

## NOT YET ENDORSED AS A CORRECT RECORD

Pharmacy Practices Committee (01)  
 Minutes of a Meeting held on  
 Tuesday 24<sup>th</sup> January 2012 at 9.30am in  
 King's Park Hotel, Mill Road  
 Rutherglen, Glasgow G73

PRESENT:	Doctor Catherine Benton	Chairperson
	Mrs Catherine Anderton	Lay Member
	Mr Alan Fraser	Lay Member
	Mr Stuart Daniels	Deputy Lay Member
	Doctor James Johnson	Non Contractor Pharmacist Member
	Mr Kenneth Irvine	Contractor Pharmacist Member
	Mr Colin Fergusson	Contractor Pharmacist Member
IN ATTENDANCE:	Trish Cawley	Contracts Supervisor – Community Pharmacy Development
	Janine Glen	Contracts Manager – Community Pharmacy Development
	Robert Gillespie	Lead - Community Care

## ACTION

**1. APOLOGIES**

There were no apologies.

Section 1 – Applications Under Regulation 5 (10)

**2. MINUTES**

The minutes of the meeting held on Thursday 3<sup>rd</sup> November 2011 PPC[M]2011/13 and Thursday 24<sup>th</sup> November 2011 PPC[M]2011/14 were approved as an accurate record.

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

Mrs Glen advised the Committee that M A Sheikh Properties Ltd (PPC/INCL04/2011) had not submitted any appeal against the Committee's decision to refuse his application to open a pharmacy at 455 Victoria Road, Glasgow G42 8RW within the statutory timescale. The file concerning this application was now closed.

Prior to the consideration of the application and in the presence of the Applicant and the Interested Parties, the Chairperson asked members of the Committee 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.

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

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

**Case No: PPC/INCL05/2011**

**Kyle Square Ltd – Unit 5, 151 Western Road, Whitlawburn, Cambuslang, Galsgow G72 8PE**

The Committee was asked to consider an application submitted by Kyle Square Ltd to provide pharmaceutical services from premises situated at Unit 5, 151 Western Road, Whitlawburn, Cambuslang, Glasgow G72 8PE 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 Kyle Square Ltd considered 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 was whether "the provision of pharmaceutical services at the premises named in the application was necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises were located by persons whose names were included in the Pharmaceutical List."

The Applicant was represented in person by Mr David Dryden assisted by Mr Michael Balmer. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Ms Nicola Burns (Burns Pharmacy) assisted by Mrs Carol Burns, Mr Alasdair MacIntyre (Burnside Pharmacy), Mr Martin Green (Dukes Road Pharmacy and Melville Chemist), Mr Michael Doherty (Leslie Chemists) and Mr Stephen Dickson (J G Dickson & Sons).

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 including Cambuslang Main Street, Burnside, Cathkin and Fernhill.

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 of the Applicant. The Interested Parties were then asked to make their submissions. After each submission, there followed the opportunity for the Applicant and the 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**

**The Applicant** advised the Committee that “today was a day of opportunity. A day for the Health Board to consider the needs of one of its most deeply deprived neighbourhoods”. He said he was pleased to be joined at the hearing today by his fellow contractors. He valued their experience and first-hand knowledge of the area and looked forward to positive debate.

He thanked the Committee for convening the hearing today and granting Kyle Square Ltd the opportunity to present the case for Whitlawburn Pharmacy.

Whitlawburn was, he suggested, a neighbourhood in its own right. It was built during the post-war era, and its role was to re-house residents from deprived inner-city areas. Rather than solving any problems, the problems were relocated. The population was shunted out of the peripheries of the city and was provided with limited access to amenities.

When first built, Whitlawburn was not surrounded by urban sprawl. It was surrounded by greenbelt. Its southern border marked the furthest extent of Glasgow City, beyond which were farmlands and countryside.

To the north, Whitlawburn was still separated from Cambuslang by open ground – rugby pitches and Holmhill community park. In Cambuslang there was an affluent area characterised by sandstone villas from the Victorian era. Stewarton Drive for example was home to two GPs from North Avenue Surgery and another GP from Craigallian Medical Practice. By contrast he was not aware of any GPs living in Whitlawburn. The Applicant realised that this was not a standard marker, but hoped the Committee would agree that this provided a little more insight into the area in question.

To the west there was a fast moving dual carriageway – the A749 – which separated Whitlawburn from Springhall. It separated Cambuslang from Rutherglen. The two areas with different postcodes had different housing stock, there were territorial issues between them, they had different councillors, and different polling stations. They were different neighbourhoods, both physically and socially.

To the east Whitlawburn terminated at Greenlees Road, an arterial road which intersected with the dual carriageway heading for the new town of East Kilbride. Beyond Greenlees Road there was further private housing in Kirkhill. Much of this consisted of sandstone villas and there was a further estate of housing which was also entirely privately owned.

To the south was Lomond View. Built on greenbelt just a few years ago. This was a relatively affluent development of modern, private red-brick housing. It was self contained and was separated from Whitlawburn by a picket fence running along its length. There was no thoroughfare from Whitlawburn and Lomond View and this barrier told its own story.

The Applicant advised that he didn’t have to contrive a neighbourhood. He was describing what was already there. These were all natural barriers and were plain to see.

The Applicant went on to talk about the area of Whitlawburn itself and whether the area displayed the characteristics of a neighbourhood.

The Applicant advised that Whitlawburn had many of the services and facilities expected of

a neighbourhood and quite a few you might not expect. There was a choice of childcare. There were youth clubs, dance classes and zumba. There was a credit union and Job Centre Outreach programmes. Local councillors ran their surgeries there. There was a range of takeaways, a café, a public house, a bookmaker, a 5-a-side football pitch for hire, mothers and toddlers group, Asian women's groups, senior citizens groups and a new, state of the art NHS dental practice. In Whitlawburn you could even become a radio presenter on Camglen Radio.

Until relatively recently, Whitlawburn had both a high school and the annexe of a primary school within its boundaries. The Applicant wasn't convinced that Whitlawburn would have ceased to be a neighbourhood when the public sector budget dictated relocation of these facilities.

The Applicant suggested that despite all the services he had mentioned life wasn't easy in Whitlawburn; there was a population of over 3,000 and in Whitlawburn there could be found two of the three most deprived datazones in the whole of South Lanarkshire. Around 25% were living in overcrowded conditions. There were social problems, problems with drug use, low levels of employment and an ageing population. 69% of the population did not have access to private transport and even if they had a car, parking in Cambuslang, Rutherglen and Burnside was very difficult. This was the clearly documented view provided during the official public consultation carried out by the Applicant in accordance with the Regulations.

Tesco refused to deliver to Whitlawburn. They did not refuse to deliver to Cathkin, or Springhall, only Whitlawburn.

You could get a take-away, you could place a bet, you could buy cigarettes and you could buy alcohol but you couldn't access NHS smoking cessation services. The Applicant fully accepted that the NHS couldn't take a stand against private businesses that operated take-aways and off-licenses, but what it could do was target areas where health services would have the greatest impact.

Without a pharmacy in Whitlawburn what access did the people have to pharmacy services? The Applicant advised that he was not saying that the people of Whitlawburn had never been in a pharmacy. However he put it to the Committee that this neighbourhood experienced very real difficulties in accessing pharmacies, as described in the letters received during the period of public consultation.

There was no pharmacy within 0.8 miles of the proposed premises which was situated at the heart of Whitlawburn. The pharmacies in Cambuslang Main Street were over one mile away. These figures were taken from the AA website. Other than taking to the streets with a surveyor's wheel the Applicant was not convinced that a more accurate assessment of these distances could be obtained.

The Applicant could not think of any other similarly deprived area of a large city like Glasgow whose residents had to travel such distances to access pharmacies.

The letters from the public told the Applicant that it was too far to walk, that the bus service was not good, that parking in other areas was too difficult, that the local population needed a pharmacy close at hand.

Drug use was a major problem in Whitlawburn; again the Applicant had identified this from the letters from the public. Patients on methadone or other substitution programmes should be given local access to these services, as the shorter the distance to travel, the greater the rates of adhering to the programme. This was evidence-based through various studies.

The methadone programme helped to stabilise the lives of some of society's most vulnerable patients. The very premise of this service was jeopardised whilst local access was so limited. Why make it difficult?

The Applicant questioned why mothers with children had to get on buses or get taxis to receive advice and treatment from the pharmacy on the minor ailments service including for matters such as head lice, chicken pox, and eye infections. He questioned if it was unfair to ask this population to travel when residents of Cambuslang Main Street didn't need to travel, when residents of Cathkin didn't need to travel, when residents of Fernhill didn't need to travel. He questioned why Whitlawburn should be afforded less, when arguably the needs were greater.

The minor ailments service had brought community pharmacy to the fore of the NHS. A first port of call. A gateway to the NHS which avoided the need for an appointment, and avoided the need to travel to the GP. Patients travelling to Cambuslang Main Street from Whitlawburn to access a pharmacy were travelling the same distances as they would to visit a GP on Cambuslang Main Street. The Applicant questioned in what way, then, was the neighbourhood of Whitlawburn deriving the benefits of the services to which they were entitled.

Most pharmacies now offered prescription delivery services. While some patients depended on this, many more would be able to access Whitlawburn Pharmacy and would be able to walk to the pharmacy for face to face contact with the pharmacist, in the pharmacy's central location and with its ample parking. The Applicant directed the Committee's attention to the letter of support submitted by Margaret McCall *"I would be able to collect my medication myself which in turn gives a little feeling of independence."*

And that was exactly what was needed: patients visiting pharmacies to obtain advice, to obtain the benefits of contact with a qualified health care professional, not a delivery driver. However good their training had been a driver's training was not four years at university and a year of pre-registration training. The delivery driver, though an important part of modern pharmacy, was not a mobile health professional.

The Applicant advised that all patients had the right to access the full range of services. Some patients absolutely needed all these services.

The Chronic Medication Service looked to ensure patients were getting the most from their medicines and that the NHS was getting best value for medicines. This required medication reviews, face to face contact. If this was not readily accessible then it wouldn't be accessed. Prescribing costs for areas of deprivation were high – this was where the Chronic Medication Service was designed to work. Pharmacy as a whole was trying to ensure value for the taxpayer, and Kyle Square Ltd could make a contribution in Whitlawburn.

He advised that he believed that central to the application were the needs of the neighbourhood. He advised the Committee that a period of public consultation had been carried out, as required by the Regulations. 112 responses were received, 111 in support of Whitlawburn Pharmacy.

He advised that other parties had elected to canvass further opinion. He advised that this was not a specific requirement of the Regulations and asked the Committee not to confuse the two public consultations.

The Applicant advised that how Applicants or Interested Parties decided to conduct public consultation was essentially their own affair, and he was pleased that many patients had made a contribution to this process, whether they commented in support or otherwise. Apart from anything else, public consultation could help promote pharmacy as a whole by raising awareness of its role and the services provided and engaging with the public should always been encouraged.

