

NOT YET ENDORSED AS A CORRECT RECORD

Pharmacy Practices Committee (23)
Minutes of a Meeting held on
Friday 21st November 2008
The Apollo Suite, Dumbuck House Hotel,
Dumbarton, G82 1EG

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| PRESENT: | Mr Peter Daniels | Chair |
| | Professor Joe McKie | Lay Member |
| | Mr Alan Fraser | Lay Member |
| | Mr William Reid | Deputy Lay Member |
| | Dr James Johnson | Non Contractor Pharmacist Member |
| | Mr Gordon Dykes | Contractor Pharmacist Member |
| IN ATTENDANCE: | Michelle Dunlop | Community Pharmacy Development Officer |
| | Robert Gillespie | Lead - Community Development Pharmacist |
| | Janine Glen | Contracts Manager – Community Pharmacy Development |
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Prior to the consideration of business, the Chairperson asked members if they had an interest in any of the applications to be discussed or if they were associated with a person who had a personal interest in the applications to be considered by the Committee.

ACTION

No declarations of interest were made.

1. APOLOGIES

There were no apologies.

2. MATTERS ARISING NOT INCLUDED IN AGENDA

None.

Section 1 – Applications Under Regulation 5 (10)**3. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST**

Case No: PPC/INCL18/2008
Assura Pharmacy Ltd, 32a Brucehill Road, Dumbarton G82 4EN

The Committee was asked to consider an application submitted by Assura Pharmacy Ltd to provide general pharmaceutical services from premises situated at 32a Brucehill Road, Dumbarton G82 4EN under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 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 Assura Pharmacy Ltd agreed that the application should be considered by oral hearing.

The hearing was convened under paragraph 2(2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 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 Conor Daly ("the Applicant"), assisted by Mr Mark Hedley. The interested parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Mr David Sinclair (Sinclair Shops Ltd), and Mr Nisith Nathwani (Lloydspharmacy), assisted by Mr Mark Dickinson. ("the Interested Parties"). **The Committee declined Mr Charles Tait's admittance to the hearing as Boots UK Ltd had not submitted written representation during the consultation period and as such in accordance with Schedule 3 Regulation 2 (3) was not entitled to appear at the hearing.**

The Chair asked Mr Hedley and Mr Dickinson (assisting) to confirm that they were not appearing before the Committee in the capacity of solicitor, counsel or paid advocate. Both confirmed they were not.

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant's premises, pharmacies, GP surgeries and facilities in the immediate area and the surrounding areas of Castlehill, Brucehill, Kirktonhill and Dumbarton town centre.

The Committee noted that the Applicant had provided access to the premises. The Committee was able to view the size and layout of the

site.

The procedure adopted by the PPC at the hearing was that the Chair asked the Applicant to make their submission. There followed the opportunity for the Interested Parties and PPC to ask questions. Each of the Interested Parties would then in turn make their submission. There followed the opportunity for the Applicant and PPC to ask questions of each Interested Party. The Interested Parties and the Applicant were then given the opportunity to sum up.

The Applicant's Case

Mr Daly commenced his presentation by informing the Committee that he was employed by Assura Pharmacy Ltd as a Business Development Manager. He was a pharmacist and a barrister. His appearance at the oral hearing was in the capacity as Business Development Manager for Assura Pharmacy Ltd, and not as a barrister.

He advised the Committee that the Applicant's neighbourhood was defined as West Dumbarton. He suggested that neighbourhood was an important factor in the determination of such applications and that the Committee would have to deal with a number of issues when determining the neighbourhood. He intended to deal briefly with the demographics of the area and in particular the demographics for pharmaceutical services. He would also look at the adequacy or as he would contend, inadequacy of the current provision. He would also touch on previous applications made for premises within the same general area, but reminded the Committee that they were not bound by any previous decisions.

Mr Daly advised that the Pharmacy Practice Committee (PPC) of Argyll & Clyde Health Board had approved an application to establish a new pharmacy at 74-76 Hawthornhill Road, Dumbarton in March 2006. Hawthornhill Road was situated in the area the Applicant defined as West Dumbarton. The National Appeals Panel (NAP) had overturned the PPC's decision. Mr Daly reminded the PPC that they were at liberty to come to a different conclusion by determining that the current services were not adequate. The NAP had determined Dumbarton to be a single neighbourhood which was, in Mr Daly's opinion, irrational. Mr Daly suggested that Dumbarton was too large to be considered a single neighbourhood and the notion that 20,000 people could consider themselves neighbours was not logical.

