

## Dumfries & Galloway Health Board

---

### Pharmacy Practices Committee

Revised Minutes of the meeting of the Pharmacy Practices Committee  
held on Thursday, 14 April 2016  
in the Buccleuch Arms Hotel, High Street, Moffat, DG10 9ET

#### **PRESENT**

#### **COMMITTEE**

**Mr Robert Allan (Chair)**

#### **Board Appointees**

Mr M Pumphrey  
Mr W Rogerson

#### **Pharmacists**

Mr G Loughran (non-contractor)  
Mrs J Gallagher (contractor)  
Mr G Keir (contractor)

#### **In Attendance**

Ms A Ferguson	Committee Secretary	Scottish Health Service Centre
Ms S Murray	Legal Adviser	Central Legal Office

#### **Applicant**

Mr G Winter, Dalston Pharmacy Ltd	Applicant
Mr M Stakim, Dalston Pharmacy Ltd	Assisting

#### **Interested Parties**

Ms E Griffiths, Well Pharmacy Ltd	Interested Party
Mr N Nathwani, Well Pharmacy Ltd	Assisting

## **APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST**

**Application by Dalston Pharmacy Ltd (“the Applicant”)**, for inclusion in the Pharmaceutical List of Dumfries & Galloway Health Board (“the Board”) in respect of a proposed new pharmacy at 2-3 High Street, Moffat, DG10 9ET

**Hearing of Application:** Thursday, 14 April 2016.

**Decision of the Pharmacy Practices Committee:**  
The Committee refused the application.

### **1. INTRODUCTION**

- 1.1 On Thursday, 14 April 2016, the Pharmacy Practices Committee (“the Committee”) was convened to hear representations relating to the above application received by the Board on 22 January 2016.
- 1.2 Prior to the hearing, copies of the application and related documents were sent to the Area Pharmaceutical Committee (“the APC”), the Area Medical Committee (“the AMC”), and other interested parties as defined by Schedule 3 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 (as amended) (“the Regulations”).
- 1.3 In addition, as per Schedule 3, a public consultation exercise was undertaken for a period of 90 days. Public notices were placed in the Annandale Herald and the Moffat News, notifications placed on Moffat On-Line, Health Board and Council Twitter accounts, the Health Board Facebook page including a link to the consultation document on NHS Dumfries and Galloway’s website ([www.nhsdg.scot.nhs.uk](http://www.nhsdg.scot.nhs.uk)) and posters at various locations in the area.
- 1.4 Copies of the pharmacy consultation questionnaire were made available from:
  - The Health Board’s website to download
  - Primary Care Development at the Health Board
  - Moffat library and mobile library visiting communities in the Moffat area
  - Moffat On-Line via a link to the Board
  - Present Time Gift Shop, 2-3 High Street, Moffat, DG10 9ET
  - Harvest Time Deli, 24 Well Street, Moffat, DG10 9DP
- 1.5 The following parties were informed of the application as part of the consultation process.
  - Lead officers of Dumfries & Galloway Health Board
  - Lead officers of Dumfries & Galloway Council
  - Councillors
  - Local MP
  - MSPs
  - Scottish Health Council
  - Community Councils
  - League of Friends
  - Nursing Homes
  - Housing Partnership
  - School Groups

- Charitable Organisations
- Local Community Groups

- 1.6 The Committee Members met at Crichton Hall, Dumfries, DG1 4TG at 9am and toured the neighbourhood of the proposed pharmacy. This incorporated a visit to the existing pharmacy in the neighbourhood as defined by the Applicant, and the proposed premises
- 1.7 The Chair convened the Committee at 2pm to hear the application submitted by Dalston Pharmacy Ltd for a proposed pharmacy at 2-3 High Street, Moffat, DG10 9ET. Apologies were noted from Mr Roy Patterson, Lay Member. The hearing was convened under paragraph 2 of schedule 3 of The National Health Service (Pharmaceutical Services)(Scotland) Regulations 2009 as amended , (S.S.I. 2009 No. 183). In terms of paragraph 2(2) of Schedule 4 of the Regulations, the Committee, exercising the function on behalf of the Board, shall “determine any application in such manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the Committee was whether “the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List”.
- 1.8 In accordance with Schedule 4 of the 2009 Pharmaceutical Regulations as amended the Chair asked members to state any declarations of interest or association with any person with a personal interest in respect of any matter being considered at the hearing. A Member of the Committee acknowledged knowing Mr Stakim at university but had not had any contact since graduating in 1997. No other interests were declared.
- 1.9 The Chair ascertained that the Committee had received and reviewed the relevant papers including the additional Johnstonebridge demographic information issued the day before, a copy of which was provided at the hearing.
- 1.10 The Chair noted a template outlining the legal test had been provided to the Committee to support their participation in the hearing.
- 1.11 The Committee were advised that that Mr Gordon Winter, Dalston Pharmacy Ltd, was to give a presentation on the application accompanied by Mr Mark Stakim. Mr Stakim was not allowed to address the hearing directly but could provide advice to The Applicant if required.
- 1.12 It was noted that one objection to the application had been received from Interested Party, Well Pharmacy Ltd. Ms Emma Griffiths was to make the representation on behalf of the Interested Party, accompanied by Mr Nisith Nathwani. Similarly Mr Nathwani was not allowed to address the Committee directly but could be consulted by Ms Griffith on points of information.
- 1.13 The Chair also advised that the APC supported the application but were not making representation at the hearing. Furthermore, neither the Community Council nor the Area Medical Committee had responded to the formal notification of the application received.
- 1.14 The legal test was explained by the Chair, noting that it was important for panel

members to ask questions of the applicant and interested parties to ensure that all the issues associated with the legal test were drawn out in the open session, i.e.

- Neighbourhood
- Adequacy of current services
- Necessity or desirability.

1.15 A Member of the Committee asked what would happen in the event that the Interested Party objected to Mr Keir being part of the Committee given the declared association with Mr Stakim. Ms Murray advised that The Applicant would be given the option to remove Mr Stakim from the hearing. As Mr Stakim was assisting it was not as much of an issue. It was noted that without Mr Keir the hearing could not go ahead as it was not quorate. Ms Murray advised that the opinion of the Chair on this matter should be given when announcing the declared interest to the applicant and interested party.

1.16 A Member of the Committee pointed out a discrepancy in the prescribing figures for High Street Surgery during 2011-12. The Chair immediately contacted the Health Board for clarification. However as there was no-one available at that time to check the information a message was left to call the Chair with the correct figure.

