

**NOT YET ENDORSED AS A CORRECT RECORD**

**Pharmacy Practices Committee (03)**

Minutes of a Meeting held on  
Thursday 10<sup>th</sup> February 2011 in  
The Board Room, Vale of Leven Hospital, Maternity Block  
3<sup>rd</sup> Floor, Main Street, Alexandria G830UA

**PRESENT:**

Peter Daniels	Chair
Professor Joe McKie	Lay Member
Mr Alex Imrie	Deputy Lay Member
Mr William Reid	Deputy Lay Member
Professor Howard McNulty	Non Contractor Pharmacist Member
Mr Gordon Dykes	Contractor Pharmacist Member

**IN ATTENDANCE:**

Dale Cochran	Community Pharmacy Development Supervisor
Richard Duke	Contracts Manager – Community Pharmacy Development
Robert Gillespie	Lead - Community Pharmacy Development
Janine Glen	Contracts Manager – Community Pharmacy Development

Prior to the consideration of business, the Chairperson asked members to indicate if they had an interest in the application to be discussed or if they were associated with a person who had a personal interest in the application to be considered by the Committee.

**ACTION**

**No member declared an interest in the application to be considered.**

**1. APOLOGIES**

There were no apologies.

**Section 1 – Applications Under Regulation 5 (10)**

**2. MINUTES**

The minutes of the meeting held on Thursday 6<sup>th</sup> January 2011 PPC[M]2011/02 were approved as an accurate record.

**3. MATTERS ARISING NOT INCLUDED ON AGENDA**

There were no matters arising from the minutes, which were not already included in the Agenda.

**4. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST**

**Case No: PPC/INCL09/2010**

**Invercoast Ltd – 32a Brucehill Road, Dumbarton G82 4EW**

The Committee was asked to consider an application submitted by Invercoast Ltd to provide general pharmaceutical services from premises situated at 32a Brucehill Road, Dumbarton G82 4EW under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee had to determine whether the granting of the application was necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant's proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Invercoast Ltd agreed that the application should be considered by oral hearing.

The hearing was convened under paragraph 3 (2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended ("the Regulations"). In terms of this paragraph, the PPC "shall determine an application in such a manner as it thinks fit". In terms of Regulation 5(10) of the Regulations, the question for the PPC is whether "the provision of pharmaceutical services at the premises named in the application is necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List."

The Applicant was represented in person by Mr James Semple ("the Applicant), and assisted by Mr Fraser McPherson. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Mr Mark Sim (Lloydspharmacy Ltd) and Ms Claudia Conetta (High Street Pharmacy Ltd), assisted by Ms Arlene Duffy ("the Interested Parties").

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant's proposed premises, existing pharmacies, GP surgeries and facilities in the immediate area and surrounding areas following

A812 Renton Road, A814 Cardross Road, Castlehill – along: Castlehill Road; Hawthornhill Road and Kyle Terrace, Westcliff, Brucehill – along: Brucehill Road; Glencairn Road; Fairview Terrace; Keil Crescent and Ardoch Crescent. Kirktonhill – along: Oxhill Road and Place; West Bridgend; Clydesdale Road; Dixon Drive and Helenslee Road, Bridge Street, High Street, Church Street, Station Road and Glasgow Road.

The Committee noted that the premises were constructed and were currently unoccupied. The pharmacy area was not yet fitted out. The Committee had gained access to, and had toured the premises.

The procedure adopted by the Pharmacy Practices Committee ("the PPC") at the hearing was that the Chair asked the Applicant to make his submission. There followed the opportunity for the Interested Parties and the PPC to ask questions. The Interested Parties were then asked to make their submissions one by one. After each submission, there followed the opportunity for the Applicant and the PPC to ask questions. The Interested Parties and the Applicant were then given the opportunity to sum up.

### The Applicant's Case

**The Applicant** thanked the Committee for providing him the opportunity to put forward his case.

He advised the Committee that this was the third time an application had been submitted for premises in this area. He asked if the Committee was wondering why anyone would bother to apply to open a pharmacy in West Dumbarton when two previous applications had been granted by the PPC then overturned by the National Appeals Panel (NAP).

He advised that the answer was simple: The NAP sometimes got things wrong. Not often, but it did happen and on rare occasions the NAP got things wrong twice. In Mr Semple's opinion they had been wrong in the applications for this area. Mr Semple considered that the PPC had, on the other hand actually got these applications right – twice.

Mr Semple asserted that the new Regulations came into force in April and advised that whilst this application would go through the process under the existing regulations, he felt it useful to consider the changes that were being planned.

For a variety of reasons, the NAP had not operated, as one would expect, as a panel which reviewed local decisions because they were legally incompetent or perverse, or based on the determining PPCs lack of understanding of the regulations. This was not to say that some PPCs didn't make decisions which were legally incompetent or perverse.

According to Mr Semple, however the majority of appeals heard weren't for these reasons. They were usually heard because of some minor technical issue, and once a hearing was allowed then the reasoning of the original PPC became "water under the bridge". And so under the current Regulations, the application was simply reheard by a different panel. Except this time it wasn't a panel with 'local knowledge', as the PPC had.

This way was fine as a way of weeding out 'perverse' decisions and bad applications, but when it was applied to applications such as the one currently before the PPC, the process simply didn't make sense.

Mr Semple suggested that applications for entry to the Pharmaceutical List should be based on the subjective opinion of panel members who had a good understanding of the Regulations and an ability to properly consider the evidence. There was really no justification for the subjective opinion of a local committee (which understood the regulations) being overturned by another committee simply because that panel took a differing subjective view. Mr Semple advised that the new regulations would change this. Appeals would only be heard when a decision was legally incompetent, or perverse.

Mr Semple advised that he had included this information in his presentation because the circumstances surrounding the current application were "rare".

Mr Semple advised that he had only ever come across one other application where a PPC had granted an application on two separate occasions, only for the NAP to overturn that decision on each occasion.

Mr Semple's point was that the PPC had every right to draw its own conclusions about this application. He was not telling the Committee what decision they should make, but was saying that the two previous NAP decisions had to be completely discounted. They had no more validity than the two decisions of the previous PPCs who granted the applications. In fact, since the PPC was the local NHS Board's expert committee, and since those decisions were not 'perverse' in any sense, Mr Semple suggested that the previous decisions of the NAP had less validity than those of the PPCs. A PPC, which Mr Semple reminded the Committee heard more applications than the rest of the country put together.

Mr Semple then turned his attention to the legal test.

In terms of neighbourhood, he advised that the PPC of Argyll & Clyde Health Board approved an application at 74-76 Hawthornhill Road, Dumbarton in March 2006. They agreed with the Applicant that the neighbourhood was that part of Dumbarton west of the River Leven. When that application was considered by the NAP, the panel disagreed and said the neighbourhood was the entire town of Dumbarton.

The PPC of NHSGG&C approved an application in November 2008 at the current proposed premises. They agreed with the Applicant (Assura Ltd) that the neighbourhood was that part of Dumbarton west of the River Leven. When the NAP heard this appeal, they agreed with the PPC and the Applicant on the issue of neighbourhood, however the Panel upheld the appeals on the basis of other reasons. Mr Semple intended to return to these reasons further on in his presentation.