He had however been urged to relay to the Committee the essence of conversations that occurred in relation to the garnering of a petition submitted opposing a pharmacy in Western Road.

The Applicant had been contacted by one of the Rutherglen GPs who mentioned that they had visited the Co-op on Braemar Road, after conducting a house call in Cathkin. The GP told the Applicant that at the counter, when making a purchase, they were asked to sign a petition on the basis that if a pharmacy opened in Whitlawburn then their local chemist would have to close. The Applicant was then contacted by a number of members of staff from the West Whitlawburn Housing Co-operative who described similar experiences around the same time.

Neither the Applicant nor his business associate had been present at the exchange and therefore could not confirm the anecdote as fact; however the incident persuaded him to look again at the letters of support submitted from the other parties.

Of the letters received, no fewer than 15 stated the viability of Burns Pharmacy as part of, if not their only reason for opposing the application:

*“People losing their jobs”*

*“Adverse direct impact on services”*

*“Burns would be sadly missed”*

I am *“Writing this letter to you in the hope of trying to save our Chemist”*

The “Save our Chemist” appeal seemed strange to the Applicant.

To try and make sense of this, he had tried to think of an analogy; he wondered what had happened when the dentist wanted to open in Whitlawburn, but he couldn't find any evidence of a public outcry. There appeared to be no petition or letters to the Health Board outlining concerns for the viability of other dental practices. Quite genuinely he wouldn't expect a member of the public to take this stance in terms of a pharmacy, or dentist or even a GP practice opening. The Applicant wasn't sure that the average member of the public knew about the finances of primary healthcare. If the residents of Cathkin travelled down to

Burnside or Rutherglen they would see pharmacies almost next door to each other. He questioned why a member of the public would think that a pharmacy opening up almost one mile away, in a different neighbourhood, would affect their local pharmacy.

He asked whether it was more likely that in the current economic climate that the natural reaction of the public would be to embrace such an investment particularly in the more deprived communities.

He asked the Committee to remember that the information submitted by the Interested Parties covered a considerable time period. The Applicant's public consultation lasted just 20 working days as stipulated by the Regulations. Their public consultation was open to all. There were no limitations other than the time-frame. It was advertised to all. It was passive and relied on people having the desire to contribute to their neighbourhood. The Applicants hosted an open night which other pharmacies attended and for which additional seating had to be found. The Applicants were in public view the whole time and this elicited a true snapshot of local opinion – 112 responses – 111 in favour.

The MSP, the Councillor for the neighbourhood were all in favour.

Councillor Baxendale, not from the council ward, but from the same ward as Burnside Pharmacy, Dukes Road Pharmacy, Melville's Chemist and Burns Pharmacy had actually written in support of Whitlawburn Pharmacy.

In the Applicant's opinion, the other pharmacies represented at the hearing clearly did an excellent job; this was why they had support and why the future of their pharmacies was secure. The quality of their services had never been in question. The problem was that they were not on the ground in Whitlawburn. With the best of intentions, they were not close enough to Whitlawburn to encourage positive change. More now than ever, pharmacies were needed at the heart of communities.

He advised that many pharmacies had opened in the Health Board in recent years and had gone on to be very successful. The Applicant was not aware of other pharmacies having to close as a result. This was because pharmacies could and did co-exist, just as dental practices and GP surgeries co-existed. More importantly they complemented each other to provide a complete network. A new pharmacy could complete a network of pharmacies to ensure care was available when and where required. This to the Applicant was the true objective of control of entry regulations; to ensure adequate access across the Board. Where pharmacy services were needed, the Board had the power to make them available. Neighbourhoods should enjoy equal access to pharmacy services and the voices from Whitlawburn spoke quite clearly in their desire and need to have a local pharmacy. The neighbourhood simply could not understand why a pharmacy was not in place already.

The neighbourhood was Whitlawburn and Whitlawburn had a high requirement for pharmacy services. There are pharmacies in Whitlawburn.

Patients from Whitlawburn had to travel further than residents of other neighbourhoods and had to break their daily routines to access services that should be woven into their daily lives; if the aspiration was to reduce the clear health inequalities in the area.

The Applicant advised that the public consultation carried out enjoyed a large and positive response. The Applicants had invested and continued to invest in the neighbourhood and were here today to provide the Health Board with the opportunity to ensure that the patients of Whitlawburn were overlooked no longer.

### **The Interested Parties Question the Applicant**

**Ms Burns** asked the Applicant if he was aware that Google calculated the distance between Burns Pharmacy in Braemar Road and the proposed premises as 0.7 miles which was less than that quoted in his presentation. The Applicant advised that he had obtained this information from the AA website by inputting the post-code information. He was not aware that the distance between the two premises using the purpose built walkway was 0.4 miles.

In response to a follow up question from Ms Burns the Applicant advised that he approximated the distance from the furthest part of Western Road to the proposed premises to be 0.6 miles. He was not aware that this distance was 0.36 miles. He advised Ms Burns that distance was only one consideration when looking at issues of access to services. He did not believe that having to travel a distance of 0.41 miles to access pharmacy services was reasonable. He suggested that the population of Whitlawburn accessed amenities in Whitlawburn on a daily basis and that pharmaceutical services should be provided as part of these. He further considered that walking 0.4 miles in the wrong direction was not acceptable.

In response to further questioning from Ms Burns regarding the type of amenities available within the neighbourhood, the Applicant repeated the list of services contained in his presentation. He also mentioned that cash withdrawal was available from the cash machine in the local Nisa shop. In response to questioning from Ms Burns, the Applicant advised that he was aware that there was a charge for withdrawing money from this facility, but suggested that other means of accessing money were available like switch or internet banking. He was not aware that the nearest access to money without charge was in Braemar Road. He did not think people would require access to withdrawing money on a daily basis. He felt this was a service that people would require perhaps only once per week.

In response to further questioning from Ms Burns, the Applicant advised that he was not aware that the local Job Centre Outreach facility had ceased. He agreed that there was no GP surgery in the neighbourhood and suggested that this was the all the more reason to have a pharmacy. He was aware that the local library service was centralised at the new facility in Cambuslang Gate. He further agreed that if the contract were granted, the people of Whitlawburn would still need to leave the neighbourhood to access services. It remained his opinion, however that community pharmacy services should be provided in communities as part of the daily needs of the population.

In response to further questioning from Ms Burns, the Applicant agreed that having to travel outwith the neighbourhood to access services only served to increase footfall to those services. He advised that it was difficult to legislate where people went. A pharmacy in Whitlawburn would mean that the population would not have to travel outwith the area to access services.

In response to further questioning from Ms Burns regarding the petition undertaken by Burns Pharmacy and the Applicant's analogy to a dental surgery, the Applicant advised that he was aware that dental services were not subject to the same control of entry regulations that were in place for community pharmacy. He reiterated that he found it peculiar that this issue was mentioned in the letters as he wouldn't expect members of the public to be aware of these arrangements.

In response to further questioning from Ms Burns, the Applicant agreed that prior to the change in Regulations which required Applicants to undertake a public consultation exercise; the Applicant advised that different Applicants sought the views of communities in different ways. For his exercise, he had tried to be as approachable and accessible as possible. He had carried out talks in the neighbourhood.

In response to final questioning from Ms Burns, the Applicant did not agree that the destabilisation of other services was an important part of the legal test. He advised that the legal test was silent on this issue.

In response to questioning from **Mr MacIntyre**, the Applicant confirmed that children living within his defined neighbourhood would attend either St Anthony's Primary, Loch Primary and some would attend West Coats Primary. Secondary pupils would attend Cathkin High, which until recently had been in the neighbourhood defined as Whitlawburn or Trinity. In response to a follow up request from Mr MacIntyre asking the Applicant to describe where these schools were situated, the Applicant advised that none of the schools were located in the defined neighbourhood. He did not however feel that this prevented the area from being defined as a neighbourhood in its own right.

**During this question, Mr MacIntyre produced a map which he had developed to show the location of the schools in the area. He asked to distribute this amongst those present for illustration purposes. The Chair agreed that those present were familiar with the location of the schools and that the map should not be tabled.**

In response to further questioning from Mr MacIntyre regarding the population statistics quoted in his presentation, the Applicant agreed that in his previous presentation he had quoted the population at around 2,800. The increase was attributed to the occupation of the new housing at Cathkin Rise.

In response to questioning from Mr MacIntyre regarding the development at Cathkin Rise, the Applicant was not aware that the house builder (Barratt) had decided to reduce the total number of properties by a third. This information had been obtained from the South Lanarkshire Planning website.

In response to questioning from **Mr Green**, the Applicant advised that pupils travelling to Loch Primary would travel there by crossing East Kilbride Road. He did not accept that this would be the same route taken to access services at Burns Pharmacy. He suggested that a mother taking a child to Loch Primary and requiring access to pharmaceutical services would need to change direction to access these services at Burns Pharmacy.

In response to further questioning from Mr Green, Mr Dryden advised that both elderly and

young patients would have equal need to access pharmaceutical services. He advised that while the bulk of activity within a community pharmacy continued to stem from dispensing prescriptions, the balance was shifting considerably to a more service based model. This meant that every activity the pharmacy carried out was important. He felt that if early intervention by community pharmacy could be promoted, many problems could be eliminated.

In response to further questioning from Mr Green regarding the demographics of the Whitlawburn area, Mr Dryden advised that he did not have information regarding how many over 75s there were in the area. When asked by Mr Green how he had come to the assertion that the area contained a significant proportion of elderly residents, Mr Dryden advised that this comment had come from extrapolating a general statistic which showed that the population of the entire country was living longer. He advised that specific figures for the Whitlawburn area were not available. However when the Applicants met with residents of the area they seemed to suggest that there was a significant proportion of elderly people.

In response to questioning from Mr Green regarding the concept of adequacy, Mr Dryden advised that he had attempted to cover these points in his presentation. The area had a population of 3,000. There was no pharmacy. The residents needed to travel  $\frac{3}{4}$  mile in the opposite direction to access services. In his opinion this was inadequate. If the area was predominantly affluent, this situation might be acceptable, however it wasn't affluent. The residents were in need of local services. In response to Mr Green's request to define what gaps there were in existing provision, Mr Dryden advised that the gap was a community pharmacy in Whitlawburn.

In response to further questioning from Mr Green regarding the population's access to pharmaceutical services, Mr Dryden advised that he hadn't claimed that the population were unable to access services; he had said access to services was difficult. The letters of support from members of the public provided evidence of this. People had told the Applicants that they had difficulty in accessing services. The level of car ownership was low and the public transport network was poor.

In response to final questioning from Mr Green regarding the consultation exercise conducted by Ms Burns, the Applicant advised that the exercise would perhaps have been relevant if there had been a possibility that Burns Pharmacy may close if an additional contract were granted. However Mr Dryden didn't think this would be the case. He did not agree that the existing network would suffer if the application were granted.