## **2.0 ADMISSION OF THE APPLICANT AND INTERESTED PARTY TO THE HEARING**

2.1 The Chair asked Ms Ferguson to invite the applicant and interested party into the hearing. This was done and the open session convened at 14:25 hours.

2.2 The Chair welcomed all and introductions were made. The Chair confirmed that Ms Murray was in attendance to provide legal advice and Ms Ferguson to provide Secretariat support. The attendees would not have any involvement in decision making. Mr Gordon Winter, representing the applicant Dalston Pharmacy Ltd, was accompanied by Mr Mark Stakim. From the Interested Parties eligible to attend the hearing, the following accepted the invitation: Ms Emma Griffiths, accompanied by Mr Nisith Nathwani representing Well Pharmacy. The Chair reminded the Committee that Mr Stakim and Mr Nathwani were not entitled to speak on behalf of the main presenter.

2.3 It was noted that there were only two lay members present. The Chair advised that apologies had been received from Mr Roy Patterson and that the Committee was still quorate to continue with the hearing.

2.4 The Chair confirmed that the applicant and interested party had received the papers including the additional Johnstonebridge demographic information issued by email.

2.5 The Chair informed the parties that a declaration of interest had been made by Mr Keir. Mr Keir had previously known Mr Stakim at university. It was the opinion of the Chair that this was not significant given that no contact had been made since 1997 and therefore no close connection existed between the two parties. No objections were raised by either the applicant or interested party about this declaration.

2.6 The Chair also drew attention to the prescribing figures detailed on page 12 of the general information on service provision and the incredibly large figure of 588,849 quoted against High Street Surgery in 2011-12. Assurance was given that before any discussions or decision was made by the Committee that the accuracy of this

information would be checked.

- 2.7 The Chairman advised all present that the meeting was convened to determine the application submitted by Dalston Pharmacy Ltd in respect of a proposed new pharmacy at 2-3 High Street, Moffat, DG10 9ET with a proposed opening date of 30 May 2016. The Chairman confirmed to all parties present that the decision of the Committee would be based entirely on the evidence submitted in writing as part of the application and consultation process, and the verbal evidence presented at the hearing itself, and according to the statutory test as set out in Regulations 5(10) of the 2009 regulations, as amended, which the Chairman read out in part:
- 2.8 “5(10) an application shall be ... granted by the Board, ... only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located...”
- 2.9 The Chairman emphasised the three components of the statutory test. It was explained that the Committee, in making its decision, would consider these in reverse order, i.e. determine the neighbourhood first and then decide if the existing pharmaceutical services within and into that neighbourhood were adequate. Only if the Committee decided that existing services were inadequate would the Committee go on to consider whether the services to be provided by the applicant were necessary or desirable in order to secure adequate services. That approach was accepted by all present.
- 2.10 The Chairman confirmed that members of the Committee had jointly conducted a site visit in order to understand better the issues arising from this application.
- 2.11 The Chairman asked for confirmation that all parties fully understood the procedures to be operated during the hearing as explained, had no questions or queries about those procedures and were content to proceed. All confirmed agreement.
- 2.12 The Committee was now ready to consider the application.

### **3.0 APPLICANT PRESENTATION – DALSTON PHARMACY LTD (THE APPLICANT)**

- 3.1 The Chair invited The Applicant to speak first in support of the application.
- 3.2 The Applicant said that Dalston Pharmacy had six pharmacies in Cumbria and Dumfries & Galloway so knew the area well.
- 3.3 The Applicant gave a presentation in support of the Moffat pharmacy application. The presentation included information on the decision to be reached, the neighbourhood, population, local GP shortage, existing pharmacy services, Lord Drummond Young ruling, Public Consultation, support for the application, proposed services and layout of the proposed pharmacy.
- 3.4 The Decision to be Reached  
The Applicant explained that a legal test was to be used to make a decision on the application and that Regulation 5(10) stated that the NHS Board may approve an application to establish a pharmacy if satisfied that the provision of pharmaceutical services at the premises was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located.

3.5 The Neighbourhood

The applicant defined the neighbourhood as the town of Moffat including Newton Wamphray in the south incorporating Kinnelhead, Grey Mare’s Tail in the North-East and across to Nether Howcleugh in the East. i.e. the DG10 postcode.

3.6 Population of Moffat

- 2001 census showed the population for the town of Moffat to be 2,135.
- 2011 census showed an increase in the population to 2,582 (21% increase)

However, this figure only represented the town population living within the 30 mph signs. The source of this population information was the Scottish Government Census website.

3.7 Population of the Neighbourhood

The Applicant explained that Moffat & District Community Council attended a meeting on 3 March 2014 to discuss the integration of library, customer service centre and registration in Moffat. At this meeting the Community Council agreed that the population of the Moffat area using these services needed to include outlying areas such as Beattock, Wamphray, Kinnelhead etc. Exactly the same neighbourhood proposed by The Applicant. The population was estimated as 3,947 compared with the census population of the DG10 area of 3,962.

<b>Area</b>	<b>Population as at February 2014</b>
Moffat	3037
Beattock	561
Wamphray	168
Outlying Areas	181
Total	3947

3.9 Census Population – 3962

Community Council Population – 3947

JICREG Population as of 1/11/15 – 4048

- Adults: 3286
- School Roll: Primary 259
- School Roll: Academy 247
- Beattock Primary: 62
- Under 5’s: 194 (from 2011 census)

3.10 The Applicant highlighted that three different sources pointed to a population of around 4,000 people resident in the neighbourhood.

3.11 The Applicant showed the article entitled “Affordable housing plan for Moffat and Lochmaben” from the Annandale Herald & Moffat News dated Thursday 21 January 2016 as part of the presentation. It was concluded that the population of the neighbourhood was set to increase.

3.12 It was anticipated from the Dumfries & Galloway Local Development Plan for Moffat & Beattock that 265 new homes would be provided by 2024. Based on a census occupancy rate of 2.2 people per home, the population from this housing development plan would increase the population by another 583 people.