In terms of the current application, Mr Semple's position was that his definition of neighbourhood in 2006 was correct, as was the PPCs and the Applicant's in the second application in 2008, and thereafter the NAP in 2008. The neighbourhood was that part of Dumbarton west of the River Leven.

According to Mr Semple, the town of Dumbarton was too large to be considered a single neighbourhood and the notion that 20,000 people could consider themselves neighbours was not logical. The River Leven divided east and west Dumbarton and was a glaringly obvious geographic feature in identifying the different neighbourhoods which made up the town of Dumbarton. This was also true of the A82 trunk road to Loch Lomond, which formed the boundary of Bellsmyre when an application was considered for this area a few years ago.

West Dumbarton comprised three distinct districts, according to most sources: Brucehill, Castlehill and Kirktonhill. Mr Semple was not convinced that these districts could be considered separate neighbourhoods. However even if they were he considered this would have little bearing on the legal test. None of the districts contained a pharmacy; all were within easy walking distance of the proposed premises; and all of them would be within the 'catchment area' of the proposed pharmacy. So for the purposes of the legal test, Mr Semple was inclined to group them together and call the neighbourhood West Dumbarton.

The two sides of the River were very different in character. The east contained mainly retail provision, with some housing further to the east. In contrast, the west was almost

devoid of significant shopping facilities with the existing retail units being small independent retailers. There were a few convenience stores, off licenses, a pub and book makers. There was a large residential component in the west of Dumbarton which was more deprived than the area to the east. In Mr Semple's opinion this was powerful evidence to support his definition.

Mr Semple then went on to say that the existing services to the neighbourhood were provided by pharmacies currently outwith the neighbourhood. It was impossible to be precise, but these were the most likely to be the pharmacies on the other side of the river in the town centre of Dumbarton. Cardross Pharmacy to the west certainly wasn't involved.

Mr Semple advised that the crux of the application wasn't the neighbourhood. He suggested that he wouldn't insult the Committee's intelligence by suggesting that the absence of a community pharmacy in a neighbourhood was sufficient grounds to grant an application. He advised that when there was no pharmacy in a neighbourhood there were four factors which he felt should be taken into consideration when determining whether services outwith a neighbourhood were adequate.

- 1. Population Size;**
- 2. Demographics of the Population;**
- 3. Routine daily behavior of the Population; and**
- 4. Ease of Access to the existing Services.**

All of the factors were important. Mr Semple advised that it was only where there was a conflagration of problems that services became inadequate. In this case, he believed this conflagration had occurred, and made existing services in the neighbourhood were clearly inadequate. Further, he believed that the NAP had failed to take this list of inadequacies into account when they had upheld two appeals, and refused two good applications.

### **1. Population Size**

The population of Dumbarton was, according to the Scottish Neighbourhood Statistics (SNS) around 20,000, however what interested Mr Semple was the population of the proposed neighbourhood. If it was a small population, then you might reasonably say that there were minimal numbers of people who found it difficult to access a pharmacy, as there always were, and they could be best served by delivery services and domiciliary visits.

Mr Semple was aware that there couldn't be an easily accessible pharmacy for every resident in Scotland.

The population of West Dumbarton was 5,615 according to the most up to date SNS statistics. In Mr Semple's opinion this was a huge number. There had been cases where applicants had argued that 1,500 people were the minimum for a neighbourhood without a pharmacy, that they needed a pharmacy. Most of the time these arguments were nonsense, but 5,615 was in Mr Semple's opinion; a small town.

Looking deeper into the numbers to the demographics of the population would show that it

comprised a higher than average number within those elements who were major users of pharmaceutical services and who would have difficulty accessing a pharmacy at the moment.

## **2. Demographics of the Population**

Mr Semple advised that the neighbourhood was covered by eight datazones. The Scottish Index of Multiple Deprivation (SIMD) ranked two of the datazones in the most deprived decile, with a score of one. Two of the datazones were in the next most deprived decile, with a score of two and one of the datazones was in the third most deprived decile. This was an incredibly deprived population. In fact, in some of the datazones included in the defined neighbourhood, there were the most deprived people in Scotland.

Mr Semple hadn't included the health statistics for the neighbourhood in his presentation, as he was aware the PPC were already familiar with them. He felt that deprivation was the only important factor in determining healthcare needs after age. The Scottish Government was currently working on a capitation model to replace 'script numbers' as a way of paying for pharmaceutical services. The negotiators had narrowed all the factors down to two: deprivation and age. In terms of pharmaceutical needs you couldn't have a more 'needy' population. High levels of ill health, low levels of mobility.

## **3. Routine Daily Behaviour of that Population**

Mr Semple advised that Dumbarton town centre was dead. He said this with a degree of regret. The establishment of the major supermarkets in the St James Retail Park had killed the town centre to the extent that the Daily Mail had recently carried a story reporting that West Dunbartonshire Council had employed a company to install fake shop-fronts in all the empty units in the town centre in an attempt to encourage traders to return to the town.

This was really important. There were three pharmacies around the High Street, and a Lloydspharmacy closer to the Health Centre. They were all there because years ago, when the pharmacies opened, before the Control of Entry Regulations were introduced; the High Street was the hub of Dumbarton. According to Mr Semple, the pharmacies had continued to survive because of Control of Entry and because of their close proximity to the Health Centre. The pharmacies would continue to survive but the fact was they were in the wrong place. This was not a criticism of the existing contractors, but that having been said, Mr Semple reminded the PPC that it was not their prime consideration to protect the income of existing pharmacies. The Committee was here to consider the needs of patients, specifically patients in the defined neighbourhood in which the proposed premises were located.

So for a resident of West Dumbarton going about their daily business, how would they currently access a pharmacy? For a start, they weren't going to Dumbarton town centre. In Mr Semple's opinion, there was nothing there. They would travel, probably by bus, to the St James Retail Park or to the local convenience store if they were merely looking to purchase a newspaper or a pint of milk. They would be shopping at Marks and Spencer's or Asda. From there it was a half mile walk to the Lloydspharmacy branch adjacent to the Health Centre (according to GMaps), or the nearest pharmacy in the town centre. Mr

Semple questioned whether this was acceptable, especially with shopping bags. He felt it was not. He reminded the Committee that this wasn't a population who drove 4x4s as they did in other neighbourhoods. This was a resident of one of the most deprived areas in Scotland.

He advised that "IF" there was a pharmacy at the St James Retail Park, he probably wouldn't have submitted the application, but there wasn't and this was what made the town of Dumbarton so unusual. The focus of the town had completely shifted and the existing pharmacies had been left in a "no-man's land" that people didn't use any more. While this wasn't a major issue for those residents of the east side of Dumbarton, it was a serious problem for those to the west of the river.

Mr Semple asked the Committee to consider the minutes of the NAP (2009), which stated:

*"Dumbarton is typical of many towns in Scotland where pharmaceutical services were efficiently and effectively provided within the town centre for its various neighbourhoods."*

This was, according to Mr Semple, where the NAP got it wrong. Dumbarton was not typical. Dumbarton was, in fact, unusual. The retail centre. i.e. the predatory supermarkets; were not in the town centre, and it was debatable whether it could continue to be called a town centre. They were half a mile from the town centre and this was an additional half mile that residents of surrounding neighbourhoods need to negotiate to get to a pharmacy. Not a half mile from home to pharmacy but an extra half mile.