**Mr Doherty** asked the Applicant what he would consider as the "right direction" given that he had described the access to Burns Pharmacy from Whitlawburn as being in the "wrong direction". The Applicant advised that patients who had a prescription to be dispensed could access a community pharmacy wherever they needed. However in his opinion the population of Whitlawburn required a pharmacy to obtain the benefits that other communities already enjoyed.

In response to further questioning from Mr Doherty regarding ease of access to Burns Pharmacy for those living in Whitlawburn, the Applicant advised that Burns Pharmacy was not in the direction of travel for most residents of Whitlawburn. Those who didn't access

services in Whitlawburn would travel to Cambuslang for other amenities. There was no need for them to travel in the direction of Burns Pharmacy.

In response to final questioning from Mr Doherty, the Applicant did not agree that Whitlawburn was not a neighbourhood but a community within a neighbourhood.

In response to questioning from **Mr Dickson**, the Applicant redefined his neighbourhood as being.

**North:** the playing fields and open ground;

**East:** Greenlees Road running north to south;

**South:** The picket fence separating the social housing in Whitlawburn from the private, modern housing development known as Lomond View. And

**West:** East Kilbride Road, joining Langlea Road.

In response to further questioning from Mr Dickson, the Applicant agreed that there were no schools, banks, post offices or GP practices within the defined area.

In response to a further question from Mr Dickson, the Applicant confirmed that the new dental practice in Whitlawburn provided NHS and private care.

In response to further questioning from Mr Dickson regarding the difference between convenience and adequacy, the Applicant advised that where access to services was convenient it was difficult to show inadequacy, it was easier to do this where access to services was inconvenient. It had been shown that where access to services was convenient, those dependent on substitution therapies were more likely to adhere to the therapy.

Mr Dickson asked the Applicant if he would agree that any person unable to walk from Western Road to Braemar Road would also be unable to walk from one end of Western Road to another, the Applicant advised that a pharmacy in Western Road would provide the entire range of pharmacy services. He reiterated that access to the pharmacy on Braemar Road was difficult for those living in Whitlawburn due to the dual carriageway.

In response to further questioning from Mr Dickson regarding the Public Health Service, the Applicant advised that he was aware how contractors were remunerated in relation to this service.

Mr Dickson asked the Applicant what, in his opinion, had changed since a number of applications had previously been determined for this area. The Applicant advised that the dental practice had opened, there was additional housing in the area and there had been a change in the regulatory framework for pharmacy application but sometimes there didn't need to be any changes. He felt that the initial decision taken by the PPC in his first application was correct. He had perhaps not put forward the facts as well as possible previously.

In response to final questioning from Mr Dickson regarding viability of the existing network, the Applicant advised that a community pharmacy possibly could remain viable if it lost 40% of its dispensing volume. He advised that it might be better for that community

pharmacy to look at what it could do more of.

### **The PPC Questions the Applicant**

In response to questioning from **Mr Fergusson**, regarding changes in the neighbourhood since the last application was considered, the Applicant advised that an NHS dentist had opened in the neighbourhood, there was significant further development to the south-east of the neighbourhood and the public consultation carried out by the Applicants demonstrated that the population of the neighbourhood was in favour of an additional pharmacy in the area.

In response to questioning from **Mr Daniels**, regarding the Applicant's description of the amenities such as a bookmaker and off sales in Whitlawburn as essential and whether they could be considered such, the Applicant advised that many of the residents of the Whitlawburn area considered them to be such.

Mr Daniels asked the Applicant about the bus service to the neighbourhood. The Applicant advised that much of the network traveled along the edge of the area; however the service through the area was quite poor.

In response to questioning from **Mr Fraser**, the Applicant confirmed that he had secured the lease of the premises on a 20 year basis. There was an option to terminate the agreement if the application was not granted.

In response to questioning from **Mrs Anderton**, the Applicant advised that in his opinion a resident from Whitlawburn would say they came from "Whitlawburn". A resident from Stewarton Road would say they came from "Cambuslang".

In response to further questioning from Mrs Anderton regarding bus services, the Applicant advised that the 65, 65A and 172 operated in the vicinity of the neighbourhood operating approximately every half hour. The buses ran along the Cathkin By-pass. The bus that went through the neighbourhood then went to Fernhill.

In response to questioning from **Mr Irvine** regarding adequacy of services, the Applicant advised that the area had limited car ownership, which impeded the population's ability to access services. He advised that the existence of amenities drew people to the area, thus the opening of a pharmacy in the neighbourhood would allow the population to access services as part of their daily lives. He questioned whether people should be asked to travel to access services such as pharmacy services.

In response to further questioning from Mr Irvine regarding how often a resident would access pharmacy services per year, the Applicant advised that this would depend on the area. In areas of deprivation the frequency of visits would increase.

In response to final questioning from Mr Irvine, the Applicant advised that, in his opinion only a small percentage of residents in Whitlawburn would travel to Braemar Road to access the amenities. He considered that most people in Whitlawburn if not using the amenities in the neighbourhood would travel to Cambuslang. The existence of a pharmacy in Braemar Road was not convenient for the population of Whitlawburn as they

would most likely have to make a special journey. He further confirmed that he had walked from Western Road to Braemar Road and this had taken him approximately 15 minutes.

In response to questioning from **Dr Johnson**, regarding which GP practice was most convenient for the residents of Whitlawburn to travel to via public transport, those in Stonelaw Road or Cambuslang, the Applicant advised that in his opinion, both were equally difficult to access via public transport. He agreed that there was not much more distance to travel from these surgeries to Burns Pharmacy in Braemar Road than a pharmacy in Western Road; however he reminded the Committee that for the population of Whitlawburn this would require a further arm to the journey.

In response to further questioning from Dr Johnson regarding the viability of Burns Pharmacy if a further pharmacy opened in Western Road, the Applicant advised that he felt that the increased number of patients could support two pharmacies.

In response to questioning from **the Chair**, regarding whether in his opinion people would be scared to travel to the proposed premises due the number of youths hanging about the vicinity, the Applicant advised that he hadn't witnessed this himself, but didn't think it was a reason not grant an additional contract. He advised that the existence of a community pharmacy in the neighbourhood could bring investment into the fabric of the community and would be a welcome addition to the existing amenities.

**There were no questions to the Applicant from Mr Gillespie.**

#### **The Interested Parties' Case – (Ms Nicola Burns – Burns Pharmacy)**

**Ms Burns** advised that she would like to object to the granting of the application for inclusion in the pharmaceutical list. Since the last application at the same premises, less than twelve months ago, there had been amendments to the regulations governing inclusion in the Pharmaceutical List; however although the regulations had been amended, the same "legal test" continued to be applied to each decision. She therefore wished to remind the Committee of the reasons for her previous objection, and of the reasons she believed the previous application was rejected. She would also provide comment on the current application including comment on the Applicant's assessment of current pharmaceutical provision to their defined neighbourhood and would provide evidence that there had been no significant change to the area since the last application.

The neighbourhood she wished to consider was:

**North:** B762, Dukes Road, along Cambuslang main Street (A724);

**East:** B759, Greenlees Road; and

**South:** East Kilbride Road, proceeding westwards towards its junction with Dukes Road (A749).

These were arterial roads, which defined a neighbourhood for all purposes, encapsulating a wealth of amenities. This neighbourhood could be defined by data zones. Using South Lanarkshire Council Statistics from 2009, there was a population of around 7852.

Ms Burns advised that the Applicant had however defined a smaller neighbourhood, with a current estimated population of 2898. Included in this figure were the 35 inhabited homes of Cathkin Rise which would increase by around 93 persons upon completion of the current plans for the development, which was previously considered at the last decision, and by around 30 persons upon completion of Kirkhill Mews. In total these new builds could increase the local population by a mere 123 persons in total. This smaller neighbourhood could not be defined by data zones, and whilst the Applicant excluded some areas due to socio-economic differences, there were, in fact, clear differences within the area that the Applicant defined. There was also a real lack of key amenities. It was not a neighbourhood for all purposes. In Ms Burns opinion, it was therefore not justifiable as a neighbourhood, but as a small community within a greater neighbourhood.

Within the neighbourhood she had defined, there were currently four pharmacies, with an additional two pharmacies, including Burns Pharmacy on the periphery, which provided a full comprehensive range of core and enhanced services.

In addition to the core services of Acute Medication Service, Chronic Medication Service, Minor Ailments Service and Public Health Service, Burns Pharmacy also offered Methadone/Buprenorphine Supervision, Compliance Aids, Stoma supplies, local initiatives such as the Heart Failure Service, and a collection and delivery service. The pharmacy was also equipped with a consultation room and a second partitioned area used for private consultation. The pharmacy had trained and competent staff who provided a personal service to customers.

In addition to the services provided at Burns Pharmacy there was also a range of additional services provided by the network of five other pharmacies servicing this neighbourhood, including: Needle Exchange; Oxygen; Palliative Care. These services were available within the area from 9am to 6pm six days per week.

It was previously determined by the PPC and upheld by the NAP that existing services to the defined neighbourhood were adequate

As highlighted by the Applicant, an important indicator of adequacy of pharmaceutical service provision was that of public opinion. Within Ms Burns' written objection she had taken measures to seek the views of the communities served by Burns Pharmacy and of the GP's who served these communities, including that of Whitlawburn. This culminated in 23 individual responses from members of the local public, including those from Whitlawburn, and a petition with 457 signatures against the opening of a new pharmacy, 84 of those signatures being from Whitlawburn residents. All of these people believed current service provision was adequate.

Indeed what better way to judge adequacy of services than to listen to the opinions of the GPs who served that community? Ms Burns had received four letters from local GPs writing in support of the services provided at Burns Pharmacy and beyond. These letters indicated no knowledge of inadequacy, no unmet need, no gap in service. In fact they provided evidence that services were not only adequate, but ample. Ms Burns moved on to highlight some examples:

*"They were always able to take on new patients for additional services such as supervised*

*dispensing or monitored dosage systems.”* Dr. R. Watson, Halfway Surgery

*“We do not feel that there is anything to indicate that a further local pharmacy is required”*  
Dr. C. McCann, Dr A. Gajree, Ardoch Medical Centre

*“I can confirm there is no problem in patients obtaining medication from any of the available pharmacies, all pharmacies seem to have capacity to take on more patients.”* Dr. Smith. North Avenue Surgery

Indeed, the Applicant himself, at the previous application stated he *“did not believe the capacity of pharmaceutical services to Whitlawburn was an issue.”*

This was surely overwhelming evidence of an adequate service.

The outcome of the previous application and of applications previous to that had also concluded that awarding a new contract could *“Have a destabilising effect on the adequate provision of service which might also affect the viability of either a new pharmacy or Burns Pharmacy.”*

Ms Burns advised that she would like to highlight the reasons she believed the previous Committee considered in order to arrive at this conclusion.