Mr Daly advised that the neighbourhood in question was glaringly obvious. The River Leven divided east and west Dumbarton and was the most obvious geographic feature in arriving at a definition. The east side of Dumbarton was made up of several neighbourhoods which Mr Daly had given little consideration to. Mr Daly then went on to talk in terms of what a neighbourhood was. He explained that the first step of

defining a neighbourhood was to talk in terms of street. A person would identify where they came from by referring to the street they lived in. The next step was neighbourhood. A place a person would have an affinity with, a feeling of neighbourhood where a person was considered to be neighbours with others living in the same area. There was a connotation of nearness. The step beyond this being of community. Mr Daly averred that while neighbourhood could be determined as being the smallest geographical area, it didn't need to be small in size. While this might be true in an urban setting where an industrial estate or a block of high rise flats could be considered to be a neighbourhood, the same might not be true in a rural setting where a neighbourhood might be a large area. Whatever the determination, the area of Dumbarton to the west of the River Leven displayed the characteristics associated with neighbourhood.

The two sides of the river were different in character. The east contained mainly retail provision, with some housing further to the east. In contrast, the west was devoid of significant shopping facilities with the existing retail units being independent and basic. There was a convenience store, off license, pub, and book makers. There was a large residential component which was more deprived than the area to the east. There was a sense of identification between common groups which weren't town wide. In Mr Daly's opinion this was powerful evidence to support his assertion. In illustration of his point regarding size, Mr Daly advised that a neighbourhood did not need to contain shops, a post-office, banks, a church or even a resident population. The neighbourhood of West Dumbarton did have these facilities. There was a residential population of approximately 5,700 (based on 2006 figures).

In summary, Mr Daly asked the PPC to apply common sense to their definition of neighbourhood. It was clear that 20,000 people could not be considered to be neighbours. West Dumbarton was a deprived area, with different types of housing. There were acknowledged problems with alcohol and drug abuse and it was clear there was demand for services. Mr Daly pointed to the position of pharmacy in the community as viewed by the new pharmacy contract. The basis being that a pharmacy would serve the population in which it was positioned, with a move away from a solely dispensing function to the provision of a service based approach. Pharmacy services should be accessible and provided where the population lived.

West Dumbarton was a large deprived area with clear health needs, and no current pharmacy provision. Residents in poor health had nowhere to go for services such as Emergency Hormonal Contraception (EHC), or Minor Ailment Service (MAS). Current providers situated to the east of the River couldn't provide these services in the neighbourhood. This wasn't possible. Most provided a delivery service into the neighbourhood and this would be acceptable if a delivery service could provide secure and adequate services. This was not true for the residents of this

neighbourhood.

Mr Daly suggested that the Interested Parties would aver that the public transport provision into East Dumbarton was good. This in his opinion was irrelevant and the suggestion that patients should get on a bus and travel to access services was patronising and unacceptable. The Objectors might say they provide services but these services were provided in East Dumbarton. Mr Daly pointed to the Area Pharmaceutical Community Pharmacy Sub-committee's support of the application and the fact that the local GPs did not have any objection to the application. He asked the PPC not to be distracted by the assertions that adequate services were provided in East Dumbarton. He took no quarrel with the assertion that pharmaceutical services in East Dumbarton were adequate, but reminded the PPC that there were no services provided in the defined neighbourhood of West Dumbarton.

For these reasons he asked the PPC to grant the application as the previous application had been granted in the past.

The Interested Parties Question the Applicant

In response to questioning from **Mr Sinclair**, Mr Daly advised that the population of the Applicant's defined neighbourhood was in the region of 5,700, based on 2006 figures taken from the National Statistics website.

In response to further questioning from Mr Sinclair, Mr Daly advised that his assertion regarding the differences in deprivation levels between East and West Dumbarton was based on his observations of both areas. The housing in West Dumbarton was predominantly social rented accommodation. Some of the houses were boarded up. In contrast the housing to the East was owner/occupied and was much more affluent.

