120 Windmillhill Street had to be excluded from any considerations of adequacy as the application involved relocation. The Committee were mindful of the advice given by a Senior Legal Adviser from the Central Legal Office, which had been accepted without dispute by the applicant and the interested parties, that this application for relocation had to be considered without taking into account the services provided by Boots at 120 Windmillhill Street, and a judgement made accordingly.
- 16.9 It was estimated from the dispensing figures that there would be an additional 6000 prescriptions per month in the neighbourhood if 120 Windmillhill Street were closed. The Committee recognised that the bulk of these prescriptions would be repeat prescriptions which would be collected by the dispensing pharmacy. There was plenty of evidence that there was sufficient capacity in the neighbourhood for these to be covered. Additionally pharmacies would be proactive in picking up extra business and the process would be gradual

following closure of 120 Windmillhill Street. The Committee's judgement was based on the accumulation of evidence, from every one of the interested parties, that there was more than sufficient capacity in the existing pharmacies to cater for the additional workload created by the potential closure of 120 Windmillhill Street, not just in respect of prescriptions and repeat prescriptions but also in respect of all the other services currently provided by those pharmacies. Indeed, even Boots had talked about additional capacity at their other premises in Windmillhill Street. That view was backed by the opinions of the professional members of the Committee in their interpretation of the statistical information and evidence provided to the Committee.

- 16.10 In forming its judgement, the Committee also referred to the pharmaceutical services report for this neighbourhood and was aware that all the pharmacies provided both core and additional services. The majority of views expressed by the interested parties at the hearing were that the existing pharmacies could cope with the additional demand and would be able to deal with the extra pressures on their services. The detailed information provided to the Committee by the interested parties was somewhat limited but, even so, there was no indication at all of any real or potential inadequacies in the services to that neighbourhood were the number of pharmacies servicing the neighbourhood to be reduced by one.
- 16.11 The Committee looked to the Consultation Analysis Report for assistance in determining adequacy and making a decision, always bearing in mind the need to consider the CAR report in the light of whether pharmaceutical services provided by four pharmacies were adequate. The Committee recognised the high number of respondents (200) to the Consultation exercise.
- Question 13 – Do you believe there are any gaps/deficiencies in the existing provision of pharmaceutical services to the neighbourhood?
 - 72% said there were no gaps or deficiencies with five pharmacies in the neighbourhood. The Committee recognised that the responses to this question were based on the existing five pharmacies remaining but the Committee considered that response also in the light of one of those pharmacies closing and due consideration was given to any impact on the adequacy of existing services.
 - Removal of a small pharmacy from the equation would not necessarily result in gaps or deficiencies
 - Question 15 – Do you believe there are any advantages for patients with this proposal?
 - 54% said no
 - However the Committee recognised that many of these responses may have been affected by the assumption that addiction services were to be offered
 - Question 3 – Do you think the proposed location is appropriate?
 - 63% said no
 - Objections to the relocation not connected with addiction services included its location in a cul-de-sac, current traffic congestion and increased traffic flow

- There was still a large number of people opposed to this location for a pharmacy even when those negative responses provided as a result of the addiction service were discounted.
- 16.12 It was noted that Mr Tait had acknowledged that it was not viable to run two Boots businesses so close to each other at 120 and 134 Windmillhill Street primarily on grounds of excessive costs but also on grounds of a fair and effective distribution of pharmaceutical services. It was noted that Mr Tait had referred to 120 Windmillhill Street as the smaller of the two Boots businesses in that Street and therefore the one most susceptible to closure.
- 16.13 The impact of the relocation on other pharmacies in the area was considered and the Committee's judgement was based on the evidence given prior to, and at, the hearing.
- 16.14 Other than distance to existing pharmacies there was no other evidence provided by the applicant that service provision was inadequate. The argument by Boots for relocation seemed to be based more on convenience and what was desirable than on any firm evidence of inadequacy in existing services.
- 16.15 Although it was NHS Lanarkshire policy of every pharmacy to provide addiction services where possible, the PPC accepted Boots assurances that addiction services were not to be provided in the relocated pharmacy. The Committee acknowledged that it was therefore necessary to take account of the results of the Consultation Analysis Report in that light and to separate, as far as possible, the influence of the possible provision of addiction services in the answers from the respondents to the survey.
- 16.16 The population estimate for the neighbourhood was 8389. This could be adequately serviced by four pharmacies in the neighbourhood and two just outside the neighbourhood.
- 16.17 The Committee concluded that there was no evidence of any substance provided to demonstrate any inadequacy of pharmaceutical services to the defined neighbourhood based on four pharmacies in that neighbourhood. The only evidence, from three of the four interested parties, was that they had the capacity and room and staffing and resources to cope with any increase in demand on any or all of their services were the services of 120 Windmillhill Street to be taken out of the equation. Even Mr Qayam acknowledged that extra staff and pharmacists could be available in McIntyre & Cairns were Boots pharmacy at 120 Windmillhill Street to close
- 16.18 Following the withdrawal of Mrs Park and Mrs Williams 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 pharmaceutical service into the neighbourhood was adequate with the presumed closure of 120 Windmillhill Street.
- 16.19 Accordingly, the decision of the Committee was unanimous that relocation of the pharmacy to Modyrvale Medical Centre 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.

16.20 Mrs Park and Mrs Williams were requested to return to the meeting, and advised of the decision of the Committee.

The meeting closed at 16:15 hours