The community of Whitlawburn had very little in the way of amenities. Its residents regularly had to travel to access the large range of services required on a daily basis. It was likely that even if a new contract were to be granted the community of Whitlawburn would still regularly have to travel to access these services, and with that, other pharmacy services and so bringing into question the viability of a new pharmacy.

Burns Pharmacy was a low dispensing pharmacy, far from operating at capacity, indeed with increased staffing it could efficiently operate with at least double the volume of prescriptions. Recent dispensing figures showed around 30% of prescriptions dispensed from Burns Pharmacy, were from Whitlawburn. As a new contractor, having only taken over the pharmacy in July 2010, a 30% loss of turnover would without doubt jeopardise the future of Burns Pharmacy. A pharmacy that had served the community for over forty years, a pharmacy Ms Burns' mother had provided excellent service in for over 20 years, a pharmacy Ms Burns had grown up in, and a pharmacy in which she hoped to provide this same level of service to the community for at least the next 20 years.

Having highlighted the reasoning she believed the Committee used to come to their conclusion at the previous application, Ms Burns moved on to comment on the Applicant's assessment of current pharmaceutical services. It appeared the Applicant believed there to be an inadequate service for two main reasons, public support of the application and barriers to accessing existing services. The Applicant had provided various pieces of evidence of this public support, referring to the support received at the “open night” in August.

Ms Burns had attended the “open night” hosted by the Applicants, in August, prior to the consultation period. This was attended by less than 2 % of the population of the Applicant's defined neighbourhood. It became evident to Ms Burns on that night that,

perhaps, the community of Whitlawburn was simply unaware of the services that were currently available. Concerns were raised that Burns Pharmacy closed at lunchtime, closed on a Wednesday afternoon, did not offer a delivery service. This highlighted that some of the reasons for support for a new pharmacy were in fact due to a lack of knowledge of current service provision. She felt it was important to inform the community of the current level of service available from Burns Pharmacy and so she had since completed a leaflet drop in the area.

She also felt that on that night there was an important level of misinformation provided by the Applicant on this “open night”. Whilst there were various questions from the public, regarding the application process, she felt they were not answered factually or indeed at times even correctly.

There were several comments made by the Applicant that Ms Burns felt undermined this process of control of entry. The Applicant informed the public that lay people on the PPC had no local knowledge of the area. As the Committee was aware, this was untrue. The Applicant also informed the public of a potential prejudice if it were to be the same Committee involved in the decision of both the previous and current application. Ms Burns believed this could quite easily have instilled a lack of public confidence in this process.

When asked by a member of the public “*What if this application fails?*” the Applicant responded, assuring the public “*We will get it this time*”. Ms Burns found it difficult to understand how the Applicant could have been so certain of this outcome. The Applicant by saying this was clearly creating an expectation within Whitlawburn, a promise of a new pharmacy. She felt it was unfair to mislead the community in this way.

The Applicant also submitted various letters of support from the public, including local councillors and the local MSP. Whilst there were no doubt that these genuine letters were in favour of a new pharmacy there was doubt, however, as to whether these people had been fully informed of the robust process used to award such contracts. Whilst citing some of the reasons given in these letters, there were some the Applicant failed to highlight. One of these was that it was believed to be “*not convenient*” to travel to another pharmacy. A contract should not be awarded on convenience. Another reason from James Kelly MSP was that it would “*promote investment and jobs*”, again not a reason to award a pharmacy contract. Ms Burns also noted that there was a letter of support from Councillor Eileen Baxendale, which had surprised Ms Burns given that this Councillor had previously submitted a letter against the opening of a new pharmacy in Whitlawburn, expressing concerns about the viability of Burns Pharmacy and of a new contract and stating that a number of businesses on Western Road had closed due to lack of trade. To Ms Burns this created doubt as to the credibility of the current letter of support. She urged the Committee to focus on the letters from local GP’s, who as healthcare professionals inherently had a deeper insight into current local healthcare provision.

The other reason the Applicant believed there to be an inadequacy was perceived barriers to all existing pharmacies. The Applicant stated there were no pharmacies less than 0.8 miles from the premises. Burns Pharmacy, however, was located only 0.6 miles by car, with adequate parking, and only 0.41 miles by foot from the proposed premises. Burns Pharmacy was also easily accessible traveling by foot over the purpose built walkway with staggered pedestrian crossings suitable for prams and wheelchairs. A journey of less than

seven minutes. For those unable to travel by foot or car there was a bus service from Western Road to Cathkin Bypass, running every 30 minutes, with a journey time of only four minutes from the farthest point on Western Road. Ms Burns believed this to be a reasonable distance to access pharmacy services.

Of course there were other pharmacies in Cambuslang and Burnside. As stated previously by the Applicant in the minutes of the last oral hearing, there were frequent bus services from Whitlawburn to these areas. There were three per hour to Cambuslang, and every ten minutes from Cathkin Roundabout to Burnside. It was also Ms Burns' understanding that many people chose to make this journey in order to access the wealth of amenities these places had to offer.

As such Ms Burns would argue that there were no actual barriers to the community of Whitlawburn accessing pharmaceutical services: in fact they had a choice of many. Awarding a new contract in Whitlawburn would be to do so as a matter of convenience to its residents.

When citing reasons for public support, the Applicant referred to the needs of the elderly in his application. When looking at the demographics of the communities served by Burns Pharmacy, Ms Burns noted that the area of Whitlawburn had a relatively low elderly population, only 7% over 65, 2% over 75 and a significantly higher proportion of young people. In contrast to this, the area of Cathkin had a higher than average elderly population with 18% over 65. Given that the population of Whitlawburn was predominantly that of young, able bodied people, this would surely prove that Burns Pharmacy was in the best possible location to serve these communities, slightly closer to the elderly population, who may not be so mobile, and had a greater need to access pharmaceutical services. This highlighted another real concern that could arise if Burns Pharmacy were to close as a result of a new pharmacy in Whitlawburn. Although there was no barrier to the community of Whitlawburn traveling to Cathkin, there could potentially be a real barrier in the significant elderly population of Cathkin accessing services in Whitlawburn.

The Applicant also claimed there had been significant changes since the last application was refused. The first of these was the opening of a dental surgery in Western Road. This planned change was considered at the last application, and so it could be argued that there was in fact no change, far less significant. Ms Burns understood this dental surgery had offered a letter of support for the application. This was to be expected, given that any new business would be keen to encourage extra foot-fall to its local area. However she had already successfully established a close working relationship with this surgery, and had not been made aware of any problems in people accessing prescriptions issued from there.

The facts were, using the information from ISD Scotland, dental prescriptions accounted for only 0.03% of all prescriptions issued in Scotland in 2010. That was three prescriptions in every 10,000 issued. Burns Pharmacy could, without doubt cope with this negligible increase.

The Applicant had also highlighted a new housing development not considered at the last application. This new housing development was for twelve terraced houses, perhaps increasing the local population by around 30 persons. This development was equidistant

to Burns Pharmacy and the proposed premises and was out-with the Applicant's defined neighbourhood. If every one of these people came only to Burns Pharmacy this would be an expected increase of one item per day, an increase Burns Pharmacy certainly had the capacity for. Indeed this opinion was echoed by comments made by the Committee less than twelve months ago with reference to the development of Cathkin Rise. *"The Committee agreed that the new housing development might result in an increase in population within the area. They were confident however that the existing network was well placed to accommodate any demand that might be generated."* This was not an increase anywhere near large enough to justify a significant change.

In the last application Ms Burns had highlighted the changes made to Burns Pharmacy since she took over in July 2010. She advised that the pharmacy was no longer closed at lunchtime, that staffing levels had increased, that prescription collection service had been extended, and that a delivery driver had been employed. Since the last application less than one year ago there had been continuous improvement to the service provided at Burns Pharmacy. After a trial period of three months, the pharmacy had again extended its opening hours to open until 5pm on Saturdays. An application had been submitted for the premises to be approved to allow pre-registration training to commence. She had also taken steps to engage with the local community through health promotion. Recently, she had visited the West Whitlawburn Resource Centre to promote the pharmacy smoking cessation service. She recognised this as an important service within the local community as parts of the area had a comparatively high level of people with respiratory conditions. The evening was successful, with many positive interventions. She had since made arrangements to repeat this health promotion activity with the help of the dental practice on Western Road. Smoking cessation was a prime example of how two professions could work together to achieve a common goal. Burns Pharmacy currently had smoking quit rates higher than that of the average for Greater Glasgow and Clyde. Ms Burns believed this was due to the active role the pharmacy had undertaken in promoting public health.

Ms Burns also understood that parts of the communities served by Burns Pharmacy had a comparatively higher number of people with alcohol related health problems. As such she had volunteered and been selected to take part in a pilot service commencing in March, where positive interventions would be made in order to promote awareness of safe alcohol consumption. This was also an example of how Burns Pharmacy was making an active and positive contribution to public health.

Ms Burns believed these changes showed a willingness to respond to the needs of the communities served by Burns Pharmacy, and that she had a genuine agenda for improving the healthcare of the population the pharmacy served.

Given that there had been no significant change; given that the PPC had decided four times previously, most recently within the past 12 months, that adequate pharmaceutical services were provided to the community of Whitlawburn; given that it had also previously been decided that a new contract may create a destabilisation of current services; given the advice of the Community Pharmacy Sub Committee to reject this application; given all the evidence she had endeavored to present today Ms Burns asked the Committee to reject this application.

### **The Applicant Questions Ms Burns**

In response to questioning from **the Applicant** regarding how she could justify saying that none of the GPs in the area were aware of a gap in service when she had not received letters from all of the GPs, Ms Burns advised that she had received letters from all of the local GPs which Burns Pharmacy dealt with. She agreed that Dr Ohri hadn't signed the letter from Ardoch Medical Centre; however she reiterated that she had not attributed any quotes to Dr Ohri. She advised that she would have expected any of the GPs who felt there to be gaps in service provision to respond in this vein when asked. She refuted the Applicant's claim that she had assumed that the GPs felt there was no gap in service rather than have evidence to back this up. When the Applicant pointed to the letters of support from the GPs being silent on the issue of gaps in service provision, Ms Burns advised that she would have expected any letter to illustrate a gap in service provision if any had been perceived to exist.

In response to further questioning from the Applicant regarding the letters of support received from the GPs, Ms Burns advised that they might not have mentioned CMS or MAS as these were core services.

In response to further questioning from the Applicant, Ms Burns confirmed that only two of the four letters received addressed the requirement for an additional pharmacy. The other two letters spoke of specific services.

In response to further questioning from the Applicant, Ms Burns advised that she hadn't undertaken a formal consultation. Many of the patients using Burns Pharmacy were aware of the pharmacy application via the *Rutherglen Reformer*. She had instigated the petition in response to the opinion expressed by patients using Burns Pharmacy. She accepted that the petition had not been audited but felt it was a good measure of public feeling. She accepted that those signing might not be regarded as a cross section of the population.

In response to questioning from the Applicant regarding those residents from the Whitlawburn area who had signed the petition against the granting of an additional contract, Ms Burns confirmed that none of these residents was known to her personally.