Mr Semple felt it was a disgrace for this situation to happen, but in Dumbarton it was the reality of the situation and the residents of West Dumbarton should not be made to suffer, in terms of pharmaceutical care, on account of the short sighted decisions of local authorities.

#### **4. Ease of Access to the Existing Services**

Ignoring the fact that residents of West Dumbarton were unlikely to travel to Dumbarton town centre "as part of their everyday lives", how would a resident of the neighbourhood get to a pharmacy?

By foot the distance from the centre of the neighbourhood to a pharmacy was an average distance of one mile. Mr Semple questioned whether this was a reasonable distance for a deprived population with 2,237 residents over 50? He suggested not and reminded the Committee that this trip would be an extra two mile round trip outwith their routine daily life.

In terms of public transport, where there was a good bus service the previous considerations should be taken into account; what was the population, what was the demographic and what was the 'normal routine'. There were, without doubt, neighbourhoods without a pharmacy, not within walking distance of one, where a pharmacy wasn't justified. Such neighbourhoods would be those where:

- 1. The population was small;**
- 2. The population was mobile i.e. had high car ownership;**
- 3. The population was healthy, and had low pharmaceutical care needs i.e. they**

- were affluent; and
4. **The population, as part of their normal routine, went to a place where there was a convenient pharmacy.**

Dumbarton ticked none of these boxes.

Even if there was a fantastic bus service from West Dumbarton to the town centre he did not believe that the residents could conceivably have an adequate pharmaceutical service which met their specific needs.

He questioned how expensive it would be for methadone patients to access services six days per week by using public transport.

He quoted from some of the letters received in support of the application;

“sometimes the bus services are not that great”;

“I normally have to go in a taxi if my family can’t help as the buses are not reliable”;

“my daughter has a double buggy and can’t get on to the local bus services”;

“the bus service is terrible and I struggle to get to the High St”;

“I am an old age pensioner...the bus service is unreliable and it costs me a fortune in taxis”;

“the bus service is appalling”;

“I have to go into the town and it’s a disgrace as it costs me £2.50 for a return”.

It was sometimes easy for people to forget what deprivation was all about. £2.50 was less than the price of a sandwich, but to people in West Dumbarton it was a lot of money.

Mr Semple asked if the services provided to the neighbourhood were adequate. He suggested the answer was clear and that this was a resounding “no”.

Mr Semple advised that he hadn’t made an application to open a pharmacy in an urban area for a significant period of time. This was because he genuinely believed that the obvious gaps in service provision had been filled. Dumbarton was the exception. He had applied in West Dumbarton in 2006 because he truly believed the application had merit. He had applied a second time, as he continued to believe this and the letters of support received in connection with the application seemed to bear this out.

In conclusion, Mr Semple advised the neighbourhood was West Dumbarton. The existing services were in Dumbarton town centre and were on average a mile from the residents, and nowhere near the places they went as part of their daily routine. The population was 5,500 and was one of the most deprived in Scotland. Existing services were clearly inadequate.

The PPC had granted an application in this neighbourhood twice, and the NAP had overturned those decisions without any compelling reason. The application was a good one, and he asked the Committee to grant it.

His last word came from a letter provided from one of the local OAPs. *“Having a nearby pharmacy would give me back my independence.”*

### The Interested Parties Questions the Applicant

In response to questioning from **Mr Sim**, the Applicant advised that a resident of Castlehill would in all probability consider themselves a neighbour of a resident in Brucehill. When asked to expand on his answer, the Applicant advised that the neighbourhood defined as West Dumbarton could reasonably be considered to comprise three districts. It was unlikely that taken separately they would meet the definition of a neighbourhood as they were relatively small areas, however the Applicant did not feel that this was material to the argument as the services were no less inadequate for those three districts separately or whether taken together as the neighbourhood as West Dumbarton.

In response to further questioning from Mr Sim, the Applicant agreed that there were ample crossing points between Castlehill and Brucehill. He did not agree with Mr Sim that there was an enormous hill between the two areas, and reminded Mr Sim that anyone who couldn't make the journey between the two areas would in all probability be housebound and as such would make use of the collection and delivery service.

In response to further questioning from Mr Sim regarding whether a resident from Westbridge End Lane would find it convenient to travel to the proposed premises or the existing network, the Applicant advised that in every application to open a pharmacy there would be points in a defined neighbourhood where residents would find it more convenient to attend a pharmacy other than the proposed premises. It was generally accepted that not everyone in a neighbourhood would use a proposed new pharmacy.

In response to Mr Sim, the **Applicant** agreed statistics of the neighbourhood would support the relocation of one of the pharmacies. He reiterated however that it was not **in** the Board's remit to move or model services. He added that any relocation could not be considered a minor relocation and therefore determined on the same basis as a new contract application.

In response to further questioning from Mr Sim, the Applicant agreed that not everybody went shopping before they went to a pharmacy; however he reiterated that part of the consideration of the legal test lay in the daily routine of the neighbourhood population. If the residents were required to travel outwith their neighbourhood as part of their daily life a pharmacy application might not be granted. This population however were required to travel outwith the neighbourhood to access a pharmacy, but had to travel to a place where they didn't go for any other reason. This was more reason to grant the application.

In response to further questioning from Mr Sim, the Applicant was sure that an elderly resident would find it easier to walk to the proposed pharmacy rather than take public transport to the town centre.

In response to final questioning from Mr Sim if he was aware of any complaints being submitted to the Health Board about inadequacy of services in Dumbarton, the Applicant advised that in general terms the public was not aware of the pharmacy regulations and therefore were not inclined to make complaints. He was aware the residents of the neighbourhood strongly supported the application or else he would not have submitted it.

In response to questioning from **Ms Connetta**, the Applicant agreed that the area of Kirktonhill was more affluent than the other areas of Castlehill and Brucehill. He advised that in terms of SIMD, the Kirktonhill area had a score of 4/10 in terms of deprivation. This indicated that most of the area was not considerably affluent.

In response to further questioning from Ms Connetta, the Applicant advised that some of the residents of Kirktonhill might be more likely to travel to the town centre rather than use the proposed premises. Alternatively it might be more convenient for some to travel to the proposed premises. The Applicant was aware that not all residents of the area would travel to the proposed premises, but had included the area in his defined neighbourhood as he considered it appropriate.

In response to further questioning from Ms Connetta regarding apparent assertions he had made to the residents regarding methadone provision, the Applicant advised that he had not spoken to any residents in the area of the proposed premises. He assumed this information had come from the owner of the shop adjacent to the premises. He reiterated however that this application was not solely about methadone. He did not agree with Ms Connetta that the letters of support would not exist if the residents were aware that methadone would be dispensed.

In response to further questioning from Ms Connetta regarding comments made in his presentation that the residents weren't getting a service, the Applicant clarified that he did not say the residents weren't getting a service at all. He accepted the residents received an excellent service, but that to access this service they had to travel outwith their own neighbourhood to a place they would not normally travel to as part of their daily routine.

In response to Ms Connetta's question about repeat prescriptions and the fact that these patients didn't need to travel to a pharmacy to access services, the Applicant advised that he found his point of view disappointing. He did not think pharmaceutical services should be organized on the basis of a good delivery service and not an adequate overall service.