In response to questioning from **Mr Nathwani**, Mr Daly confirmed that the catchment area of the schools in West Dumbarton would extend beyond this defined area. He suggested that Mr Nathwani was confusing the terms "catchment area" and "neighbourhood". It was not unusual for a school situated in a neighbourhood to take in children from an extended area.

The PPC Question the Applicant

In response to questioning from **Doctor Johnson**, Mr Daly confirmed that within the defined neighbourhood there were convenience stores from where the population would be able to undertake general grocery shopping. They would be more likely to undertake their "weekly" shopping at the main supermarkets in Dumbarton. Mr Daly advised that this did not detract from the fact that the population lived in the

defined neighbourhood and accessed services offered within it for their day to day needs.

In response to further questioning from Doctor Johnson regarding the size of the proposed premises, Mr Daly confirmed that Assura Ltd, as a company, obtained less than 3% of their profit from retail items. The pharmacy as a whole would focus on health care. There would be a dispensing area with counter remedies and 'P' medicines. The unit was perfectly adequate as there was no intention to sell items such as shampoo or toiletries. Mr Daly advised that Assura Ltd already operated a pharmacy in Bonnyrigg from premises considerably smaller than the proposed premises. These premises were situated within a health centre and had a prescription load of approximately 20,000 per month. Mr Daly was confident that Assura Ltd had in place an appropriate business model to respond to the change in direction that pharmacy services were taking with the focus shifting more to a service led environment. This was a move that the Applicant welcomed.

In response to questioning from **Mr Reid** regarding what evidence of demand for services he could produce, Mr Daly advised that the population of the defined neighbourhood was around 5,700. Taking an average prescription load of 1.1 per person per month, this equated to approximately 6,300 items per month. If it was accepted that 80% of these related to repeat medication where there was no need for the patient to visit the GP practice, and therefore no requirement for the patient to travel to the health centre then this gave an above average demand for services. This, taken with the widely documented health problems in the area clearly showed demand.

In response to further questioning from Mr Reid, Mr Daly advised that he had not sought supporting letters from the local Councillors or patients. He did not feel these to be necessary. The Applicant judged the demand for services by looking at the population.

In response to further questioning from Mr Reid, Mr Daly accepted that while the local public transport network may be good it would only be acceptable to expect patients to travel to access services where there was 100% car ownership. He reiterated that the low car ownership, topography and geography of the area were barriers to the access of services. Even leaving these issues aside, Mr Daly questioned whether it was appropriate to expect patients to travel to access services.

In response to questioning from **Mr Fraser**, Mr Daly agreed that residents living in West Dumbarton needed to travel to East Dumbarton to access GP services. He did not agree that they should use this opportunity to access pharmacy services at the same time. Mr Daly advised that 80% of prescriptions were repeat and did not require the patient to visit a GP. He questioned whether a service could be

deemed adequate if it was only appropriate for 20% of the population and not the remaining 80%. He confirmed that 80% was an accepted figure for repeat prescribing.

In response to questioning from **Professor McKie** regarding the differences in deprivation noted by the Committee between the areas of Brucehill and Kirktonhill and whether there was any connection between the two areas. Mr Daly advised that the area of Kirktonhill was less deprived than Brucehill. He fully expected the proposed premises to provide services to the whole population of West Dumbarton.

In response to a follow up question from Professor McKie, Mr Daly did not agree that access to adequate services in Dumbarton town centre meant that those living in Kirktonhill were already well served. He considered the notion unacceptable. Residents living in Kirktonhill would easily have access to the proposed premises.

In response to final questioning from Professor McKie, Mr Daly reiterated his assertion that it was immaterial how convenient or regular the public transport service was in the area. He fully expected there to be a good bus service in areas of deprivation, but questioned why residents should be expected to conduct a special trip into another neighbourhood to access pharmacy services.

In response to questioning from **the Chair**, Mr Daly advised that he hadn't conducted much research regarding the bus services operating in West Dumbarton. He reiterated that even if the service was adequate, the question the PPC had to deal with was the adequacy of pharmaceutical service in the neighbourhood and not the adequacy of public transport. He accepted that it might be entirely possible for an area not to need a pharmacy because of issues such as low population, or where the current delivery service met the needs of the population; however this was not the case in West Dumbarton. The defined neighbourhood had a population of 5,700 who were known to have a worse health profile than average. There were currently no services provided in the neighbourhood to meet these needs. Accordingly the legal test was proved.