#### **The Interested Parties Question Ms Burns**

In response to questioning from **Mr Green**, Ms Burns confirmed that she had no knowledge of the territorialism to which the Applicant had alluded as existing between the residents of Braemar Road and the population of Whitlawburn.

In response to further questioning from Mr Green regarding the percentage of elderly within the area of Cathkin, Ms Burns confirmed that 8% of the residents in Cathkin were over 75.

In response to questioning from **Mr Dickson**, Ms Burns advised that she did not know whether any of the GPs who had responded resided within the neighbourhood.

In response to final questioning from Mr Dickson, Ms Burns advised that in her opinion, the residents of Cathkin and Whitlawburn had had ample time to respond to the application.

She advised that in her opinion the Applicant's consultation was fair and the "open night" held was useful.

**There were no questions to Ms Burns from Mr MacIntyre or Mr Doherty.**

### **The PPC Questions Ms Burns**

In response to questioning from **Dr Johnson**, Ms Burns confirmed that she did not believe that the residents of Cathkin were afraid to come out of their neighbourhood due to any territorialism with those living in Whitlawburn.

In response to further questioning from Dr Johnson regarding the neighbourhood and whether there was social distinction within the area, Ms Burns advised that she didn't think anyone living in Stewarton Drive would consider themselves neighbours with anyone living in Whitlawburn. She didn't determine the neighbourhood along social lines, but more on physical boundaries and where the amenities existed currently.

In response to a question from **Mr Irvine** regarding prescriptions presented to Burns Pharmacy from residents of Whitlawburn, Ms Burns advised that most of the patients collected their prescriptions from the pharmacy. She delivered to few patients in the Whitlawburn area.

In response to questioning from **Mrs Anderton**, Ms Burns advised that she had counted the Minor Ailment Prescriptions when she had last submitted prescriptions to Practitioner Services Division, which amounted to approximately two weeks worth of prescriptions and 44% of these related to residents of Whitlawburn. She had not counted the number of prescriptions for CMS.

In response to questioning from **Mr Fraser**, Ms Burns advised that currently 30% of the prescriptions dispensed from Burns Pharmacy came from residents in the Whitlawburn area. When she had taken over the pharmacy in July 2010 she reckoned this percentage to be 32%. The level was generally around 30%.

**There were no questions to Ms Burns from Mr Daniels, Mr Fergusson, the Chair or Mr Gillespie.**

### **The Interested Parties' Case – Mr Alasdair MacIntyre (Burnside Pharmacy)**

**Mr MacIntyre** thanked the Committee for the opportunity to put forward his case. He advised that he would like to firstly define the neighbourhood, talk about the pharmaceutical services to the neighbourhood and give the Committee reasons as to why the current pharmaceutical services were adequate.

Mr MacIntyre advised that he agreed with the definition of neighbourhood put forward by Ms Burns.

**North:** B762, Dukes Road, along Cambuslang main Street (A724);

**East:** B759, Greenlees Road; and

**South:** East Kilbride Road, proceeding westwards towards its junction with Dukes Road

(A749).

The major arterial roads formed natural boundaries around the area of residential development which lay to the south of Cambuslang town centre. Although the properties within this neighbourhood varied in terms of age, style and socioeconomic grouping, they all shared their essential services and facilities most of which were located in the town centre.

He advised that a number of neighbourhoods had been proposed in previous applications for the Applicant's premises. In the North, the railway line crossed east to west. As there were so many crossing points you would hardly know it was there. Similarly the open ground that the Applicant proposed as his northern boundary was virtually invisible to those travelling around the area either by foot, by bus or by car and thus he would not see this as a barrier.

Mr MacIntyre advised that Whitlawburn was a small community within a larger neighbourhood. The population as part of their normal daily lives accessed the schools, churches, shops, banks, library, leisure facilities, pharmacies, GP practices etc. found within this larger neighbourhood. Outwith this neighbourhood, the centres of Burnside and Rutherglen were both within easy reach for this population; hence they also accessed services in these areas. Conversely residents of Rutherglen and Cambuslang used the facilities of the resource centre in Whitlawburn for example they attended fitness classes, smoking cessation group sessions and weight watchers.

He then went on to discuss the existing pharmaceutical services to the neighbourhood as he had defined it. Within that area, there were four pharmacies namely Dukes Road, Boots and the two branches of Leslie's Chemist. Immediately on the border of that neighbourhood was Burns Pharmacy to the south and Burnside Pharmacy to the north. Pharmaceutical services were also provided from a further five pharmacies in Rutherglen. Every pharmacy provided the entire core and the majority of the additional NHS pharmaceutical services as listed in the NHS Greater Glasgow and Clyde Pharmaceutical List. Those services which were provided by only a small number of pharmacies tended to be those where the Health Board specified which pharmacies could provide them, the numbers being controlled to make most effective use of resource. Mr MacIntyre was sure that from his original letter of objection, the Committee's tour of the area, their visits to the pharmacies today and from the information provided by the Health Board officers the PPC would be satisfied regarding the full and comprehensive range of services currently being provided to his defined neighbourhood.

Mr MacIntyre asked as there were no gaps in the range of NHS pharmaceutical services being provided what case was the Applicant making? The question here was one of access. Could those patients in the south of his neighbourhood access pharmaceutical services. The Applicant was concentrating on the area of Whitlawburn so Mr MacIntyre went on to discuss this area. The Applicant's case was based on the fact that most of the pharmacies were located at the northern edge of his proposed neighbourhood or beyond. To access these pharmacies patients would either have to drive, take the bus or walk. Drive time to a pharmacy was not long, less than five minutes. With regard to buses the number 18 service operated every ten minutes on the East Kilbride Road, reaching Burnside in about five minutes and Rutherglen in ten minutes. There were a further three

buses an hour on Western Road, two of which reached Cambuslang in five minutes and one took about ten minutes. Walking down the hill and back from Burnside or Cambuslang was an option for some patients but not everyone. In addition delivery services were available from the majority of pharmacies to those that wanted them. Mr MacIntyre noticed the Applicant intended to provide a delivery service as he was no doubt aware of the value housebound patients put on this service even if you were located right next to them.

Mr MacIntyre then went on to talk about Burns Pharmacy, sitting immediately adjacent to the southern end of his proposed neighbourhood right next to Whitlawburn. This pharmacy was ideally placed at the meeting point of Cathkin, Whitlawburn and Springhall, Cathkin having a higher proportion of elderly residents and Whitlawburn and Springhall with their proportionately younger populations. Although not in his specified neighbourhood this pharmacy sat right next to Whitlawburn within a short easy walking distance and most definitely provided pharmaceutical services to this area. To get to this pharmacy on foot you would cross the A749 East Kilbride Road via a staggered pedestrian crossing.

It was evident that although the A749 was a main arterial road, this did not act as a barrier to pedestrians crossing. This was evident by the fact that residents on both sides of the road readily crossed back and forth to get to the bus stops on either side. Patients accessing Burns Pharmacy for prescriptions currently crossed the road. Customers of the shops next to Burns Pharmacy crossed the road. Those going to and from the post office in Cathkin crossed the road. Children at Cathkin Primary crossed this road at least twice a day when going to school. Pupils attending Cathkin High School crossed the road at least twice a day to attend school. Further down the A749 even although there were no marked crossings at least twice a day pupils could be seen crossing to and from Cathkin High School and to and from Loch and St Anthony's Primary Schools.

It was evident therefore that residents in the south of his proposed neighbourhood including Whitlawburn could easily access pharmaceutical services either on foot, via regular public transport or by car. Therefore in terms of access the current NHS pharmaceutical services were adequate.

Mr MacIntyre then went on to consider probable changes within the neighbourhood which could affect the decision of the Committee.

The Applicant, in his written submission to the PPC mentioned a small development to the South East of Whitlawburn, off Greenlees Road, which was not taken into consideration by the PPC at the last hearing. There was an intention to build 12 Mews style three and four bedroom cottages in this small space. This small area near Kirkhill Golf Club would not result in a significant increase in population.

Barratt Homes were currently building on the site of the former Cathkin High School. The Applicant stated at the previous PPC in March that phase one saw the introduction of 80 new homes. If it was assumed for the sake of argument that in these austere times this figure was to stay the same, the question Mr MacIntyre would like to address was could the existing pharmacies providing pharmaceutical services to that area easily cope with the increased population or would another pharmacy be necessary or desirable? Taking

Burns Pharmacy in Cathkin first, this was a low intensity pharmacy which could easily cope with an increase in patients accessing NHS pharmaceutical services. Mr MacIntyre believed for example that they had the capacity to increase their current prescription numbers by huge percentages and still provide an excellent pharmaceutical service to their patients. He asked the PPC to consider the current prescription numbers as evidence of this point. Thus even if every resident of the new housing development went to Burns Pharmacy they could cope with this increase and still had capacity for more. Considering the other pharmacies providing pharmaceutical services to this area namely the two in Burnside, the three in Cambuslang and the further five in Rutherglen who were all located where these residents would go about their daily lives, without going into their individual abilities to increase capacity it was evident even by the sheer numbers and choice of pharmacies currently available to the residents of this new development that the existing pharmacy network would readily cope with phase one of this development and similarly with future phases should they arise. Mr MacIntyre would even go further and say that Burns Pharmacy alone could do this never mind the additional ten pharmacies. It seemed unlikely that this new development would attract residents who were typically high users of pharmaceutical services.

Mr MacIntyre had since heard that the house builder Barratt appeared to have reduced the number of properties that they intended to build at Cathkin Rise by almost one third. Thus if previous PPCs and NAPs were satisfied that the existing pharmacy network could adequately support the initial projected increase in population it was inconceivable that it could not support a now reduced projected population.

The Applicant in his submission pointed out that the dentist was now open and consulting in Whitlawburn. As he was about to open when the PPC sat in March 2011, they had the opportunity to take this into consideration at the previous hearing. Dentists generally wrote very few prescriptions. The close proximity of the dentist to Burns Pharmacy allowed an easy short walk for the few patients getting a prescription or they may choose to access one of the other pharmacies in Burnside, Rutherglen or Cambuslang as part of their normal daily lives.

Reading the letters that the Applicant had submitted, Mr MacIntyre understood the desire of a number of residents of the Whitlawburn area to have the convenience of an even shorter walk to a pharmacy than they already had. He understood the desire to regenerate their shopping centre by bringing in investment and jobs. However, these were not reasons to award an NHS pharmacy contract.