In response to further questioning from Ms Connetta, the Applicant agreed that the current pharmacy network could travel into the defined neighbourhood and provide services via a collection and delivery service, however he reiterated that this was not the preferred model of pharmaceutical service and could not replace the face to face contact and other services that a community pharmacy in the neighbourhood could provide. Such a service could not address the residents' over the counter needs or could not provide a MAS consultation. The Applicant asserted that to say a neighbourhood was adequately served by services provided via a car, was not a way of running a pharmacy service.

In response to further questioning from Ms Connetta around his assertion that the journey to the town centre was difficult for those living in the defined neighbourhood, the Applicant advised that he had provided evidence which showed that visiting the nearest pharmacy would entail a resident making a two mile round trip. This was not, in his view, acceptable for the main users of pharmaceutical services. In response to Ms Connetta's assertion that she had made the journey with no problem, the Applicant referred Ms Connetta back to the demographics of the neighbourhood and suggested she was not representative of the residents.

In response to further questioning from Ms Conetta, the Applicant advised that he hadn't said that no-one travelled to the town centre. He had said that the town centre was "dead", which was evidenced by the council's hiring of a firm to put up false shop fronts in a bid to attract retailers back to the area. He advised that currently it was people's daily routine to travel to the retail park for shopping purposes. He advised that if the town centre was the heart of the community, there would be less empty shopfronts. He further advised that he considered residents would only travel to the retail park for shopping purposes, other than this, it was unlikely that they would leave the defined neighbourhood.

In response to final questioning from Ms Conetta, the Applicant agreed that nothing had changed since the last two applications were considered by the PPC. He reiterated that the PPC had, on both occasions, been correct in granting the applications. In response to Ms Conetta's reminder that the NAP had overturned both decisions, the Applicant advised that in his opinion these decisions had been incorrect.

### **The PPC Question the Applicant**

In response to questioning from **Professor McNulty** regarding the neighbourhood and whether Kirktonhill should be included in the neighbourhood, the Applicant advised that there was a good argument for defining the neighbourhood like this. He had defined the neighbourhood in agreement with the PPC who had on two occasions included Kirktonhill in its definition, and also NAP who had done the same the second time they considered the application. He did not feel the inclusion or exclusion of Kirktonhill made a material difference to the legal test.

In response to further questioning from Professor McNulty, the Applicant confirmed that he was not aware whether there was a footpath from Kirktonhill into the Brucehill area. He advised that of the 6,237 residents within the defined neighbourhood, 818 lived in the area commonly known as Kirktonhill. He advised that that population remained of significant size even taking this population out of consideration.

In response to further questioning from Professor McNulty regarding demographics, he advised that that according to 2009 statistics the number of children in the neighbourhood was 1,015, the number of residents of working age was 3,500 and the number of pensioners was 1,100.

In response to further questioning from Professor McNulty, the Applicant agreed that the proposed premises might benefit from passing trade due to its close proximity with the nearby school.

In response to final questioning from Professor McNulty, the Applicant confirmed that he had not orchestrated or been involved in the survey which had been submitted as part of the public consultation process.

In response to questioning from **Mr Reid**, the Applicant confirmed that he was in negotiation with the landlord of the premises and would enter into a lease agreement if the contract were granted.

In response to further questioning from Mr Reid, the Applicant advised that in terms of his

comments regarding the bus service, he was merely quoting comments made by residents. He agreed that there were well placed bus stops along the route and that in theory buses were timetabled to travel through the area every 15 minutes, however the anecdotal evidence from residents was that the bus services were not reliable.

In response to questioning from **Professor McKie**, the Applicant advised that the buses turned right before the bridge and travelled to the town centre going over the old bridge. He was not aware of the bus route operating in the opposite direction. He reiterated however that, in his opinion, there came a point where if the only access to pharmacy services was by means of a bus service, this became inadequate. The residents of the neighbourhood felt the bus service to be unreliable and this was a common theme among those who had responded during the public consultation.

In response to questioning from **Mr Gillespie** regarding how far he felt it was reasonable for a person to travel to access pharmacy services, the Applicant advised that he felt one mile would be an acceptable distance.

In response to questioning from **Mr Dykes**, the Applicant advised that he had chosen the proposed premises instead of the initial premises in Castlehill as the proposed premises were situated in a better site in the middle of the defined neighbourhood.

In response to further questioning from Mr Dykes regarding the number of responses received during the public consultation process, the Applicant suggested that residents had been encouraged by the owner of the convenience shop adjacent to the proposed premises to write to the Board. He suggested that people could only be encouraged to write in and would only do so if they genuinely felt there to be an inadequacy in the area.

In response to final questioning from Mr Dykes regarding whether he agreed that some neighbourhoods received adequate pharmaceutical services from pharmacies situated outwith that particular neighbourhood, the Applicant fully agreed with this. He asserted that if West Dumbarton had been situated ten miles from Dumbarton town centre and the residents had to travel to the town centre to access pharmacy services, he would probably not have made the application. He was sure that if this was the situation then regardless of the difficulty in getting there residents would nevertheless need to travel to the town centre to access pharmacy services; however this was not the case in this instance.

In response to Mr Dykes follow up question as to whether the application was based on convenience rather than a necessity or desirability, the Applicant reminded the Committee that the legal test did not associate necessity or desirability with the pharmacy itself, but rather the question was whether it was necessary or desirable to grant the application to secure the adequate service. In his opinion, the current services were inadequate on the basis of distance to the current pharmaceutical network, therefore the application met the legal test and it was necessary and desirable to grant the application to ensure adequate services were available to the residents of the defined neighbourhood.

In response to questioning from **Mr Imrie**, the Applicant agreed that there was mix of housing stock in the defined neighbourhood.

In response to further questioning from Mr Imrie regarding services to be provided from

the proposed premises, the Applicant confirmed that he would provide all services required under the pharmacy contract, along with other services such as a collection service from the Health Centre, which the Applicant felt would benefit those patients on repeat medication who would no longer need to travel to the town centre to collect their prescription or to get it dispensed.

In response to questioning from **the Chair**, requesting clarification regarding the bus services in the area, the Applicant said he did not dispute there was a good bus service in the area. It was his opinion that you could get a bus between any two points in the Board's area. He advised that there came a point where reliance on a bus service to access pharmaceutical services rendered those services inadequate.

### **The Interested Parties' Case (Mr Mark Sim – Lloydspharmacy)**

**Mr Sim** commenced his presentation by thanking the Committee for the opportunity to speak to the application.

His primary comment was that the National Appeals Panel concluded as recently as May 2009 that an additional NHS contract at the proposed premises was neither necessary nor desirable. With this thorough and robust decision made by the NAP Lloydspharmacy could not see what changes had occurred within this time to suggest that a different decision should be reached on this occasion and therefore believed that this application should once again be refused.

On the issue of neighbourhood, Lloydspharmacy was happy to agree with the neighbourhood as defined by the NAP.

Whilst there was no pharmacy within this neighbourhood the PPC were entitled to consider the provision of pharmaceutical services outwith a neighbourhood. Indeed previously the existing six pharmaceutical contractors were considered adequate to meet the needs of the neighbourhood and it was not axiomatic that every neighbourhood had a pharmacy.