In response to further questioning from the Chair, Mr Daly confirmed that the Health Act defined the services to be provided by pharmacies. The main provision related to the dispensing of prescriptions. This service was currently not available within the defined neighbourhood. The only service currently provided into the neighbourhood was the delivery of prescriptions. He pointed to the other services currently coming into prominence through the pharmacy contract e.g. MAS, EHC, Stop Smoking and advised that if these services were considered unimportant then the PPC might conclude the services to the neighbourhood adequate. He would however contend that it could

not be considered adequate for an area with increased health needs.

In response to final questioning from the Chair regarding the absence of patient complaints on the subject of pharmacy services, Mr Daly advised that he had yet to attend a hearing where complaints had been received. He reiterated that it was the role of the PPC to act before complaints were received around the lack of service in a neighbourhood. He advised that again the current Pharmaceutical regulatory framework made it clear that services should not only be adequate but securely adequate, which required the PPC to look to the future and respond accordingly.

There were no questions to Mr Daly from Mr Dykes or Mr Gillespie.

The Interested Parties' Case – Kemp Pharmacy (Mr David Sinclair)

Mr Sinclair thanked the Committee for providing him the opportunity of presenting his case.

He advised that the he would define the neighbourhood in this case as the town of Dumbarton to the south and west of the A82 Stirling Road, forming the north and east boundaries. To the south the River Clyde and the west open ground forming the edge of town.

Mr Sinclair's basis for this definition lay with the NAP decision of 17th July 2006 regarding a previous application relating to Hawthornhill Road. The NAP had taken the opinion that *"The areas of Castlehill, Brucehill and Kirktonhill had small populations and had no features or facilities distinct from the remainder of the town of Dumbarton. Dumbarton town centre provided all the facilities for the population of the areas in terms of neighbourhood."* Mr Sinclair suggested that the NAP had been fairly clear in both their definition of neighbourhood and their contention that the area was currently adequately served. He suggested that while each application should be regarded on its own merit, he nevertheless felt it important to take cognisance of the NAP's previous decision given the Applicant's proposed premises were situated in a very similar area. Mr Sinclair advised that if accepted, the argument that the population base to the west were of individual characteristic, then there should be a pharmacy in each area. This would equate to a total of 10 pharmacies across the whole of Dumbarton. A situation which was unsustainable.

Mr Sinclair advised the Committee that at the last census the population of Dumbarton as a whole was approximately 20,000. There had been no significant developments since then, and in particular there had been no change since the NAP decision in 2006. There were currently six pharmacies serving the population which equated to one pharmacy per 3,300 population, which was considerably higher than the distribution throughout the rest of Scotland. The area to the

west of Dumbarton actually had a distribution of four pharmacies for a population of approximately 8,500. There was no rationale for putting a line through Dumbarton and the levels of deprivation were not significantly different between Castlehill and those in the town centre. If another pharmacy was added there would be a danger of risking current supply.

Mr Sinclair suggested that there were acceptable and easy links between the area to the west of the River Leven and the town centre. Even the furthest part was within 15 minutes walk of Lloydspharmacy with good pedestrian crossings including via the bridge itself. Regular bus services also ran; one service ran every 10 minutes from the area north of Cardross Road (206) while other services ran every 15 minutes along Cardross Road itself (208/218), which travelled into the town centre.

There were no amenities expected of a neighbourhood to the west of the River Leven. Residents were required to travel to the town centre or further away to access banks, supermarkets, GPs or dentists.

Services from all the current pharmacies in Dumbarton more than met the needs of patients in the town. All services in the pharmacy contract were provided to an excellent standard as well as other non core services. While Mr Sinclair would not argue that a new contract would affect the viability of the existing contractors he would certainly be concerned about the quality of service he could provide if a new pharmacy opened. There was no reason to add another pharmacy at Brucehill Road.

The Applicant Questions Mr Sinclair

In response to questioning from **the Applicant**, Mr Sinclair advised that Kemp Pharmacy provided dispensing services, MAS and PHS from their premises located in Dumbarton. He contended that Kemp Pharmacy did provide services to the population of West Dumbarton via their collection and delivery service, although he agreed that the pharmacy did not provide dispensing services in the area.