The Applicant referred in his submission to the amendments to the regulations governing control of entry to the pharmaceutical list and cited these amendments as a significant change that meant that in his view that it was now necessary or desirable that an application be granted in order to secure adequate provision of pharmaceutical services. Currently the pharmaceutical services to Whitlawburn and the surrounding area were not only adequate, they were secure. Between the PPC and the National Appeal Panel they had considered an application for this area at least seven times between 2005 and 2011, the last time being the NAP in June 2011. It was interesting to note that previous PPCs and NAPs had commented on the potential destabilising effect the granting of a new contract would have on the adequate provision of pharmaceutical services within the defined neighbourhood. The last PPC commented that this might affect the viability of

either the new pharmacy or Burns Pharmacy. Mr MacIntyre noted that NHS Circular: PCA (P) 7 (2011) gave guidance to Boards regarding the Amendment regulations and with regard to the viability of pharmacies, Annex 2, page 9, point 23 advises PPC's that *"a possible reduction in income by an existing community pharmacy caused by the opening of an additional pharmacy, is not itself a relevant consideration, unless it could affect the continued viability of the other pharmacies"*. It then went on to say that this would affect *"the security of the adequate provision of pharmaceutical services"*. Mr MacIntyre asked the PPC to consider in their decision the ongoing viability and hence security of the adequate provision of pharmaceutical services.

As the NHS pharmaceutical services to his defined neighbourhood including the area known as Whitlawburn were adequate and capacity existed to meet future need, Mr MacIntyre asked the Committee to reject this application.

### **The Applicant Questions Mr MacIntyre**

In response to questioning from **the Applicant**, Mr MacIntyre reiterated that while the residents of Whitlawburn did not have access to a community pharmacy within their neighbourhood, Burns Pharmacy was within easy walking distance. In addition, his own pharmacy, located at Burnside while not within easy walking distance was not an unreasonable distance away.

In response to further questioning from the Applicant regarding access to services, Mr MacIntyre advised that the residents of Whitlawburn left their defined neighbourhood as part of their daily lives. They chose to do this as they were leaving the area to access other services and amenities.

In response to further questioning from the Applicant, Mr MacIntyre advised that he had not said that Cambuslang Main Street was less than a five minute drive away, but that the nearest pharmacy was less than a five minute drive away.

In response to questioning from the Applicant regarding car ownership in the area, Mr MacIntyre accepted that the level of car ownership in the Whitlawburn area was lower than average. He did not accept that parking was not good in Cambuslang town centre, highlighting that there were car parks behind Leslie Chemists and Boots on Main Street.

In response to final questioning from the Applicant, Mr MacIntyre confirmed that the PPC had granted a previous application for a community pharmacy in this neighbourhood.

**There were no questions to Mr MacIntyre from Ms Burns, Mr Green, Mr Doherty or Mr Dickson**

### **The PPC Question Mr MacIntyre**

In response to questioning from Doctor Johnson regarding the Applicant's definition of neighbourhood, Mr MacIntyre advised that he had not felt that the Applicant had contrived a neighbourhood.

In response to further questioning from Doctor Johnson, Mr MacIntyre advised that there

was a range of housing type within the Whitlawburn area. Some houses were relatively expensive, which meant the socio-economic range of the area was wide. The pocket of relative deprivation was confined to the high flats at the centre of the neighbourhood.

**There were no questions to Mr MacIntyre from Mr Fergusson, Mr Daniels, Mr Fraser, Mrs Anderton, Mr Irvine, the Chair or Mr Gillespie.**

**The Interested Parties' Case – Mr Martin Green (Dukes Road Pharmacy and Melville's Chemist)**

**Mr Green** advised that his neighbourhood should be defined as:

**North:** Dukes Road onto Glasgow Road and Main Street, Cambuslang;

**East:** Greenlees Road to its junction with East Kilbride Road in the South;

**West:** East Kilbride Road to its junction with Dukes Road.

He advised that all of the defined boundaries were major arterial roads which defined an area of residential development to the South of Cambuslang Town Centre. The area contained houses of varying style and age and residents of varying social economic status.

He advised that virtually all essential services were provided within the neighbourhood; pharmacies, doctors, dentist, opticians, banks, a whole range of shops, places to eat, worship and work. It could truly be described as a "*neighbourhood for all purposes*".

Using information from the Scottish Neighbourhood Statistics website could provide a very close fit from nine datazones which from the mid-year estimates of 2009 gave the population figure as 7,852. Within this neighbourhood there were four pharmacies within it; three in Cambuslang and one in Burnside. There were a further two immediately outside the neighbourhood; Burnside Pharmacy on Stonelaw Road and Burns Pharmacy on Braemar Road in Cathkin providing services to the neighbourhood. This was an average of one pharmacy for every 1300 of population.

In addition to these, there were further pharmacies in Rutherglen, where the majority of GPs were based and more again in Halfway and Fernhill.

In Mr Green's view the neighbourhood was not just adequately provided for, but there was a wealth of choice.

Mr Green advised that looking at the Applicant's defined neighbourhood; they had very ably defined the area known as Whitlawburn, but had not provided any evidence to suggest that Whitlawburn was a neighbourhood within the definition of the legal test, that was "*a neighbourhood for all purposes*." Residents of Whitlawburn would use and access services from outwith Whitlawburn on a daily basis as part of their daily routine; children and young people attending school, if it was a primary school they would need to go outwith Whitlawburn probably across East Kilbride Road to Springhall. There was a secondary school located in Whitlawburn, which was the non-denominational school for the wider area, if however attending a Catholic Secondary School they would need to travel to Trinity in Rutherglen. There were no churches and relatively few places of

employment. There were no GP surgeries, banks or even a post office. Residents of Whitlawburn would need to access surrounding areas, with frequent regularity as Whitlawburn was not “a neighbourhood for all purposes”.

To consider the population and demographics of Whitlawburn, Mr Green had looked at the Scottish Neighbourhood Statistics website, but for the area of Whitlawburn, the datazones did not provide a very good fit, which again suggested that Whitlawburn was not, itself a neighbourhood. There were three datazones which largely covered Whitlawburn and two further zones which included Whitlawburn but predominantly extended into other areas; Kirkhill and Springhall. From the three main zones the mid-year estimated population for 2010 was 2,270 an estimate of the portion of the other two zones would bring the population to around 2,500/2,600.

From the three main datazones the number of people aged 75 and over was 57, which equated to 2.5%. This was considerably lower than the national average for Scotland of 7.5% This would suggest that Whitlawburn was a relatively young population, who tended to rely less on pharmacy services than the elderly population. The young were also more able to access services on foot and use public transport.

Mr Green reminded the Committee that this was not the first application to open a pharmacy in this area. There had been four previous applications. Mr Green advised that by now it could be expected that every aspect of the application had been considered and it had been found to be neither necessary nor desirable. Since the last application, the Control of Entry Regulations had been amended which the Applicant referred to as evidence of a significant change of circumstance.

Mr Green advised that he had been involved with the Review and it was his clear understanding that there was no change to the legal test, but only to the process of considering applications. In fact, one of the reasons for change was to give Health Boards greater powers to deal with repeat applications for the same area. If it was accepted that the amendments to the Regulations amounted to a significant change in circumstance, then a precedent would be set to re-hear all applications refused prior to 1<sup>st</sup> April 2011, which was the very opposite effect the amendments intended to achieve.

The Applicant suggested further information be considered as significant change since the last application:-

Further new housing developments which by Mr Green’s recollection had planning approval dating back to the first application and had been considered at each application since.

An NHS dentist had opened, which the Applicant suggested left the neighbourhood relatively worse off.

Mr Green suggested that the Applicant might not have had experience in providing support to dental patients as their reliance on prescription medicines following treatment was far from significant. At Dukes Road Pharmacy in Burnside, there was a dental surgery immediately above the pharmacy, in which there were two full time and one part time dentist. There was also another practice round the corner on Stonelaw Road. A recent

count of dental prescriptions amounted to approximately six per week, which Mr Green might describe as insignificant, not significant.

The Applicant also listed the public support in the section of the application for evidence of significant change. While Mr Green might accept that the West Whitlawburn Housing Co-operative was a very pro-active community group and it was clearly important that the views of the local community were considered, it was necessary to take a balanced view. By nature an Applicant would promote and encourage a positive response, whilst an Appellant, with less time in their favour would attempt to gather opinion against an application, which had happened in this application. In Mr Green's view there would appear to be as much, if not more public objection to the application as support.

In any event an element of the public support had been demonstrated in at least three of the four applications for this site, so he considered that it was inappropriate that it be proposed as new information.

Mr Green recapped on the Applicant's evidence of significant change:

Control of Entry Regulations – no change to Legal Test;  
Housing Developments – All significant developments were considered in previous applications;  
Dental practice opened – insignificant reliance on pharmaceutical services; and  
Demonstrable local support – on balance there was as much if not more objection as support and this same local support had been considered on previous applications.

Mr Green advised that there was mention in the application of territorialism between the neighbouring areas of Cathkin, Springhall and Whitlawburn. Not coming from the area, he was unaware of this but did ask his staff who lived locally. They were a little surprised by the comment, but did consider there to be a degree of antagonism between the youths in the area, but most definitely not among the adults and elderly who were more likely to attend the pharmacy, however they did comment that the Nisa store and associated shops could be an intimidating place at times because of the numbers of youths congregating outside.

Mr Green advised that he didn't have access to commercial information about the pharmacies in the area, other than his own, however comments made in the minutes of previous hearings would suggest that some of the pharmacies in the area had a relatively low dispensing volume and that the addition of another pharmacy in the area may result in a destabilising effect on the current network.

In Mr Green's view this was a particularly astute observation and probably the most important factor which should be considered. There was a need for a pharmacy in this area to the South of Cambuslang, but there was already a pharmacy; Burns on Braemar Road and what had been recognised at previous hearings was that there was no need for two pharmacies and it was highly unlikely that the area could support two pharmacies. It was not the Committee's job today to determine where they might prefer the pharmacy to be, this was called network review, not control of entry. That was why all previous applications had been rejected to the frustration, he could accept, of an element of the local population.

These circumstances had not changed and he proposed that it was once again the responsibility of the PPC to reject the application.

### **The Applicant Questions Mr Green**

In response to questioning from **the Applicant**, Mr Green agreed that neighbourhood boundaries did not necessarily have to be arterial roads. He accepted that open ground could be used to define a neighbourhood's boundary.

In response to further questioning from the Applicant, Mr Green advised that he didn't think that a population of 7,852 was too large to be considered a neighbourhood.

In response to further questioning from the Applicant regarding the number of places offering employment in the area, Mr Green advised that he was not aware that there were over 100 jobs in the area. He advised that he did not agree that this number was significant.

In response to final questioning from the Applicant, Mr Green agreed that the area commonly known as Burnside could be defined as affluent. Mr Green further confirmed that gum disease would be more prevalent in areas where deprivation was higher. Mr Green reiterated, however that even if the level of gum disease was two or three times higher than the average, this would result in an insignificant number of prescriptions being generated by a dental practitioner. He did not agree that this statistic could be used as a significant factor in this particular application. In addition, he noted that Ms Burns was already working with the new dental practice.

### **The Interested Parties Question Mr Green**

In response to questioning from **Mr Dickson**, Mr Green confirmed that there was approximately one pharmacy for every 1,300 population.

HELP!!!!!!