Mr Sim advised that it might therefore be more appropriate to consider the town of Dumbarton as a whole or as a previous NAP defined:

*“that part of the town of Dumbarton lying to the west of the A82 Stirling Road. Bellsmyre which lay to the east of the A82 was considered to be a distinct neighbourhood in its own right. The areas of Castlehill, Brucehill and Kirktonhill had small populations and had no features or facilities which were distinct from the remainder of the town of Dumbarton. The Dumbarton town centre provided all the facilities for the population of the area in terms of a neighbourhood.”*

Given that its population was only 20,527 at the last census, this equated to a ratio of 3,420 persons per pharmacy which was an over provision in terms of the Scottish national average. Mr Sim suggested that no matter what neighbourhood was used it had been considered neither necessary nor desirable for an additional contract to be granted by the NAP on the two previous occasions. No mention had been made of any inadequacy of existing services, as none existed.

The attached papers and comments from residents and what appeared to be a shopkeeper did not demonstrate inadequacy of existing services but merely referred to a pharmacy being a good convenient idea. The NAP had conducted site visits on two occasions in the last four years and access had consistently been considered adequate.

Lloydspharmacy had two pharmacies in Dumbarton both conveniently sited, one adjacent to the Medical Centre and the other on the High Street. Both were fully DDA compliant and had short waiting times. They provided a methadone supervision service and had many community dosette patients which were serviced from their hub in Polmadie. There was capacity for more and waiting lists for neither. They offered free blood pressure monitoring and diabetes testing in the consultation area and were fully compliant in all aspects of the Scottish pharmacy contract. Through their Dr Thom service, Lloydspharmacy offered vaccination administration and cholesterol testing at their Station Road branch and considering deprivation, they had a relatively low number of supervised methadone patients.

As far as Mr Sim was aware, there had been no complaints about either pharmacy in terms of service provision. He believed that they had a close relationship with the medical practice and again there were no issues that he was aware of. Lloydspharmacy also offered a collection and delivery service from both pharmacies and delivered to the area under consideration by the Committee. With Kemp's on the High Street offering an oxygen service and palliative care, and Boots offering a needle exchange, Mr Sim considered that the full range of pharmaceutical services was being provided to the population of Dumbarton.

In terms of this application the proposed site for the pharmacy was small, next to a small convenience store and take-away and not exactly the hub of a community. Mr Sim questioned whether the premises were fit for purpose and found it difficult to envisage how a dispensary and consultation room could be fitted into the space. The population of Brucehill, Castlehill and Kirktonhill would still need to access Dumbarton town centre for post office, banking and weekly shopping facilities. To describe the area as a neighbourhood that was self-sufficient in its own amenities would be incorrect. There were no GP medical practices in the neighbourhood and consequently patients would need to go to Dumbarton town centre to access these. There were three regular bus services from the area to the town centre every 15 minutes with the journey taking between five and ten minutes. Mr Sim believed this to be an adequate service. There were many bus stops along the High Street giving access to all the town centre pharmacies.

In summary the application appeared to be based on a neighbourhood defined to exclude all existing pharmacies in the neighbourhood that had been defined by the NAP. The current pharmaceutical services were more than adequate and a new pharmacy would offer nothing new. For these reasons, and that it was the Applicant's duty to show inadequacy in the neighbourhood which he believed had not been shown, he respectfully asked the Committee to refuse the application as it was neither necessary nor desirable.

### **The Applicant Questions Mr Sim**

In response to questioning by **the Applicant**, Mr Sim did not agree that the current

position where the prescription load per pharmacy was above the national average was caused by there being three pharmacies in a street where there should be only one.

In response to further questioning from the Applicant, Mr Sim confirmed that he felt that a better situation would be for one of the current pharmacies to relocate away from their current position. He clarified that while it would result in a more convenient organization of services, it would not improve the service provision. He further agreed that any relocation from the current position would not fulfill the criteria for a minor relocation.

In response to further questioning from the Applicant, Mr Sim confirmed that Lloydspharmacy's Regional Development Manager had made enquiries regarding the proposed premises with a view to relocating from the town centre. He confirmed that the premises had been discounted due to their unsuitability. He advised that this issue was not relevant to the Committee's consideration of the current application.

In response to a follow up question from the Applicant regarding the same issue, Mr Sim did not agree that this situation showed that Lloydspharmacy considered the current services to be inadequate and this was the reason they were exploring relocation from their current site.

There were no questions to Mr Sim from **Ms Conetta**.

#### **The PPC Question Mr Sim**

In response to questioning from **Mr Dykes**, Mr Sim confirmed that Lloydspharmacy attracted approximately 40% of their business from the defined neighbourhood. He did not feel the neighbourhood was under provisioned and reminded the Committee that it could take into consideration services provided to the neighbourhood by pharmacies outwith the neighbourhood.

In response to questioning from **Mr Reid**, Mr Sim confirmed that he was not aware of any complaints being made in respect of services in the area.

In response to questioning from **Mr Gillespie**, Mr Sim confirmed that in his opinion a mile was a reasonable distance to expect a patient to travel to access pharmaceutical services.

In response to questioning from **Professor McNulty**, Mr Sim confirmed that the prescription load of Lloydspharmacy branches in Dumbarton had increased slightly in the last two years.

In response to further questioning from Professor McNulty, Mr Sim confirmed that when he said there was an overprovision of services he meant across the whole of Dumbarton.

In response to further questioning from Professor McNulty regarding community pharmacy's move from volume dispensing to a more service based approach and what Lloydspharmacy were doing to embrace this shift, Mr Sim advised that Lloydspharmacy provided all core services of the pharmacy contract as well as a collection and delivery service.

In response to further questioning from Professor McNulty, Mr Sim advised that there was a sense of difference between the three areas which comprised the defined neighbourhood. He advised that Castlehill was significantly deprived, with Brucehill being less so. Kirktonhill was relatively affluent in comparison.

In response to questioning from **the Chair**, Mr Sim reiterated his belief that a population of more than 20,500 could be described as a single neighbourhood. He further confirmed that residents of Kirktonhill and Castlehill would not consider themselves to be neighbours as they belonged to different localities.

In response to further questioning from the Chair, Mr Sim advised that residents of Westcliff would find it easier to travel to the town centre rather than the proposed premises.

In response to final questioning from the Chair, Mr Sim accepted that the PPC was entitled to consider the current application afresh regardless of the NAPs two decisions to refuse similar applications.

There were no questions to Mr Sim from **Professor McKie, or Mr Imrie**.

**At this point a member of the Committee asked the Chair if Mr Sim would be allowed to leave the information regarding bus routes and services in the area, to which he had referred during his presentation. The Chair asked all present if they had any objections to this, and all agreed that they had no objections. Mr Sim provided the Committee with the information.**

#### **The Interested Parties' Case (Claudia Conetta – High Street Pharmacy)**

**Ms Conetta** thanked the Committee for allowing her to make representation today.

She advised that she understood that the previous application for a new pharmacy contract at 32a Brucehill Road had been rejected by the National Appeals Panel (May 2009).