3.13 Furthermore Moffat was a popular tourist area which resulted in a temporary population in the neighbourhood. The Applicant explained that this temporary tourist

population was very difficult to estimate. However at the very minimum there were 300,000 to 350,000 verified visitors to Moffat per year based on those visiting the Moffat Woollen Mill. This figure did not include people not visiting the Moffat Woollen Mill such as walkers, visitors by car in the town centre, visitors to various festivals held throughout the year or those staying in the Beattock Caravan Park which was now open all year round. The Beattock Caravan Park had 180 pitches. Based on an average of 3 people per pitch the population of the caravan park was estimated at 540 and was at full capacity from May to September. The Applicant estimated that the temporary population accounted for an extra daily population of on average between 1,000 and 2,000 and represented an average daily population potentially accessing pharmaceutical services in Moffat of close to 5000-6000 people (local residents and visitors).

3.14 The number of Moffat Visitors to Edinburgh Woollen Mill were quoted from the Moffat Woollen Mill Customer Access Information as follows:

Month	Visitors
April 2015	28,891
May 2015	30,283
June 2015	38,684
July 2015	35,170

3.15 Moffat had the oldest population in Annandale & Eskdale. Analysis of the local population from the 2011 census showed that the percentage of the population over 65 years was as follows:

	% of Pop over 65 yrs
Moffat	26.8%
Scotland	16.8%
Dumfries & Galloway	21.8%

3.16 The Applicant stated that although not an area of deprivation, Moffat had a higher prevalence of the following diseases compared to the Dumfries & Galloway average:

- Blood pressure
- Cancer
- CVD risk
- Dementia
- Depression
- Heart Disease
- Rheumatoid Arthritis
- Smoking
- Stroke

3.17 The Applicant quoted from a slide courtesy of the Health Intelligence Unit, Department of Public Health dated January 2014. This showed that by the age of 65, nearly two-thirds of people would have developed a long term condition and 27% of people aged 75-84 would have two or more such conditions. More cases of diseases associated with older age were also expected e.g. cancer, dementia, osteoarthritis and diabetes. Considerable challenges were faced in order to improve health services and meet the needs of the population. Increased demand for healthcare from an ageing population was therefore expected.

3.18 Local GP Shortage

Moffat had two local GP practices. The Applicant explained that previously High

Street Surgery had two GPs until Dr Morrisetty relocated in 2014. The remaining GP had resigned from the Health Board and was due to leave the practice on 31 August 2016. After which Dr Crosby was moving from the Church Place Surgery to the High Street Surgery to enable both practices to remain open. There was therefore a net decrease in number of GPs in Moffat. The Applicant expected an increased demand on pharmacist time and access as a result.

### 3.19 Adequacy/Desirability of Pharmaceutical Services

The Applicant asked the committee to consider whether:

- pharmacy services currently provided in the neighbourhood were adequate when faced with an increased future demand for Healthcare Services.
- An additional pharmacy was necessary and desirable to ensure adequate provision of pharmaceutical services in the area
- the existing pharmacy could cope if faced by an increased demand for Healthcare Services due to a decrease in number of local GPs which would surely result in a sharp rise in demand for pharmacy services in the neighbourhood.

### 3.20 Other Local Towns: Pharmacy Services

The Applicant stated that Moffat was out of kilter with other local towns when the population per pharmacy was considered. The resident population of Moffat had been left at 4000 in the table below although was significantly higher throughout the year.

Town	Population	Number of Pharmacies	Population per Pharmacy
Annan	9204	3	3068
Castle Douglas	5094	2	2547
Lockerbie & Mid Annandale	5134	2	2567
Gretna & Eastriggs	6214	2	3107
Kirkcudbright	5324	2	2662
Newton Stewart	4948	2	2474
Moffat	4000	1	4000

Source: *statistics.gov.scot./Census 2011*

### 3.21 Lord Drummond Young Ruling

The Applicant advised that, in the case of “Lloyds Pharmacy Ltd versus The National Appeal Panel and others” in 2004, Lord Drummond Young had ruled that decision makers could take account of future developments and a decision was permissible that allowed for some degree of over-provision if it secured adequacy in the future. The Applicant stated that this ruling was especially important in this case given the increasing population and because demand on Pharmacy Services was set to increase.

### 3.22 The Applicant felt “What Could/Could Not be Said”

The Applicant stated the pharmacy code of ethics is such that “pharmacists should not disparage the professional services of other pharmacies or pharmacists”. The Applicant was therefore not legally allowed to disparage the existing pharmacy in presenting the results from the Consultation Analysis Report.

### 3.23 Public Consultation Report

The public consultation exercise had 252 respondents which represented a high return. The Applicant compared this response to those received for other

consultations as follows:

Date	Consultation	No of Respondents	Population	% of Population
Jun 2010	Amendments to control of entry onto pharmacy list	142	5m	0.0028%
Nov 2015	Green+ HC Dalneigh, Inverness	68	5600	1.2%
Nov 2015	Glenrothes pharmacy application	180	6000	3%
Dec 2015	Moffat pharmacy application	252	4000	6.3%

### 3.24 Response from Public Consultation

The Applicant took each question in turn and made the following comments or highlighted particular responses made during the public consultation exercise:

### 3.25 Q1&2: Neighbourhood & Location

- 94.33% agreed with the neighbourhood proposed
- “Easy access by car, bus & walking”
- “It will be very close to one of the GP surgeries, and will be very convenient for those on foot. If it were the sole chemist in the town, it would not be adequate but sharing the provision of these services with the existing chemist, it would enhance the services provided to the community”
- “Central location is also good for those with mobility issues with nearby parking and public transport”
- Parking Issues. The applicant did not think Moffat had a parking problem as parking was available in the station car park, hotel car parks and on street. There were nine disabled bays and also a park and ride throughout the town. However respondents thought parking was an issue. The Applicant had therefore arranged for disabled patients to use the church car park to access services at the proposed pharmacy in return for assistance with upkeep of the church yard. A letter from Dr Sonia Sharkey (Session Clerk at St Andrew’s Church, Moffat) to that effect was shown as part of the presentation.

### 3.26 Q3: Existing Pharmacy Services Adequate?

The Applicant stated that 83.4% responded “no” when asked if NHS prescriptions were dispensed with reasonable promptness. Respondents thought only one service (substance misuse) out of seven services asked about in the consultation exercise was adequate at present.