In response to a question from the Applicant seeking clarification regarding his comments on quality of service, Mr Sinclair confirmed that he had not said that the quality of service provided from Kemp Pharmacy would be compromised if an additional pharmacy were to open. He advised that he would find it difficult to continue providing the current high standard of service. Currently the pharmacy employed a second pharmacist who was in the pharmacy two days per week. If turnover was lost due to an additional contract being awarded the company may find it difficult to sustain this investment.

There were no questions to Mr Sinclair from Mr Nathwani.

The PPC Question Mr Sinclair

In response to questioning from **Mr Dykes**, Mr Sinclair advised that in his opinion a methadone client living in West Dumbarton would be less likely to attend to access their treatment if a pharmacy existed in Brucehill. He advised that such a concept related more to convenience than the issue of inadequacy and questioned its relevance.

In response to questioning from **Dr Johnson**, Mr Sinclair advised that from his significant knowledge of the area, he would define the neighbourhood as Stirling Road and Townhead Road. The small pocket consisting of Langlands Terrace and Carman View to the east of the A82 constituted a different neighbourhood, although there was access from Bellsmyre across the A82.

In response to further questioning from Dr Johnson, Mr Sinclair confirmed that Kemp Pharmacy undertook approximately 15-20 deliveries across the whole of the Vale area on a daily basis. Although he did not have exact figures for the Brucehill area he did not think a large amount of deliveries were made to this area.

In response to questioning from **Mr Fraser**, Mr Sinclair advised that the pharmacist at Kemp Pharmacy had made a home visit to the Brucehill area once. This was to visit a MDS patient.

In response to questioning from **the Chair**, Mr Sinclair advised that he was surprised that the Area Pharmaceutical Community Pharmacy Sub-committee had chosen not to object to the application. He advised that this decision didn't reflect the opinions of the contractors in Dumbarton.

In response to further questioning from the Chair, Mr Sinclair confirmed that the NAP's definition of neighbourhood was large, however in Mr Sinclair's experience of Dumbarton people were unlikely to say they came from Brucehill or Castlehill. Most would say they came from Dumbarton. The exception to this was Bellsmyre. The defined neighbourhood was large, but in Mr Sinclair's opinion, correct.

There were no questions to Mr Sinclair from Mr Reid, Professor McKie or Mr Gillespie.

The Interested Parties' Case – Lloydspharmacy (Mr Nisith Nathwani)

Mr Nathwani commenced his presentation by thanking the Committee for allowing Lloydspharmacy to be represented. He advised that in Lloydspharmacy's view the Dumbarton neighbourhood had adequate pharmacy services, and the application by Assura Pharmacy Ltd

should fail as it was neither necessary nor desirable.

He concurred with the NAP's decision in the application made by Hillview Ltd at Hawthornhill Road, Dumbarton in 2006 that *"The neighbourhood should be defined as 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 neighbourhood."*

As far as Lloydspharmacy could see there had been no significant changes since this hearing to cast doubt on the NAP's decision. The population of Kirktonhill and Brucehill were required to travel to the town centre for their day to day services. He advised that there was no such term as West Dumbarton. He suggested this to be a term made up by the Applicant to sway the PPC.

The neighbourhood was currently served by five pharmacies, six if the pharmacy in Bellsmyre was included. Given the population of Dumbarton as a whole was around 20,500 this gave a ratio of 3,420 per pharmacy which was overprovision in terms of the Scottish national average.

He advised that no mention had been made of inadequacy of existing services, as none existed. The two Lloydspharmacy branches in Dumbarton were both conveniently sited one adjacent to the medical centre, and the other on the High Street. Both pharmacies were DDA compliant and had short waiting times. They provided a methadone supervision service and had many community dosette patients, with capacity for more and waiting lists for neither. They had recently completed some minor work upstairs in the High Street branch to increase the dispensary capacity. In terms of services Lloydspharmacy offered free blood pressure and diabetes testing in the consultation areas, and were fully compliant in all aspects of the Scottish pharmacy contract.

Lloydspharmacy had received no complaints about either pharmacy that Mr Nathwani was aware of, either in terms of service or opening hours. Lloydspharmacy had close relations with the Medical Practice and again no issues had been highlighted.

Lloydspharmacy offered a collection and delivery service from both pharmacies in Dumbarton, and delivered to the area of the Applicant's proposed premises. Patients were encouraged to call the pharmacy. There were two pharmacists who provided double cover so that advice could be provided on issues such as heart failure.