Their findings stated:

*The Panel noted that there were no pharmacies in the defined neighbourhood. There were however six existing pharmaceutical services located in Dumbarton, including Bellsmyre, which provided adequate pharmaceutical services for the town of Dumbarton and the defined neighbourhood including all core services, new pharmacy initiatives, effective collection and delivery and domiciliary services. Dumbarton was the focal centre of the area with all main shopping and services provided in the centre of the town. There was adequate parking for those with cars, and a good public transport system, both rail and bus, giving good access to those resident in the neighbourhood to pharmaceutical services. The opening of a new pharmacy at Brucehill would not improve the quality of health of the population in the short term.....The Panel took cognisance of the statistics provided by the Applicants but considered that the existing services provided did not demonstrate any evidence of inadequacy of pharmaceutical services. Dumbarton was typical of many towns in Scotland where pharmaceutical services were efficiently and*

effectively provided within the town centre for its various neighbourhoods.

*For the reasons set out above, the Panel considered that the existing pharmaceutical service in the neighbourhood was adequate. Accordingly, the Panel was not satisfied that the granting of the application was either necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List.....it was the decision of the Panel that the appeal be upheld.*

Ms Connetta and her partner's main concern was that very little appeared to have changed since the most recent application was rejected in 2009. Ironically, since that time, economic and population changes had combined to make this unnecessary application less viable than ever.

The population had decreased. 2009 figures showed the population at 17,416 compared with the figures used by the Applicant of 20,000 according to the 2001 census. In addition, Kemps Pharmacy (High Street Pharmacy) was now under new management and had two pharmacists. The reasons the NAP deemed the previous application both unnecessary and undesirable were even more compelling than before.

As the new owners of Kemps, Ms Conetta and her partner offered a more robust and comprehensive service than before. This only acted to further negate the need for any new pharmacy contract in the area. In 2009, the NAP ruled that "adequate provision of pharmaceutical service" was providing in rejecting the Brucehill application. This being the case, pharmacist provision had been strengthened and enhanced in the area thus making this persistent application more irrelevant than ever.

It was Ms Conetta's understanding that the Health Board had a duty to ensure that the pharmacy network was both robust and viable. Given the new pharmacy contract and economic climate, a fourth new pharmacy in the area would be unwise. With Bonhill, Bellsmyre, and Cardross granted over such a short period of time, further provision seemed wholly unnecessary.

Ms Conetta contended that the current six pharmacies within the Dumbarton area and the two pharmacies just outwith the area all offered fully comprehensive pharmaceutical services which were available seven days per week, 365 days per year due to the participation in rota services and emergency contact services. There was without doubt no gap in the pharmaceutical care being provided already to all areas.

Among the services currently provided by the existing network were:

- **Methadone and Buprenorphine supervision;**
- **Domiciliary oxygen therapy service;**
- **Rota services;**
- **Free prescription collection and home delivery service**
- **Free community monitored dosage systems;**
- **Supply of EHC (Emergency Hormonal Contraception) under PGD (Patient Group Direction);**
- **Advisory service to care homes;**

- **Free blood pressure monitoring, diabetes and cholesterol screening;**
- **Stoma and incontinence care supplies;**
- **Minor Ailment Service;**
- **Needle Exchange; and**
- **Smoke free services.**

There were in addition to the traditional pharmacy roles of medicine supply, advice and intervention the participation in local and national model schemes such as the Palliative Care Network and the Heart Failure Service. The Minor Ailment Service was currently provided by all pharmacies and with the introduction of CMS (Chronic Medication Service) she was able to care for the patients of Dumbarton in an even more effective manner. Past applications had been refused due to the adequacy of the existing pharmaceutical services. Ms Conetta urged the Committee to consider that these had only been strengthened and enhanced by their takeover of Kemps last May – local GPs, district nurses and patients had, and would testify to this. They had two pharmacists available for consultation and the provision of extended services, and for home visits should a patient require one, without interruption to daily service. They were a new business and had managed to keep all of the staff on at takeover despite the current economic situation. The granting of a new contract would seriously jeopardize their future and may even lead to the closure of their business with the subsequent loss of jobs and the high standards of care they provided to their patients. This would have devastating consequences for the whole community.

In addition, their pharmacy offered a free prescription collection and delivery service. Whilst not part of the pharmacy contract, this was an “extra” service requiring substantial investment. While a “life line” to some this service was available to all, free of charge.

They employed a full time delivery driver serving the wider Dumbarton area. An asset to the pharmacy, he had been providing Kemps medicines deliveries for more than ten years. A retired Police Officer with 25 years service in the area, he was a trusted and welcome visitor to their patients. He provided a reassuring and friendly presence to those many vulnerable patients he visited daily. Furthermore, the pharmacy delivered thrice daily to the area of the proposed premises and collected from the Health Centre and Alexandria three times per day. The loss of this invaluable service would be a devastating blow to all of these patients.

Ms Conetta suggested that approximately 30% of Kemps business came from the area defined by the Applicant. Their business could not absorb such losses whilst maintaining the current level of investment in services. Pharmacy had seen many cutbacks in the last few years. A new contract in an area of decreasing population did not seem wise. It made little sense for the NHS to seek to duplicate services in an area where there was no discernible need? Moreover, there would be considerable costs in duplicating such service. This did not seem prudent. Granting any new contract would serve only to undermine a successful existing provision.

With regard to the provision of supervised methadone spaces, there was no local shortage. Only the previous week the team at the joint hospital confirmed that they had no difficulty finding spaces within local pharmacies and were aware that the pharmacies were not nearing capacity.

Ms Conetta failed to see any service the Applicant could offer that was currently lacking. They had a good relationship with all the other local pharmacies.

Ms Conetta advised that Brucehill was a medium sized council estate belonging to the neighbourhood of the town of Dumbarton lying to the west of the A82 Stirling Road. The areas of Castlehill, Brucehill and Kirktonhill had small populations and no facilities or features which were distinct from the remainder of the town of Dumbarton.

Since the last application there had been no changes or new developments. There were also no plans for any local regeneration. Furthermore the most recent figures showed that the population of Dumbarton was shrinking with the trend being one of reduction. Thus as expected the number of GPs had not altered either.

Ms Conetta considered the neighbourhood to be gathering of a community which usually contained the traditional local amenities such as a post office, banks, local shops and dentists. The proposed pharmacy would be located in a tiny unit next only to a convenience store and a take away which certainly didn't constitute the hub of a neighbourhood. There were no medical services in these areas; therefore it was obvious that the people living there would have to access local amenities and medical services in the well established shopping area of Dumbarton high street.

The bus service from Brucehill to the High Street was very regular, every 10-15 minutes and of a good standard and took no longer than seven minutes from Brucehill to Kemps Pharmacy. Patients could take either the 208 First Bus, 208 McColl bus service, or the 206 First Bus. The nearest pharmacy was adjacent to the Medical Centre and was only 0.7miles from the proposed premises and 0.9 miles from Kemp Pharmacy. This did not seem an unreasonable distance for people to access services. Having walked the route in just under 13 minutes to their shop. There were certainly not unacceptable and shouldn't pose a barrier to anyone in obtaining pharmaceutical care.

Ms Conetta estimated that Kemps Pharmacy was working at 70% capacity and could comfortably accommodate a significant increase in workload, be it prescription volume or services provided.