### 3.27 Q4: Proposed Services from new pharmacy required?

Question	% Yes
Dispensing of NHS prescriptions with reasonable promptness	90.6%
Supply of meds under eMAS	90.3%
Public Health Service – smoking cessation, EHC?	86.5%
Chronic Medication Service – for people with long term conditions?	90.7%
Substance Misuse Services?	81.9%
Stoma Services	89.9%
Unscheduled Care?	88.5%

### 3.28 Q5: Opening Hours

- 80% were in agreement
- Suited the majority

- “Reasonable, not excessive”
- “Opening hours are generous and should suit most people”
- Bank Holidays? – the applicant was open to working bank holidays on a rota system with pharmacies in Lockerbie
- Late night opening
- Out of hours cover – already provided and would continue.

### 3.29 Q6: Other Services

It was apparent from the responses that the public were uncertain as to what other services the proposed pharmacy could offer as many responses covered services already included in the proposal. There was no clear answer to this question from respondents.

### 3.30 Q7: Proposed Application Help other Healthcare Providers Work Together?

- 69.4% responded “yes”
- There were regularly repeated comments about the current provision
- “Present pharmacy too busy to be efficient, catchment area and prescription volume overwhelm their facilities”
- “Existing Pharmacy finds it difficult to provide all of the services required...benefit from additional pharmacy...increased time for allied professionals to communicate”
- “Other pharmacy awful. Half the town take their prescriptions elsewhere as it is quicker.”
- “Often see Carers waiting inappropriately long time for prescriptions, as well as other customers”

The Applicant did not like to see such comments about the existing pharmacy. The Applicant was proud to be a pharmacist and wanted to see more respect for the service in the area. The Applicant noted that by granting this application, such comments would hopefully be in the past and an adequate pharmaceutical service would be provided to the neighbourhood.

### 3.31 Q8: Will proposed application impact on other Healthcare providers?

- Most appeared to interpret this as a positive impact on the existing pharmacy and resultant services stating that two pharmacies could provide adequately
- The most commonly repeated comment was that it would help the existing pharmacy as customers recognised Well Pharmacy was very busy
- There would be an improvement in the level of healthcare provided in the neighbourhood

### 3.32 Q9: Support for New Pharmacy Application?

- 85.02% of respondents supported the new pharmacy application
- Repeated comments and long term issues identified
- “Very disorganised and prescriptions everywhere”
- Current provider completely inadequate
- Inefficient
- Too long waiting times, wrong prescriptions for husband and wife in past
- Service very bad and has been for some time
- 7 days waiting for repeat prescriptions recurring response

### 3.33 Q9: Comments?

- Tradesman – it was shocking how many houses I worked in where people

- complained about the current service provision
- Liver transplant patient waited 5 days for medication
- Unable to cope with volume of work
- No Unscheduled care provided, patient left with no medication

The Applicant explained that this was the most open question in the questionnaire and consequently provided the most open results.

It was the view of the Applicant that unscheduled care was one of the simplest services to provide as part of the contract and one of the most satisfying. The Applicant said there seemed to be a lack of continuity in the services provided by the existing pharmacy and supported this statement with the following consultation responses –

- “the existing pharmacy was slow at best”
- “heart prescriptions not received despite being prescribed by GP, advised daughter should have been”
- “double dose antibiotics”
- “many residents prolonged waiting times”
- “should not be asked personal questions in a public space, more private area should be available”

### 3.34 Support for the Application

The Applicant noted that the local MP, Mr David Mundell, was supportive of the application. The Applicant added that Mr Mundell had considered raising issues with the existing pharmacy with the Health Board Chief Executive but had decided it was not necessary at that stage after hearing about the application for a proposed new pharmacy in Moffat.

3.35 Letters of support had also been received from Dr Crosby (Church Place Surgery) and Dr Sharkey (High Street Surgery). Although the letter from Dr Sharkey was in the hearing documentation, that from Dr Crosby was received too late for inclusion so was read out by The Applicant. The gist of the letter from Dr Crosby was that the application had been discussed by partners, practice staff and many patients who felt there was enough workload and demand to support another pharmacy. It said another pharmacy would enable staff to liaise and consult with a pharmacist much more easily, and fully supported the application. The Applicant had recently checked with Dr Crosby and Dr Sharkey and both were still comfortable with the statements of support made previously.

3.36 The Chair interrupted at this point to advise the Applicant that as a copy of the letter from Dr Crosby had not been submitted in time the Committee may choose to disregard it as evidence.

3.37 The Applicant had spoken to Dr Crosby earlier in the week and been informed of an incident involving a patient from the Church Place practice. This was a terminally ill patient who had chosen not to use the pharmacy in Moffat and was using a Lockerbie pharmacy instead. This patient needed controlled drugs but the prescription couldn't get to Lockerbie in time to be dispensed the same day.

3.38 The Applicant said that a powerful letter of support had been received from the APC, local support reflected in an article which appeared in the Moffat News at the time of the consultation and support received from the town's Community Council which was of the opinion that there was room for two pharmacies in Moffat.

### 3.39 Similar Previous Applications in D&G

- Lockerbie
- Kirkcudbright
- Newton Stewart
- Second pharmacy approved
- All existing pharmacies and those approved remained

### 3.40 Proposed Pharmacy

- Ideal location
- Not immediately next to Well pharmacy
- Accessible to GP surgeries
- Parking Available nearby
- 9 x disabled parking bays in town
- Parking available in adjacent church yard
- Fully DDA compliant and would include a Hearing Loop System
- High Specification Re-fit if application approved

### 3.41 Pharmacy Services to be provided by the Proposed Pharmacy

- NHS & Private Prescriptions
- Minor Ailments Service
- Chronic Medication Service
- Public Health Services including Smoking Cessation, EHC
- Unscheduled Care
- Prescription Collection and Delivery Service

### 3.42 Additional Pharmacy Services to be provided by the Proposed Pharmacy

- Malaria prophylaxis
- Erectile Dysfunction Clinics
- Full MASTA Travel Service
- Stoma Supply Service
- Blood Pressure Testing
- Flu Vaccination Service
- Gluten Free Food Service
- Advice to Care Homes
- Community MDS Devices
- Hepatitis C Medicine Sourcing
- DNA Testing Service
- Drug Testing Service
- Audiology Assessments
- Bank Holiday Cover where applicable

3.43 The Applicant informed the Committee that Dalston Pharmacy had been recognised for two Scottish Community Pharmacy Review Awards in recognition for its work developing the pharmacy business in Lockerbie (2009) and Langholm (2014).