**There were no questions to Mr Green from Ms Burns, Mr MacIntyre, or Mr Doherty.**

### **The PPC Question Mr Green**

In response to questioning from **Mrs Anderton** regarding the level of access to the Minor Ailment Service by young people, Mr Green advised that there was little difference in the number of young people accessing MAS compared to the older population. The most common medication provided under MAS was paediatric paracetamol.

In response to questioning from **the Chair**, Mr Green advised that he did not have the full details, but confirmed that all his pharmacies were involved in the smoking cessation programme and some of his pharmacies were involved in the alcohol brief intervention pilot

**There were no questions to Mr Green from Mr Fergusson, Mr Daniels, Mr Fraser, Mr Irvine, Doctor Johnson or Mr Gillespie.**

### **The Interested Parties' Case – Mr Michael Doherty (Leslie Chemists)**

**Mr Doherty** advised the Committee that he agreed with the neighbourhood defined by the other Interested Parties. This being:

**North:** B762, Dukes Road, along Cambuslang main Street (A724);

**East:** B759, Greenlees Road; and

**South:** East Kilbride Road, proceeding westwards towards its junction with Dukes Road (A749).

Mr Doherty advised that he objected to the application as there was an abundance of pharmaceutical services in the neighbourhood he had described, and to add to the numerous pharmacies available, the closest pharmacy to the community of Whitlawburn was Burns Pharmacy. This pharmacy was only 850 metres from the community of Whitlawburn. Indeed as the PPC stated in their conclusion of the Applicant's first attempt at inclusion, *"There was easy access to Burns Pharmacy which was relatively close and an acceptable walking distance away and there was good public transport."*

He advised that core pharmaceutical services were more than catered for within the neighbourhood. Again the PPC stated that they *"did not feel that the current service in the area was inadequate."*

Mr Doherty understood that the criteria for application had slightly changed but the legal test for inclusion had not. In order for this application to be considered, the Applicant had to provide significant change from previous applications. There had been no serious change in circumstances since the last application in March 2011. Due to this fact, the results of the NAP and the conclusion of all the previous applications, Mr Doherty felt this application should have been rejected before it had come to the hearing.

In conclusion, there was a more than adequate provision of pharmaceutical services to the neighbourhood described. With such an abundance of pharmacies in this neighbourhood and just outside this neighbourhood, Mr Doherty found it very hard to accept the Applicants claim that there was an inadequacy. On these grounds, Mr Doherty proposed the PPC rejected the application.

### **The Applicant Questions Mr Doherty**

In response to questioning from **the Applicant**, Mr Doherty confirmed that he owned two community pharmacies, both of which were situated on Cambuslang Main Street. He confirmed that one of the pharmacies regularly had two pharmacists on duty. He advised that occasionally in this branch a further pharmacist was on duty.

In response further questioning from the Applicant, Mr Doherty confirmed that the PPC had granted an application for Whitlawburn on a previous occasion.

In response to further questioning from the Applicant regarding public transport, Mr Doherty considered that the bus service was excellent. He did not agree that a low level of car ownership limited the public's ability to access services.

In response to final questioning from the Applicant as to whether he would consider Burnside to be separate from Cambuslang, Mr Doherty advised that this would depend on how far down Burnside you would be considering.

**There were no questions to Mr Doherty from Ms Burns, Mr MacIntyre, Mr Green or Mr Dickson.**

#### **The PPC Question Mr Doherty**

In response to questioning from **Mr Irvine** regarding how patients from the Whitlawburn area accessed services on Main Street Cambuslang, Mr Doherty advised that many patients walked, while others would use public transport. He advised that it was incorrect to say that parking was not good in the town centre. In Mr Doherty's opinion there were ample parking spaces, the inconvenience was the restriction on the time cars could be left.

**There were no questions to Mr Doherty from Mr Fergusson, Mr Daniels, Mr Fraser, Mrs Anderton, Dr Johnson, the Chair or Mr Gillespie.**

#### **The Interested Parties' Case – Mr Stephen Dickson (Dickson Chemists)**

**Mr Dickson** advised that he agreed with the neighbourhood as defined by the other Interested Parties. He advised the Committee that he was a resident of the neighbourhood in question and suggested that deprivation within this area was decreasing and was limited to the tower blocks in the centre of Whitlawburn. This was due to the policy of moving elderly residents out of the area and rehousing them elsewhere. This accounted for the lower than average number of elderly within the area. He advised that most of the residents in the Whitlawburn area would travel to Cathkin or Rutherglen for their day to day services.

He stated that he knew the area as travelled around on foot and that the bus service was frequent

He had looked at the PMR system within his pharmacy in Rutherglen Shopping Centre and had identified 200 patients from the defined neighbourhood.

He advised that recently he had dispensed two prescriptions from the dental practice in Whitlawburn. This showed that the residents of the area traveled outwith the defined boundaries to access services.

He advised that as Managing Director of substitution therapy software, he could confirm that there was no shortage of places within the area for those requiring substitution therapy services. This could be confirmed by the local Community Addiction Team.

He asked the Committee to take into consideration the remuneration process for community pharmacy which was seeing a departure from the volume dispensing which previously made up the majority of the remuneration package with a move towards a more service based approach which now meant that 15% of a community pharmacy's remuneration being based on CMS. As the defined neighbourhood offered an average of 1,300 patients per pharmacy, there was a concern for the future stability of the current

network.

Mr Dickson further confirmed that the area had an issue with young people hanging about the local amenities, however in his opinion; this only confirmed that the area was predominantly made up of a younger population who would not have a high requirement for pharmacy services. He reiterated however that this element of the population would more likely access smoking cessation services.

He advised that many of the respondees to the Applicant's public consultation had cited convenience as a reason to grant an additional pharmacy however he considered that this would be detrimental to other pharmacies in the area. The application should be rejected.

### **The Applicant Questions Mr Dickson**

In response to questioning from **the Applicant** regarding the decanting of the elderly population from the area, Mr Dickson agreed that there was a significant sheltered housing development within the neighbourhood.

In response to further questioning from the Applicant, Mr Dickson agreed that all four of his pharmacies were some distance from the proposed premises. The nearest being approximately two miles away and the furthest being approximately seven miles away. He confirmed that none of his pharmacies would be significantly affected if the application were granted.

In response to final questioning from the Applicant, Mr Dickson confirmed that he was aware that they both lived in the same street and that Stewarton Drive could be considered to be situated in a more affluent area than the area of Whitlawburn.

**There were no questions to Mr Dickson from Ms Burns, Mr MacIntyre, Mr Green or Mr Doherty.**

**There were no questions to Mr Dickson from Mr Fergusson, Mr Daniels, Mr Fraser, Mrs Anderton, Mr Irvine, Dr Johnson, the Chair or Mr Gillespie.**

### **Summing Up**

**Ms Burns** advised that she thought there was no doubt that it had been shown today that pharmaceutical services to the community of Whitlawburn were adequate. Indeed it had also been shown that since the last application was refused less than 12 months ago, the range of services had in fact increased. Ms Burns thought it had also been shown that there were no barriers to accessing these pharmaceutical services. She advised that to award this contract would be to do so as a matter of convenience. There was absolutely no doubt that the future of Burns Pharmacy would be jeopardised, thus destabilising current service provision. She therefore asked the Committee to exercise their judgment in respect of the aforementioned and, as in previous decisions, reject the application.

**Mr MacIntyre** advised that he believed Whitlawburn was a small community within a bigger neighbourhood from which it derived all of its services and facilities.

The Applicant had questioned the adequacy of the existing pharmaceutical provision within the area of Whitlawburn which was located to the south of his proposed neighbourhood. He had put forward a case based on the socio-economic nature of the area suggesting that the population were higher than average users of pharmaceutical services. He also pointed out building works that had started that would result in a modest increase in population.

Mr MacIntyre hoped that he had demonstrated to the PPC that through the current network of pharmacies serving this neighbourhood and in particular providing NHS pharmaceutical services to the Whitlawburn area through Burns Pharmacy situated immediately adjacent to and within easy walking distance of the area, through the four pharmacies at the northern end of his neighbourhood and three the further six pharmacies located past the northern boundary of his neighbourhood that the NHS pharmaceutical services to his entire neighbourhood including Whitlawburn were adequate.

They were adequate in terms of the comprehensive range of NHS pharmaceutical services available. They were adequate in terms of a patient's ability to access NHS pharmaceutical services. They were adequate in terms of the increased pharmaceutical needs of a more deprived area, highlighted by the capacity available in the existing network of pharmacies including the pharmacy on their doorstep. In terms of the increase in population due to the planned building developments, the pharmaceutical needs of this population could be easily met by the existing low intensity pharmacy immediately adjacent to the Whitlawburn area and the further ten community pharmacies that patients in this area currently accessed.

Mr MacIntyre therefore asked the PPC to conclude that the granting of this contract was neither necessary nor desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.

**Mr Green** advised that the Applicant had provided insufficient evidence to support the notion that Whitlawburn was a neighbourhood. There was no inadequacy in the service provision in the area. Mr Green suggested that there would be insufficient demand for services to support two pharmacies and respectfully asked the PPC to reject the application.

**Mr Doherty** advised that the facts showed that existing service provision was more than adequate. He found it hard to accept the Applicant's assertion of inadequacy and on these grounds asked the Board to reject the application.

**Mr Dickson** advised that there was not enough people in the area to make a further pharmacy viable and asked the PPC not to grant the application.

**The Applicant** advised that if a line were drawn around Whitlawburn, much as he had done, and if the area was then ripped up by the roots and dropped in the middle of the countryside, into the middle of nowhere, no-one would contest the assertion that Whitlawburn was a neighbourhood in its own right. Surrounding Whitlawburn by a concrete jungle made no difference. The neighbourhood was still there for all to see.

Whitlawburn still had its problems. There were high rates of ill-health, teenage pregnancy,

tobacco smoking and illicit drug use.

Community pharmacy was at the forefront of addressing such problems within a modern NHS in Scotland. Where better than Whitlawburn to invest in healthcare? He asked if there was even an estate that needed a pharmacy more.

The Applicant advised that the application represented an important opportunity to make a positive change for a whole neighbourhood. He was aware that the PPC had a difficult task; they were being bombarded with information that could be confusing and often contradictory. He advised that the Committee's role was as challenging as it was important, in terms of the future of the neighbourhood of Whitlawburn and as such he requested that they consider this point: Had they been presented with evidence to show that any other business would be impacted to the point that their services would suffer? He questioned whether there was anything in the notes before the PPC which would give them cause for concern. He asked whether there was anything tangible. Anything that could be substantiated and asked if the PPC could in good conscience refuse the people of Whitlawburn a pharmacy of their own, based on anything the Committee had heard today.

Prescription volume simply didn't give enough information to work with and he felt it important to make sure the PPC were dealing with strong evidence when deciding the future of this neighbourhood.