### **The Applicant Questions Ms Conetta**

In response to questioning from **the Applicant**, Ms Conetta confirmed that she felt the NAPs decision should stand as in her opinion; there had been no change in the area. She agreed that she did not concur with the NAPs definition of neighbourhood but reiterated that the separate communities did not need a pharmacy.

In response to further questioning from the Applicant regarding the level of deliveries she undertook to the area in which the proposed premises were situated, the Applicant advised that it depended on who asked for a delivery. Ms Conetta advised that their delivery driver was employed on a full time basis. They did not put off deliveries until the next day if they had already travelled to an area. They merely did another journey. She did not agree with the Applicant's assertion that the high level of deliveries undertaken by her pharmacy was an indication of the number of residents where access to a pharmacy

was difficult. The delivery service had started off as a pick up service to alleviate the need for patients to collect their prescription from the surgery. This had been extended into a full delivery service which allowed patients who found it less convenient to travel to the pharmacy to access their medication.

The Applicant asked Ms Conetta to clarify comments she had made during her presentation regarding viability. Ms Conetta confirmed that the viability of her pharmacy would be threatened as the new pharmacy would require population from other pharmacies to be successful. This would have an effect on other pharmacies in the area.

In response to final questioning from the Applicant regarding whether she had contacted the landlord seeking information around the premises, the Applicant confirmed that she had done this merely to find out if the Applicant had secured the lease of the premises. She further confirmed that she had offered to pay more for the lease than the Applicant. She again confirmed that this had been a blocking tactic rather than a serious proposal to open a pharmacy.

There were no questions to Ms Conetta from **Mr Sim**.

#### **The PPC Question Ms Conetta**

In response to questioning from **Professor McNulty**, Ms Conetta confirmed that at this point in time she could not say whether there was a downward trend in the volume of prescriptions dispensed from Kemps Pharmacy. They had not had ownership of the pharmacy long enough to gauge this.

In response to further questioning from Professor McNulty, Ms Conetta confirmed her assertion that her pharmacy would be threatened if an additional pharmacy contract were granted. She further confirmed that in the event of Kemps Pharmacy having to close, this would pose a problem for the community which they served. Kemps Pharmacy was a participant in the Palliative Care Network.

In response to further questioning from Professor McNulty, Ms Conetta explained that her pharmacy provided all core services for the communities which would be served by the proposed premises and also collection & delivery, MAS and supervised methadone. Public Health and Health Promotion were undertaken from the pharmacy and they also participated in associated activities such as leaflet dropping, a warfarin audit and the provision of health information to patients.

In response to final questioning from Professor McNulty regarding her definition of the neighbourhood, the Applicant advised that regardless of neighbourhood, the residents in the three hills area had access to an adequate service. They were not missing anything. She further agreed that she would include the area of Kirktonhill in her defined neighbourhood.

In response to questioning from **Mr Reid**, Ms Conetta advised that she and her partner had only recently taken ownership of Kemp Pharmacy. She had not been the owner at the time of the previous application. She further confirmed that since taking ownership, she and her partner had increased service provision, including the Heart Failure Service. Due

to having two pharmacists in the pharmacy, more time could be spent with patients. For example the attendance at the smoking cessation group had increased.

In response to questioning from **Mr Gillespie**, Ms Conetta advised that a reasonable distance for a person to travel on foot to the nearest pharmacy would be one mile, perhaps further if travelling by public transport.

In response to questioning from **Mr Dykes**, Ms Conetta advised that she was not aware why the population of Dumbarton had decreased.

In response to further questioning from Mr Dykes regarding a comment in the NAP determination as to whether a further pharmacy would improve the health of the population in the medium/long term, Ms Conetta agreed with the NAP that a further pharmacy would have little impact in the short term, but asserted that any pharmacy should be able to impact on the health of the community they served in the medium/long term.

In response to final questioning from Mr Dykes, Ms Conetta advised that she believed she and her partner made a difference to the community with the services they provided.

In response to questioning from **the Chair**, Ms Conetta advised that she had not undertaken any risk assessment exercise to ascertain how adversely effected her pharmacy would be if the application were granted. She did not anticipate that she would incur a monetary loss, but she was sure that her ability to invest in additional services and staff would be jeopardized.

There were no questions to Ms Griffiths from **Alex Imrie or Professor McKie**.

### **Summing Up**

The Applicant and the Interested Parties were then given the opportunity to sum up.

**Ms Conetta** advised that there were no gaps in the current service profile offered by the existing network of pharmacies providing services in and to the neighbourhood, of which Brucehill was but a part. The Applicant had not demonstrated any inadequacy in a service which could only be described as fully comprehensive. There had been no changes in the neighbourhood since the previous application for the very same location. The contract was neither necessary nor desirable. She recommended that the Pharmacy Practices Committee reject the application.

**Mr Sim** advised he considered that the six contractors currently in Dumbarton provided an adequate provision of services to the extended population. There was no evidence of inadequacy. The application was based purely on convenience. The PPC should refuse the application as it is neither necessary nor desirable.

**The Applicant** advised that a neighbourhood can be easily justifiable. The question was is the neighbourhood adequately served by bus. If the neighbourhood was a significant size, with significant deprivation, high pharmaceutical service need it was unacceptable to expect residents to use the bus to access those services, regardless of how good the public transport service was. He advised that Dumbarton town centre was no longer the

focal point of activity. The St James Retail Park, where the residents went to shop was the focal point.

The defined neighbourhood did not have access to adequate pharmaceutical services within the neighbourhood. If the public transport service was adequate, the community would not need so many community pharmacies, however community pharmacies needed to be in the community.

He advised that the Interested Parties were here to defend the bus services and say they were fair and appropriate. Unusually both had shown a commercial intent to relocation or open a pharmacy at the proposed premises. The Applicant felt they could not make the assertion that services were adequate and then pursue relocation to the defined neighbourhood.

This was a good application and the Applicant urged the Committee to grant it.

Before the applicant and interested parties left the hearing, the Chair asked Mr Semple, Mr Sim and Ms Conetta to confirm that they had had a full and fair hearing. All confirmed individually that they had.

#### **Closed Session – Determination of Application**

The PPC was required and did take into account all relevant factors concerning the issue of:-

- a) Neighbourhood;
- b) Adequacy of existing pharmaceutical services in the neighbourhood and, in particular, whether the provision of pharmaceutical services at the premises named in the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located.

In addition to the oral submissions put before them, the PPC also took into account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

- a) Chemist contractors within the vicinity of the Applicant's premises, namely:
  - Boots UK Ltd;
  - Lloydspharmacy Ltd – various addresses; and
  - High Street Pharmacy Ltd.
- b) The NHS Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Subcommittee;
- c) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee);

**The Committee noted that in accordance with the requirement to consult the public, notification of the application had been sent to:**

- d) - The Lennox Herald (advert run on Friday 28th May 2010) – 20 responses was received along with a an anonymous survey with 96 responses of which 50 were unsigned;
- **The Committee noted that Pages 43 and 48 within the information pack were duplicates and therefore the number of responses received (shown at Page 36) should be amended.**
- e) - West Dunbartonshire CH(C)P – response received outwith consultation period;
- f) The following community councils:
- Dumbarton East & Central – one response received.