3.44 Images of the exterior and plans of the interior of the new pharmacy were displayed.

3.45 The Applicant concluded by thanking the panel for its time.

## **4.0 QUESTIONS FROM THE INTERESTED PARTY TO THE APPLICANT**

4.1 The Chairman invited questions from The Interested Party to The Applicant.

- 4.2 The Interested Party began by asking whether people from Beattock Caravan park were included in the population figures. The Applicant explained that this was dependent upon the behaviour of those from the Caravan Park. If they had visited the Edinburgh Woollen Mill then they would have been counted.
- 4.3 The Interested Party noted that the proposed pharmacy was described as being located centrally and asked whether the Applicant did not consider the Well Pharmacy in Moffat to be located centrally. The Applicant acknowledged that both were located in the same neighbourhood and both centrally located.
- 4.4 The Applicant was then asked how the proposed opening hours were derived to which it was explained that the opening hours were an exact copy of those for the Lockerbie Pharmacy. The Applicant felt that opening at 8:45am enabled patients with GPs appointments at 8:30am to access the pharmacy should a prescription be issued. Although the pharmacy was scheduled to close at 5:45pm Mon-Fri, it would stay open longer on receipt of a telephone request from a GP. Saturday opening from 9am-4pm served tourists visiting the town.
- 4.5 The Interested Party wanted to know how long The Applicant thought it took to fulfil a repeat prescription ordered from the GP. The Applicant replied that for most the procedure was completed within 48 hours but sometimes it could be within a day.
- 4.6 Reference was made during the presentation to GP shortages in Moffat and The Applicant noted that he was not aware of any applications having been received of late to make a full complement of GPs by August.
- 4.7 Ms Griffiths then asked The Applicant to describe what would be “reasonably prompt” in relation to the dispensing of a prescription. The Applicant said it would depend upon the number of items on the prescription but did not want to see people waiting more than 10-15 minutes. The dispensing of an antibiotic could usually be done within 5 minutes if no one else was in the pharmacy.
- 4.8 The Chair ascertained that The Interested Party had no further questions.

## **5.0 QUESTIONS FROM PPC MEMBERS TO THE APPLICANT**

- 5.1 A Member of the Committee asked whether there was a hatch in the dispensary which enabled staff to look into the consultation room. The Applicant explained there was a hatch between the dispensary and consultation room that was lockable from the dispensary side. A Member of the Committee was concerned about staff safety in the consultation room when alone with a patient. When a pharmacist was alone with a patient in the consultation room it could be left open and was a reason for having it.
- 5.2 A Member of the Committee appreciated that the percentage of responses to the consultation exercise was high compared with other consultations but on the whole was a small percentage of the population. The APC had also stated that no complaints had been received by the Health Board about pharmacy provision in Moffat. A Member of the Committee therefore wanted to know whether the negative comments from respondents were just moans about the current pharmaceutical service in the neighbourhood rather than complaints. The Applicant responded about the number of respondents first. A consultation exercise was never going to have 100% response rate. Indeed The Applicant was still hearing of people who did

not know the consultation exercise had taken place. Public engagement was always difficult. The Applicant recounted a recent consultation exercise concerning the location of a major hospital in the area which had received only 20 responses. Compared to that the response rate of the consultation exercise for the proposed pharmacy was favourable at 6.3%. The Applicant continued that people might moan but never formally complain. The Applicant did not expect the Health Board to receive numerous complaints. People voted with their feet and would use another pharmacy. A Member of the Committee then asked if it could be assumed that the other 94% were perfectly happy with pharmacy services in the neighbourhood. The Applicant said this could not be concluded but the 94% had the same opportunity to respond and a very small number came forward who were content with current provision.

- 5.3 A Member of the Committee referred to the GP shortage mentioned in The Applicant's presentation and asked how that might lead to increased activity in the community pharmacy. A Member of the Committee had hoped to hear more information about the proposed pharmacy's plans to be more involved with the GP surgeries. The Applicant explained that with a lack of GP access it was expected the proposed pharmacy would focus more on core services. It was an opportunity to grow the Chronic Medication Service and Minor Ailments Services thereby taking pressure off the GPs. Given the local situation it would encourage pharmacists to carry out independent prescribing. Both the Applicant and Mr Stakim were keen to become independent prescribers and would be excited to be involved in that. There would also be a greater involvement in clinics. Moffat Hospital had been allowed to spend some of the prescription for excellence money to enable pharmacists to be involved in discharging patients. The Applicant was keen to be involved in this scheme. The new pharmacy could also offer flu vaccinations and free up practice time. Both GP surgeries were currently dispensing practices. There would not be such a need for this with another pharmacy in Moffat. When asked whether the Applicant had spoken to the Moffat GPs to discuss how the pharmacy could provide assistance, The Applicant referred to a letter provided by one of the Moffat GPs that alluded to the services that could be provided by the proposed pharmacy and was fully supportive of it (Annex G letter 2).
- 5.4 A Member of the Committee then asked whether Dalston Pharmacy Ltd currently had any independent prescribers or anyone signed up for the course. The Applicant said not at present but should this application be granted it would kick start the process and others would be encouraged to get involved.
- 5.5 The Applicant was asked to comment on the recurring theme of long waiting times for prescriptions which came out of the Consultation Analysis Report. From personal experience The Applicant did not think there was likely to be any problem with the issuing of prescriptions by the GPs and, he was of the opinion that if the problem was with the GP then this would have been explained to patients and the number of comments made in the CAR would not have been as high.
- 5.6 A Member of the Committee noted that a high number of prescriptions issued by Moffat GPs were dispensed outwith the neighbourhood and asked for the Applicant's view on that. The Applicant explained that sometimes GPs posted prescriptions to the Lockerbie pharmacy. It was confirmed that Dalston Pharmacy Ltd did not actively collect prescriptions from the Moffat surgeries.
- 5.7 With the integration of health and social care, A Member of the Committee asked how the proposed pharmacy could assist carers and asked whether Dalston

Pharmacy Ltd was getting actively involved. The Applicant had been involved with the care agencies in training carers on MAR charts and ensuring medications were ordered more efficiently, synchronising orders to benefit pharmacies and carers.