Mr Nathwani advised that looking at Assura Pharmacy Ltd's application; the proposed site was a small unit, next to a small convenience store a take away. This wasn't a hub of the community. The population of Brucehill, Castlehill and Kirktonhill would still need to access Dumbarton town centre for the Post Office, banks or even to undertake their weekly grocery shop. To describe the area as a neighbourhood that was self-sufficient with its own amenities would be wrong.

Mr Nathwani reminded the PPC that there were no medical facilities in the neighbourhood so customers would need to come into the town to access these. The opening hours proposed by Assura Pharmacy Ltd were 9.00am – 1.00pm on Saturdays and closed on Sundays. Mr Nathwani questioned how in the age of the new contract, this would help the local community access pharmaceutical services on a Saturday afternoon. A parent looking for a MAS consultation or advice for their ill child would still need to come to the town centre to access pharmaceutical services.

There was a regular bus service from Brucehill to the town centre with the journey taking five to ten minutes, which Mr Nathwani suggested was an adequate service.

In summary, Mr Nathwani advised the application was based on a flawed definition of neighbourhood, defined to exclude all existing pharmacies. The current pharmaceutical services were more than adequate, and a new pharmacy would offer nothing new. For these reasons and that the Applicant had not show inadequacy, Mr Nathwani asked the PPC to agree with Lloydspharmacy that the application was not necessary or desirable and should be rejected.

The Applicant Questions Mr Nathwani

In response to questioning from **the Applicant** regarding the definition of neighbourhood, Mr Nathwani confirmed that he believed the NAP's definition to be appropriate. He further confirmed that he did not believe the River Leven to be an appropriate boundary because residents were able to cross it. When asked by the Applicant if the A82 was crossable, Mr Nathwani confirmed that it was. In response to the Applicant's question as to why then the A82 could be considered a boundary and not the River Leven when both were able to be crossed, Mr Nathwani advised that the area to the other side of the A82 was a distinct neighbourhood. Mr Nathwani responded in the affirmative to Mr Daly's invitation to agree that the A82 was a boundary and not a barrier. and that the river was also a boundary and not a barrier.

In response to final questioning from the Applicant regarding Saturday opening hours, Mr Nathwani agreed that the need to access services

on a Saturday showed there to be a need for services in the neighbourhood.

There were no questions to Mr Nathwani from Mr Sinclair.

The PPC Question Mr Nathwani

In response to questioning from **Mr Dykes**, Mr Nathwani confirmed his comments that the absence of service from the Applicant's proposed premises on a Saturday afternoon would be a barrier to accessing MAS. He accepted that the Lloydspharmacy branch at Station Road was also closed at this time, but reiterated that the Lloydspharmacy branch on High Street was open. Patients requiring MAS could easily access this site and their registration was transferable between pharmacies. He further confirmed that it was not a Lloydspharmacy policy to close on Saturday afternoons, but rather custom and practice of this particular branch.

In response to questioning from **Doctor Johnson**, Mr Nathwani confirmed that Lloydspharmacy conducted delivery services to West Dumbarton. He did not have exact figures relating to frequency, but gave a best guess estimate of once per day.

In response to questioning from **Mr Reid**, Mr Nathwani advised that the Lloydspharmacy branch on High Street received some prescriptions from the Bellsmyre area. He further confirmed that the branch operated a collection and delivery service to Bellsmyre and any other where a need was identified.

In response to further questioning from Mr Reid, Mr Nathwani agreed that there would be evidence of complaints if the population of West Dumbarton were not satisfied with their access to pharmacy services. He further agreed that the Health Board would have been made aware of the dissatisfaction either through the local press or directly from the residents. He advised that Lloydspharmacy conducted ongoing review of their services to ensure their adequacy for the area. They did this regularly and through prescription analysis.

In response to questioning from **Professor McKie**, Mr Nathwani confirmed that Lloydspharmacy offered a delivery service into West Dumbarton. He further confirmed that pharmacists made home visits to this area. Home visits were not regular, approximately 2-3 per month. Most visits were to heart failure patients.

There were no questions to Mr Nathwani from Mr Fraser, Mr Gillespie or the Chair.

Mr Daly sought permission from the PPC to ask a follow up question of Mr Nathwani. The Committee agreed and in response to Mr Daly's

question, Mr Nathwani advised that he had not heard of the West Dumbarton Activity Centre.