The evidence suggested that, rather than having an adverse effect, the opening of a pharmacy in the neighbourhood of Whitlawburn would in fact extend the range of pharmacy services available, would improve accessibility, and would enhance the pharmacy network.

He advised that not only could Whitlawburn support a pharmacy, moreover it needed a pharmacy.

In accordance with the Regulations, the Applicants had carried out a statutory period of public consultation. Open, inclusive, in the public domain, in the public eye. The results told everything the Committee needed to know. 112 responses, 111 in favour, backed with detailed reasoning:

Considerable proportion of elderly residents;  
Poor public transport;  
Having to travel considerable distances to the nearest pharmacies, much of it uphill;  
Too far to walk;  
Cannot afford taxis;  
Impossible to find a parking space;  
Very obvious barriers to accessing pharmacy services; and  
Territorialism, health inequalities, transport costs, inclement weather, deprivation, high density housing, considerable growth.

He advised that the people of Whitlawburn had done what was required of them. They had given more than enough insight to demonstrate that the community needs a pharmacy. The Applicants had worked tirelessly to bring the Committee the evidence to

put it in its correct context and they had given their level best in presenting the case.

He turned to the Committee, and asked them to make a permanent and positive contribution to healthcare in the neighbourhood of Whitlawburn, by granting this application today.

**Before the Applicant and Interested Parties left the hearing, the Chair asked the Applicant, Ms Burns, Mr MacIntyre, Mr Green, Mr Doherty and Mr Dickson to confirm that they had had a full and fair hearing. All parties confirmed individually that they had.**

The PPC were 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 were 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:
  - Leslie Chemists – 108 and 222 Main Street, G72.7;
  - Your Local Boots Pharmacy – Unit 7, Cambuslang Gate, G72.7
  - Burnside Pharmacy – 273 Stonelaw Road, Burnside, G73.3;
  - Melville Chemists – 38 Fernhill Road, Rutherglen, G73.4;
  - Dukes Road Pharmacy – 196 Dukes Road, Burnside, G73.5
  - Burns Pharmacy – 10 Braemar Road, Cathkin, G73.5

All had recorded their objections to the application.

- b) Written representations received from NHS Lanarkshire, who were consulted in accordance with the Regulations as their boundary was within 2km of the Applicant's proposed premises:

The Committee noted that representations had been received from:

- J & JG Dickson & Son Ltd – Uddingston; and
- NHS Lanarkshire – Area Pharmaceutical Committee

The Committee noted that representation had been received from:

- Lloydspharmacy – various addresses.

Lloydspharmacy were consulted by NHS Lanarkshire as part of the statutory process. Their written representation was received after the statutory consultation period had ended.

- c) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee) – Their written representation was received after the statutory consultation period had ended.
- d) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee – did not recommend approval of the application;

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

- e) - South Lanarkshire Sector - no response was received during the consultation period;
- f) The following community councils:
  - Rutherglen – no response was received during the consultation period;
  - Halfway – no response was received during the consultation period;
  - Cambuslang – no response was received during the consultation period;
  - Burnside – no response was received during the consultation period;

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 G72.7, G72.8 and G73.5;
- j) Information from South Lanarkshire Council's Roads Section advising they had no objections to the application;
- k) Information from Glasgow City Council's Department of Development & Regeneration Services advising that there were no known developments within a one mile radius of the proposed premises;
- l) NHS Greater Glasgow and Clyde plans for future development of services;
- m) Patterns of public transport in the area surrounding the Applicant's proposed premises;
- n) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone; and
- o) Applications considered previously by the PPC for premises within the vicinity;
- p) A letter from a member of the general public submitted during the public consultation period;

- q) A petition submitted by the Applicant containing 86 signatures; and
- r) A petition submitted by Ms Nicola Burns containing 457 signatures.

## 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 and the Interested Parties, in relation to the application.

The Committee took into consideration, its obligations in terms of the Equality Act 2010:-

- the need to eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who did not; and
- to foster good relations between people who share a protected characteristic and those who did not.

The Committee considered that the neighbourhood should be defined as follows:

**North:** Stewarton Drive and across to Langlea Road;

**West:** Langlea Road and the A749 East Kilbride Road to its junction with B759 Greenlees Road;

**East:** B759 Greenlees Road from its junction with A749 East Kilbride Road following the road north to the junction with Stewarton Drive.

In the Committee's opinion, Stewarton Drive represented a boundary marking a change in housing type and socio-economic status. The other three boundaries were characterized as natural physical boundaries, being as they were significant trunk roads. Greenlees Road was a main thoroughfare for traffic going to East Kilbride. East Kilbride Road was another main route running the length of the neighbourhood and was a main route for public transport. The Committee recognised that although East Kilbride Road was a busy road, the boundary was more related to a change in housing type and socio-economic composition than any difficulty in crossing the road. The Committee was aware that there were several crossings on the trunk road allowing residents to cross over easily. In addition, there was a purpose built walkway underneath the road providing a further means of crossing.

The Committee considered the other neighbourhoods put forward by the Applicant and the Area Pharmaceutical CP Sub-committee. They did not consider the railway line to be a barrier, given that there were several means of crossing and at some parts the railway line were not obvious to those travelling through the area.

### **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 was no community pharmacy; however there was one community pharmacy a short distance away from the Applicants proposed premises at Braemar Road, Cathkin who provided services to the defined neighbourhood. The Committee were mindful that views differed to how far away the Cathkin pharmacy was from the Applicant's proposed premises, and indeed that various tools used had produced different distances; the Committee were however satisfied that the pharmacy was within an acceptable walking distance from the Applicant's proposed premises.

The consultation carried out by the Applicant had raised the issue of access to services for the neighbourhood population. The Committee considered that the residents of Whitlawburn moved freely about the area to access education, leisure, medical and other services which were concentrated in the main street area of Cambuslang as only minor amenities were provided within the boundaries of the neighbourhood. The population had easy and quick access to both the nearest pharmacy and those located further towards the main shopping areas in Burnside and Cambuslang. They could do this via public transport or on foot via the walkways which ran from Whitlawburn down the hill to Cambuslang Town Centre or across East Kilbride Road to Cathkin on the other side.

The Committee noted that during the Applicant's public consultation, most of the responses received in support of the application were based on the concept of convenience. The Committee was mindful that a large percentage of the general public would not be familiar with the concept of adequacy which the PPC was required to consider as part of the legal test. Most members of the public, if asked, would support the opening of a pharmacy near to where they lived or near their place of work and this had been the case for this application. There had however been a spectrum of responses received in objection to this particular application, these being submitted by patients/residents who were concerned that the granting of an additional contract would destabilize the existing network and jeopardise overall provision.

The Committee considered the Applicant's assertions that the newly opened dental practice constituted a significant change to the neighbourhood. The Committee did not agree with this assertion, given that the opening of the practice was known when previous applications had been considered. The only change being that the practice was now open and providing services to an established list of patients. The Committee did not consider that the practice would put such a strain on the existing pharmaceutical network that they could not cope with the demand emanating from the practice.

The Committee discussed the Applicant's comments regarding additional development in the area and again disagreed that this would cause significant pressure on the existing network to the extent that it would be overburdened. The Committee had heard from the

Interested Parties that their pharmacies could cope with any increased demand coming from the new builds, taking into consideration the decision taken by one of the developers to reduce the number of builds being made available.

**In accordance with the statutory procedure the Pharmacy Members of the Committee, Dr James Johnson, Kenneth Irvine and Colin Fergusson, left the room during the decision making process:**

#### **DECIDED/-**

The Committee considered the existing network provided comprehensive service provision to the neighbourhood with opening hours in excess of the model scheme and all services required by the pharmacy contract, along with additional services. The Committee considered that access to services was readily achievable in a variety of ways either by foot, public transport or by care. A collection and delivery service was available for any resident finding access to services problematic.

Having regard to the overall services provided by the existing contractors within the vicinity of the proposed pharmacy, the number of prescriptions dispensed by those contractors in the preceding 12 months, and the level of service provided by those contractors to the neighbourhood, the committee agreed that the neighbourhood was currently adequately served.

The PPC was satisfied that the provision of pharmaceutical services at the premises of the Applicant were not 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 were included in the Pharmaceutical List and in the circumstances it was the unanimous decision of the PPC that the application be refused.

**The Pharmacy Members of the Committee, Dr James Johnson, Kenneth Irvine and Colin Fergusson rejoined the meeting at this stage.**

**Contractor  
Services  
Supervisor**

#### **5. APPLICATIONS STILL TO BE CONSIDERED**

The Committee having previously been circulated with Paper 2012/02 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:

Mohammed Ameen – 460 Ballater Street, Glasgow G5 0QW

#### **6. MATTERS CONSIDERED BY THE CHAIR SINCE THE DATE OF THE LAST MEETING**

The Committee having previously been circulated with Paper 2012/03 noted the contents which gave details of matters considered by the Chair since the date of the last meeting:

##### **Change of Ownership**

**Case No: PPC/COO1/2012 – Reach Pharmacy, 2 Old Gartloch Road, Gartcosh,**

**Galsgow G69 8EU**

The Board had received an application from Mr Neeraj Salwan for inclusion in the Board's Pharmaceutical List at a pharmacy previously listed as Apple Pharmacy at the address given above. The change of ownership was effective from 1<sup>st</sup> January 2012.

The Committee was advised that the level of service was not reduced by the new contractor and that the new contractor was suitably registered with the General Pharmaceutical Council.

Given the above, the Chair agreed that the application could be granted in terms of Regulation 4 of the current Pharmaceutical Regulations.

**NOTED/-****Case No: PPC/COO2/2012 – Reach Pharmacy, 1094 Argyle Street, Galsgow G3 8LY**

The Board had received an application from Mr Neeraj Salwan for inclusion in the Board's Pharmaceutical List at a pharmacy previously listed as Apple Pharmacy at the address given above. The change of ownership was effective from 1<sup>st</sup> January 2012.

The Committee was advised that the level of service was not reduced by the new contractor and that the new contractor was suitably registered with the General Pharmaceutical Council.

Given the above, the Chair agreed that the application could be granted in terms of Regulation 4 of the current Pharmaceutical Regulations.

**NOTED/-****Case No: PPC/COO3/2012 – Apple Pharmacy, 11 Mossvale Crescent, Craigend, Glasgow G33 5NZ**

The Board had received an application from Mr Sanjay Majhu & Mr Harminder Shergill for inclusion in the Board's Pharmaceutical List at a pharmacy previously listed as Apple Pharmacy at the address given above. The change of ownership was effective from 1<sup>st</sup> January 2012.

The Committee was advised that the level of service was not reduced by the new contractor and that the new contractor was suitably registered with the General Pharmaceutical Council.

Given the above, the Chair agreed that the application could be granted in terms of Regulation 4 of the current Pharmaceutical Regulations.

**NOTED/-****7. ANY OTHER COMPETENT BUSINESS**

There was no other competent business.

**8. DATE OF NEXT MEETING**

To Be Arranged.

The meeting ended at 5.00pm