- 5.8 A Member of the Committee then asked to hear about development of services for the community. The Applicant explained that the Health Board had just employed a pharmacist on a sessional basis to review patient's medication at home. The proposed pharmacy could be involved in such a scheme but that would be difficult on a daily basis as the pharmacist needed to be on pharmacy premises.
- 5.9 The Applicant was asked if he agreed that the population of the neighbourhood was an ageing population but was fairly healthy. The Applicant stated that with age came increased health demands. Population analysis of health conditions showed that disease prevalence was statistically average for Scotland. The Applicant therefore disagreed that it was fairly healthy – there was a degree of ill health.
- 5.10 A Member of the Committee noted a statement made in the hearing documentation that the proposed pharmacy would compliment the existing pharmacy but the services offered were already available at Well Pharmacy. A Member of the Committee was concerned that there was not sufficient business to support two pharmacies and asked for The Applicant's view on the minimum number of items dispensed to be profitable. The Applicant had experience of working in a pharmacy with a prescription volume of 3500 per month and was doing very well. This pharmacy had four or five staff, a good clientele, regular work and a happy public with no moans or complaints about the pharmacy service offered. This business was still thriving and viable today despite the population of the town having shrunk. The Applicant was certain that other pharmacies existed on lower prescription volumes.
- 5.11 In response to A Member of the Committee's question about whether Dalston Pharmacy Ltd employed any checking technicians, The Applicant said not presently but there would be one in the Moffat branch.
- 5.12 A Member of the Committee referred to the table showing the number of pharmacies and populations in a number of towns within Dumfries & Galloway. It was mentioned in the presentation that the population of Moffat increased in part due to tourists so A Member of the Committee wondered whether information was available on tourist figures for any of the other towns listed in the table. The Applicant did not have that information to hand but said that other towns such as Gretna Green had a high tourist population and Moffat would not be far behind that. Lockerbie did not have a significant tourist population because it did not have the reputation of Moffat. Moffat was a popular destination for families because of the pond and walkers.
- 5.13 A Member of the Committee noted that when talking about carers waiting for prescriptions The Applicant said they had to wait an "inappropriate length of time". A Member of the Committee asked how long a wait The Applicant considered inappropriate for a prescription. The Applicant explained that carers should not really be waiting for repeat prescription items as these should be ready for collection in the pharmacy. Inappropriate lengths of time may occur for complex acute prescriptions when the pharmacy had a lengthy queue. Benchmarking exercises had indicated that for a one item prescription e.g. antibiotic this should be dispensed in 5 minutes.
- 5.14 Regarding the unscheduled care prescription that was not supplied, A Member of

the Committee asked whether the Applicant had experience of any unscheduled care item that was inappropriate to supply. The Applicant recalled that the particular example of the unscheduled care item not supplied was for a heart condition. Whilst pharmacists were allowed to make discretionary decisions about the supply of unscheduled care items it was unlikely that a discretionary decision would prevent the dispensing of heart medication. However, the Applicant may use this discretion not to supply sedatives prescribed infrequently to a patient.

5.15 The opening hours at the new pharmacy were slightly longer than those for the current contractor. The Applicant was asked what guarantee could be given that these opening hours would continue should the application be granted. The Applicant was keen for a local co-operative in the area to ensure there was pharmacy access at Christmas and the New Year. There were problems providing pharmacy access on 2 January this year so the Health Board had written to the Applicant who consequently worked that date. The pharmacy in Moffat would operate in the same regard should this application be granted. The Applicant suggested that a Moffat/Lockerbie cooperative would work well as pharmacists would only need to work one bank holiday in four. There was no problem doing this as long as the public knew what to expect. Although it was recognised that supermarket pharmacies were open on bank holidays and were more prevalent than 10-15 years ago.

5.16 A Member of the Committee referred to the comment made that the proposed pharmacy had extended opening hours to take pressure off the GPs and hospital accident & emergency departments but stated that the proposed pharmacy was not open as long as the doctors' surgeries or out-with normal working hours. A Member of the Committee invited the Applicant to comment on this statement. The Applicant replied that GPs did not tend to see many patients after 5:30pm so were open to 5:45pm to deal with prescriptions issued late in the day. A Member of the Committee enquired whether the Applicant considered that Moffat was a special case with its high number of visitors taking up occupancy in hotels or guest houses late in the afternoon. The Applicant explained that it was very apparent when working in a pharmacy the times when GPs were not there seeing patients as it was very quiet. The proposed pharmacy planned to be open on a Saturday to provide a service to tourists and GPs were not open then. If GPs phoned to ask the pharmacy to stay open a bit longer then that would not be an issue. Much as the Applicant would like to open the proposed pharmacy 24 hours a day it could not be supported by the economic situation in Moffat High Street. In the context of A Member of the Committee local buses arriving in Moffat after the pharmacy had closed i.e. 380 at 18:10 Mon-Sat, 74/380 at 18:21 Mon-Sat, 74/114 at 17:55 Mon-Sat, people working in surrounding towns therefore getting back to Moffat too late to use the pharmacy service, Mr Rogerson enquired whether the proposed pharmacy was virtually mirroring the service already available in Moffat. The Applicant was committed to providing the best possible service but there was an economic factor to be taken into account. Dalston Pharmacy Ltd had won two pharmacy awards and the Applicant believed it provided a good service to the public. An out-of-hours pharmacy contract service was available to provide urgent prescriptions and the Applicant participated in this service. There were not many pharmacists involved and the list was not circulated for confidentiality reasons. The Applicant did not need to take part in this but had never taken that approach so was offering patient centred care and was proud of the service Dalston Pharmacy Ltd currently provided.

5.17 A Member of the Committee referred to the statement made by Lord Drummond Young that future changes in housing could be taken into account in the decision

making process which had led the applicant to estimate an additional 583 people in the neighbourhood. A Member of the Committee wondered if this was really the case given that firstly the new housing needed to be occupied and secondly whether older housing would be demolished. The Applicant confirmed that it had been identified in the local development plan that Moffat needed additional housing and the areas of Moffat where the new developments were to be built. A Member of the Committee rephrased the question by asking whether this was to be replacement rather than additional housing. The Applicant said it was additional housing as the Local Development Plan would have already taken that into account when estimating population growth.