The Committee also considered;-

- g) The location of the nearest existing pharmaceutical services;
- h) The location of the nearest existing medical services;
- i) Demographic information regarding post code sectors G82.1 and G82.4;
- j) Information from West Dunbartonshire Council's Regeneration & Economic Department regarding future plans for development within the area;
- k) NHS Greater Glasgow and Clyde plans for future development of services; and
- l) Patterns of public transport in the area surrounding the Applicant's proposed premises.

## **DECISION**

Having considered the evidence presented to it, and the PPC's observation from the site visit the PPC had to decide firstly the question of the neighbourhood in which the premises to which the application related were located.

The Committee considered the various neighbourhoods put forward by the Applicant, the Interested Parties, the APC Community Pharmacy Subcommittee and the NAP in relation to the application. The Committee considered that the neighbourhood should be defined as follows:

**North: the open ground above Hawthornhill;**  
**East: the River Leven following north;**  
**South: the River Clyde to its meeting with the River Leven; and**  
**West: the edge of Dumbarton.**

The Committee restated their assertion that a population of over 20,000 could not be defined a single neighbourhood. The Committee reviewed their originally defined neighbourhood and agreed that it remained relevant. The rivers formed physical boundaries. The River Leven while providing access from one side to the other was

nevertheless a boundary in the Committee's opinion as it marked a difference in topography. The area to the west side was predominantly residential and for the most part relatively deprived. The exception to this being the pocket of Kirktonhill to the south-west of the defined neighbourhood which was more affluent.

The Committee agreed to retain the area of Kirktonhill within the defined neighbourhood as it was a relatively small population, and whilst the demographic and social composition of the area was different to the rest of the neighbourhood, the Committee felt it more appropriate to keep it with the population on the west side of the river.

### **Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability**

Having reached that decision, the PPC was then required to consider the adequacy of pharmaceutical services within that neighbourhood, and whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in that neighbourhood.

The Committee noted that within the neighbourhood as defined by the PPC there were no pharmacies. In Dumbarton as a whole, there were currently six pharmacies. While the pharmacies provided the full range of pharmaceutical care services including supervised methadone, none of the pharmacies were situated in the defined neighbourhood. The Committee noted and agreed with the Applicant's arguments regarding the difficulty residents within the neighbourhood experienced in accessing current services, both in terms of public transport and the shift in focus away from the town centre. The Committee was aware that the NAP had upheld appeals made against the PPCs previous decision to grant an application for an additional pharmacy in this area on grounds including that the area was served via a typical town centre configuration where residents travelled to a central point to access services. The Committee, having conducted a site visit of the area, agreed with the Applicant's assertion that focus on the town centre had eroded in favour of the Retail Development. This shift impacted negatively on access to pharmaceutical services as part of the daily fabric of the life of residents within the defined neighbourhood. The Committee considered that the level of existing services did not ensure satisfactory access to pharmaceutical services for the significant population within the defined neighbourhood. The Committee therefore considered that the existing pharmaceutical services in the neighbourhood were not adequate.

The Committee considered that the level of existing services did not ensure satisfactory access to pharmaceutical services for the significant population within the defined neighbourhood. The Committee therefore considered that the existing pharmaceutical services in the neighbourhood were not adequate.

The Committee was aware that one of the six pharmacies was situated across the A82 in the area known as Bellsmyre (a relatively new contract). This contract had been approved in 2005 and no appeal had been received from any of the Interested Parties in the case. The Committee considered this pharmacy to be too distant from the defined neighbourhood to be pertinent to the question of adequacy in the current application.

Having determined that pharmacy services in the defined neighbourhood were not

adequate, the Committee further considered that the granting of a further contract in the area was necessary, given the extended role of pharmacy and the opportunity to provide the population with access to the wider services provided by the pharmacy contract. The demographic composition of the neighbourhood suggested the population comprised above average elements of those groups who traditionally make use of pharmacy services e.g. the elderly.

There was no evidence available to the Committee which would suggest that the granting of this contract would have a detrimental effect on the provision of pharmaceutical services in the area given their proximity to the town centre and medical facilities.

The Committee considered the comments made by the Interested Parties and from the information regarding bus services in the area, provided by Mr Sim and were of the opinion that while the public transport provision may be adequate, the cost of travelling to the town centre may be prohibitive for many residents in the defined neighbourhood given the general level of deprivation. In addition, the difficulty for some sections of the population in physically accessing public transport i.e. mothers with young children, made this mode of access less than acceptable.

The Committee noted from their site visit that the town centre of Dumbarton appeared to be in decline with many shops vacant. The focal point of the community appeared to have had shifted from the traditional town centre set-up to the local retail park, where residents went for their daily and weekly grocery shopping and other facilities. The absence of pharmaceutical services within the defined neighbourhood required residents to travel to an area they did not use as part of the daily fabric of their lives, to access services. This in the Committee's opinion was not reasonable. The Committee was aware of the Scottish Government's policy recommendation that community pharmacy lie at the heart of the community. The Committee considered that residents within the defined neighbourhood did not have access to adequate services within their neighbourhood or from an adjoining neighbourhood where they would visit to access other services.

The high level of deprivation within the neighbourhood, contributed to residents developing long term illness much earlier in their life. The Committee were therefore of an opinion that the provision of pharmaceutical services from the proposed premises would have a positive impact on improvements in residents health quality relatively quickly.

Taking all information into consideration, the Committee agreed that the population of West Dumbarton did not currently have access to adequate provision of pharmaceutical services within their neighbourhood. The granting of a further contract was therefore necessary.

**In accordance with the statutory procedure the Chemist Contractor Member of the Committee Gordon Dykes and Board Officers were excluded from the decision process:**

**DECIDED/-**

The PPC was satisfied that the provision of pharmaceutical services at the premises of the Applicant was necessary and desirable in order to secure adequate provision of

**Contractor  
Services**

pharmaceutical services in the neighbourhood. I., It was the unanimous decision of the PPC that the application be approved.

**The Chemist Contractor Member of the Committee Gordon Dykes and Board Officers rejoined the meeting at this stage.**

**5. APPLICATIONS STILL TO BE CONSIDERED**

The Committee having previously been circulated with Paper 2011/07 noted the contents which gave details of applications received by the Board and which had still to be considered. The Committee agreed the following applications should be considered by means of an oral hearing:

- Boots UK Ltd, 51-53 Hairst Street, Renfrew PA4 8QU; and
- Angela Mackie, 290 Faifley Road, Clydebank G81 5EY.

**6. NATIONAL APPEALS PANEL DETERMINATIONS**

The Committee having previously been circulated with paper 2011/08 noted the contents which gave details of the National Appeals Panel's determination of appeals lodged against the Committee's decision in the following cases:

**Boots UK Ltd – Unit 1B, Strathkelvin Retail Park, Bishopbriggs, Glasgow G64 2TS (PPC/INCL04/2010)**

The Committee noted that the National Appeals Panel had dismissed the Appeal submitted against the PPC's decision to grant Boots UK Ltd's application to establish a pharmacy at the above address. As such Boot UK's name was not included in the Board's Provisional Pharmaceutical List and the file regarding this application was closed.

**7. ANY OTHER COMPETENT BUSINESS**

There was no other competent business.

**8. DATE OF NEXT MEETING**

The next meeting of the Committee will take place on 17<sup>th</sup> February 2011.