Summing Up

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

Mr Sinclair reminded the panel that adequacy of service was not defined by the existence of a pharmacy within a neighbourhood but by the services provided to the neighbourhood. He would argue that there was not an inadequacy and the Applicant had not proved there to be inadequacy. The application should be rejected.

Mr Nathwani advised that within the defined neighbourhood there were adequate services. The application was not necessary or desirable in the neighbourhood of Dumbarton.

Mr Daly advised that the legal test contained in the Regulations required the PPC to consider whether services were adequate in the neighbourhood. The word "to" didn't appear in the Regulations.

He advised that Mr Sinclair had suggested that convenience was irrelevant. He would argue with this premise and directed the Committee to Lord Justice Bedlam's opinion which stated that convenience could be taken into account. He advised that taking into consideration the geography, topography, socio-economic standing and lay-out of the area the services were not adequate. He suggested that the objectors wanted the PPC to focus on the location of shops in the area, and advised that if the Committee accepted the river to be a boundary and accepted that the area to the west of the river had a demand for pharmacy services then it should accept the services to be inadequate as there were no services provided in the area.

He directed the Committee's attention to the opinion of Lord Justice Collins who stated that in the Brent Cross judgement, Mr. Justice Collins stated, "It is necessary to look at the circumstances of the population concerned. If it is not reasonable to expect particular people to use particular services then those services are not adequate for them".

Mr Daly advised that for the above reasons, the Application should be approved.

Before the Applicant and Interested Parties left the hearing, the Chair asked each to confirm that he had had a full and fair hearing. All confirmed that they had.

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 forward before them, the PPC also took into all 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;
- b) The NHS Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Subcommittee;
- c) The Greater Glasgow & Clyde Area Medical Committee (CP Subcommittee);

The Committee also considered:-

- d) The location of the nearest existing pharmaceutical services;
- e) Demographic information regarding Dumbarton;
- f) Information from West Dunbartonshire Council's Department of Land and Environment regarding future plans for development within the area; and
- g) NHS Greater Glasgow and Clyde plans for future development of services.

DECISION

Having considered the evidence presented to it, and the PPC's observation from the site visits 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, and the Community Pharmacy Subcommittee in relation to the application. The Committee also noted the neighbourhoods put forward by the PPC of Argyll & Clyde Health Board and the National Appeals Panel in relation to a previous

application in 2006 for premises situated in Hawthornhill Road. Taking all information into consideration, the Committee considered that the neighbourhood should be defined as follows:

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

The Committee were not convinced that a population of over 20,000 could be defined a single neighbourhood. The Committee considered their definition to be a logical neighbourhood. 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.

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. Within Dumbarton as a whole, however there were currently five pharmacies, with a further pharmacy situated across the A82 in the area known as Bellsmyre (a relatively new contract). 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 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.

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 the pharmacist 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 any of the existing contractors within the wider area would be adversely affected if a contract were granted in the area given their proximity to the town centre and medical facilities.

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 Members 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 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 and in the circumstances, it was the unanimous decision of the PPC that the application be granted.

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

5. NATIONAL APPEALS PANEL DETERMINATION

The Committee having previously been circulated with paper 2008/60, 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:

Woodneuk Healthcare Ltd, - 196 Cross Arthurlie Street, Barrhead G78 1EY (Case No: PPC/INCL31/2007)

The Committee noted that the National Appeals Panel had refused the Appeal submitted against the PPC's decision to refuse Woodneuk Healthcare Ltd's application to establish a pharmacy at the above address. As such the Applicants' names were not included in the Board's Provisional Pharmaceutical List, and the file on the application had been closed.

Advance Pharmacies Ltd – 26-28 Willowford Road, Darnley, Glasgow G53 7LP (PPC/INCL14/2008)

**Contractor
Services
Supervisor**

The Committee noted that the National Appeals Panel had dismissed the Appeal submitted against the PPC's decision to refuse Advance Pharmacies Ltd's application to establish a pharmacy at the above address. As such the Applicant's name was not included in the Board's Provisional Pharmaceutical List, and the file on the application had been closed.

6. ANY OTHER COMPETENT BUSINESS

None.

7. DATE OF NEXT MEETING

The next scheduled meeting would take place on Monday 1st December 2008.