- 5.18 Much had been mentioned in the applicant's presentation about tourism. During the site visit A Member of the Committee noted there were many buses parked in the Co-op car park. These buses seemed to be passing through Moffat as there were tour signs on some of the buses such as "Lochs and Glens". A Member of the Committee asked the Applicant to comment on the fact that these holidaymakers were not bringing prescriptions into the pharmacy. The Applicant explained that some of these people may have forgotten prescription medication. A Member of the Committee suggested that tourism relevant to increased pharmacy usage would be those staying a week and not many of those passing through on tour buses. The Applicant responded by saying that someone was equally likely to have forgotten their prescription medication when away for one night as seven.
- 5.19 A Member of the Committee recounted from the presentation that Mr David Mundell MP was going to raise the issue of a perceived lack of pharmacy services in Moffat until hearing about the proposed new pharmacy. When asked why Mr Mundell was going to do that, the Applicant said that as the local MP with a constituency office in Moffat, Mr Mundell had had many local residents raising issues about pharmacy services during surgery sessions although the letter of support did not actually say that. The Applicant had discovered this during a conversation with Mr Mundell at Langholm Agricultural Show.
- 5.20 A Member of the Committee was surprised given the letter of support received from the community council that the community council were not in attendance at the hearing to make representation and asked whether this was contradictory. The Applicant noted that there were many PPCs held without community council representation and challenged the idea that this was contradictory as it did not give support to opposition of the application either. Support from the community was not only evident from the letter submitted by the community council but from the quote given to a newspaper from Sylvia Moffat who lived and had worked in Moffat for many years.
- 5.21 A Member of the Committee asked about letter 2 on page 45 of the hearing documentation which the Applicant had already disclosed was from Dr Sharkey. The letter stated "I am writing at Gordon Winter's request". A Member of the Committee wanted to know whether Dr Sharkey would have written this letter of support if the Applicant had not requested it. When looking into the feasibility of the proposed pharmacy the Applicant had contacted both surgeries to find out the doctors' views about an additional pharmacy in Moffat. Doctors in both practices were supportive so the Applicant asked for letters of support to be provided. Had the doctors said another pharmacy was not necessary then the application was unlikely to have been taken forward. The Applicant was very open about approaching the local GPs.

- 5.22 Were this application to be approved, The Chair asked what pharmaceutical services would look like from the customer perspective compared with those currently and for evidence. The Applicant said there was a lot of evidence from the CAR to support the statement that the current pharmacy was struggling to keep up with demand and that everything was rushed. Should this application be granted there would be more time available to spend with patients and to review medications. With the shortage of GPs it was anticipated that the pharmacy would be the first port of call for patients. The pharmacist could triage patients and arrange GP appointments for patients of extreme concern. Increased patient time was fulfilling for both the public and pharmacist as it would have a positive impact on patient health. The Applicant felt that both the proposed and existing pharmacies would benefit.
- 5.23 The Chair noted that Moffat was a small town and asked the Applicant whether the close proximity between the existing and proposed pharmacy would be of benefit or a disadvantage. The Applicant envisaged both working well together with improved customer service as competition was healthy but was pleased the pharmacies were not next door to each other. If the application was successful then the proposed pharmacy would need to “hit the ground running” as the public had high expectations. Both pharmacies needed to provide high service or risked losing business. The Applicant concluded that the location of the pharmacies was far enough away to be comfortable but close enough to keep both keen.
- 6.0 **PRESENTATION FROM INTERESTED PARTY - WELL PHARMACY LTD**
- 6.1 The Interested Party thanked The Applicant for the presentation given but maintained the position that this application was neither necessary nor desirable as there was adequate access to pharmaceutical services in the neighbourhood.
- 6.2 Well Pharmacy did not disagree with the neighbourhood proposed by the Applicant as it fairly represented the area where the existing pharmacy captured and delivered prescriptions.
- 6.3 The Interested Party also agreed with the population defined by the Applicant at around 4000 residents and supported by the information presented in section 5 of the hearing pack.
- 6.4 Page 6 in section 5 of the PPC pack addressed deprivation within the neighbourhood. The Interested Party again agreed that this was not a deprived area. There was a high level of car ownership, the majority of households having access to two or more cars, so was a highly mobile population in keeping with the rural character of the neighbourhood.
- 6.5 The Interested Party noted that all services and amenities were available within the town of Moffat including pharmacy service provision, general medical service provision, banks and a post office. Parking was free and not time restricted with designated disabled parking bays available for disabled badge holders.
- 6.6 There was currently one pharmacy in Moffat, the oldest pharmacy in Scotland, which accounted for the old shop front as the building was listed. It was an integral part of the town’s heritage. The existing pharmacy was located centrally in the neighbourhood and offered all core services to the NHS contract i.e. CMS, eMAS, dispensing services, independent prescribing, flu service, chloramphenicol under a PGD, core home services, home delivery services, smoking cessation services and

unscheduled care. The pharmacist was currently training as an independent prescriber.

- 6.7 The Interested Party said that the opening hours of Well Pharmacy were remarkably similar to those proposed for the new pharmacy. The opening hours of the Moffat pharmacy were constantly monitored for appropriateness. As there were no queues of patients outside the pharmacy at 9am it was not believed there was a need to open 15 minutes earlier in the morning. The Interested Party supported this by pointing out that 80% of respondents to the consultation exercise agreed that the opening hours were appropriate for the neighbourhood. It was therefore concluded that the proposed pharmacy in the same central area of the neighbourhood would not improve access to pharmaceutical provision itself. People from the surrounding areas would still have to make the same journey to the same central location.
- 6.8 The Interested Party then addressed the adequacy of pharmaceutical services currently provided. Well Pharmacy maintained that pharmacy provision was adequate. The existing pharmacy was fully compliant with DDA requirements/equality act requirements including the consultation area. It had push button level access so there were no physical accessibility issues. The list of services provided had high participation/uptake rates as illustrated in the PPC documentation. It was actively engaged in supporting the health of the population in the neighbourhood despite conflicting CAR opinion. The CAR highlighted that there was not adequate provision of addiction services, stoma services, CMS and eMAS services but The Interested Party questioned how the respondents knew these services were inadequate without personal experience. The existing pharmacy had 5 stoma service users yet 49 people responded that this service was inadequate. There were 12 users of addiction services at the existing pharmacy yet 42 respondents said these services were not adequate although there was no waiting list to access this service. The Interested Party suggested a reason for these responses may have been because the option to answer “don’t know” was not available. Similarly CMS and eMAS had participation rates above average yet 102 respondents said CMS was not adequate and 101 respondents said eMAS was not adequate. Not everyone was eligible for CMS or eMAS and regulations prevented these services being advertised to the general public although patients in the branch could be made aware of these services by staff. The Interested Party suggested that promotion by staff accounted for the high uptake of these services.
- 6.9 Question 7 in the consultation exercise asked about closer working relationships. The Interested Party had letters of support from the local care home and from High Street Surgery commending the pharmacist and services provided in Moffat. The Interested Party read out extracts of both letters in support of this statement. The Chair interrupted to explain that the letters could be read out but the evidence may not be taken into account by the committee. The letter from Dr Sharkey stated “commend excellent service provided, very obliging and helpful on the telephone or in person. Service was a good standard and had no hesitation in commending her”. The letter from the care home commended the Pharmacist for introducing a new system which was working well and made the writer’s job easier. Prescriptions were also dealt with quickly.
- 6.10 The Interested Party stated that the existing pharmacy was providing an excellent service to tourists visiting Moffat and supported the contention that pharmacy services were adequate. The Interested Party referred to an incident reported last year in the local press concerning unscheduled care whereby a holidaymaker on a bus tour had forgotten prescription medication. This patient came to the pharmacy

expecting to be turned away but the local surgery was contacted and the medication delivered just as the bus was about to leave Moffat.

6.11 The Interested Party then turned to general themes from the CAR and provided the following comments –

- 6.12
- Medications not ready or not available – the owings report was reviewed and showed average owings rates of 0.4% in the last 6 months. Well Pharmacy as a company set a standard for owings of no more than 1.5% of all prescriptions and took into account medications on international and national shortage. This could account for the responses given where patients went in one week and their prescriptions weren't there so went in the following week and they still weren't there. No matter what supplier was being used these medications were just not available. This was currently managed by working closely with the GP surgeries to inform of medicine shortages and waiting times or suggest alternatives that were available
  - Waiting times – long waiting times were a personal perception. Information from pharmacy software systems indicated the average time to fulfil a prescription was 8.5 minutes. Well Pharmacy company standard was 9.5 minutes. Although The Interested Party accepted this was an average, the monitoring of customer satisfaction was paramount. The Interested Party said the Applicant had already stated that the time taken to dispense a prescription depended upon number of items and its complexity. The PPC documentation showed that many patients had multiple and complex health needs and it took time to get prescriptions right for these customers when patient safety was put first. The Interested Party stated it had been highlighted earlier that there had been no official complaints about the existing pharmacy. Had the dispensing of prescriptions been speeded up then it was anticipated that more complaints would have been made to the Health Board. The higher levels of eMAS/CMS also contributed to slightly longer waiting times. The recent GPHC inspector's report rated the whole branch as satisfactory and patient satisfaction of "good" standard. This inspection was conducted by an independent body with appropriate skills to make a professional judgement and looked at all elements of the operation. The Interested Party was pleased that the existing pharmacy had been rated satisfactory.
  - Staffing profile – reviewed frequently. The current profile was 2.5 whole time equivalent (WTE) pharmacy technicians, 2.5 WTE pharmacy assistants, 1.5 WTE healthcare assistants and 1 WTE pharmacist with additional pharmacist cover through the week. Ms Griffiths thought it worth noting that the patient seeking unscheduled care and the person with the heart complaint who sought medication but left wanting demonstrated clear uptake of additional services by the public and that patient care was important to Well Pharmacy. The Interested Party said the Committee was not getting the full picture in those two cases and there must have been more to the circumstances other than the pharmacist saying no – perhaps the dosage could not be identified.
- 6.13 For those patients with mobility issues the existing pharmacy offered a delivery service which was free and unconditional. Deliveries were made within a 15 mile radius of the pharmacy covering the whole of the neighbourhood.
- 6.14 The Interested Party reiterated that no formal complaints had been made to the Health Board about the service provided by Well Pharmacy in Moffat. It was possible to see that if patients felt strong enough about the service provided then

patients would have complained. The complaint procedure was available from the pharmacy and patients had the ability to complain.

- 6.15 The Interested Party explained that the pharmacy had used a mystery shopper to assess customer service and carried out an independent public consultation exercise using an external company to find out what the responses would be like. The Interested Party was surprised to find the opposite of the Applicant and results provided in the CAR. 96% of respondents rated the pharmacy as good, very good or excellent compared with a company target of 90% so it had overachieved.
- 6.16 In summary, The Interested Party said that the standard to be reached was adequate. As a long established pharmacy it strived for excellence but the legal test required adequacy.
- 6.17 The Interested Party stated that adequate standards had been demonstrated by
- Highlighting that no complaints had been made to the Health Board
  - Owings were managed well
  - Average waiting times complied with the regulation requirement for prescriptions to be dealt with in reasonable promptness
  - The high participation rates for required contractual services
  - A good customer satisfaction score
- 6.18 The Interested Party concluded by urging the Panel to refuse the application for an additional pharmacy in Moffat.

## 7.0 **QUESTIONS FROM THE APPLICANT TO THE INTERESTED PARTY**

- 7.1 The Applicant began by asking about the uptake of core services and whether The Interested Party had any information to indicate patients were satisfied with the minor ailment or chronic medication service provided at Well Pharmacy. The Applicant explained that the number quoted in the presentation for the chronic medication service was the number of patients registered and did not reflect the service provided. Although The Interested Party had no information about the quality of services provided, patient registration for eMAS lasted only 12 months after which time patients needed to re-register. As numbers registered for eMAS were consistent The Interested Party concluded there was something to be said that patients were not “talking with their feet”. There was also no evidence from the CAR that patients were unhappy with eMAS or CMS.
- 7.2 The Applicant referred to table 2 on page 14 of the General Pharmaceutical Services and Dispensing Information provided by the Health Board which required consultation rooms to be close to the dispensary and chemist counter. Although Well Pharmacy had met this requirement, the Applicant raised concern about the location of the consultation room as it didn't appear to be in close proximity to the dispensary when the Applicant had visited the Moffat branch. The Applicant asked whether an adequate consultation service was provided if people in the waiting area saw the pharmacist walking the length of the pharmacy with methadone. The Interested Party said it was a subjective call and there was an element of discretion. The pharmacist would not blatantly walk about advertising the fact that a client needed methadone. The Interested Party also said that the GPHC report was happy with how services were provided.
- 7.3 When asked how the Customer Satisfaction Survey was carried out, The Interested

Party explained that an exit interview had taken place on Moffat High Street that involved 50 consultations. The Applicant was in possession of a letter dated Monday of this week where a patient confirmed being interviewed in the shop and was unhappy about the questions being asked within earshot of pharmacy staff. The Chair intervened and stressed that the Applicant must ask questions at this stage of the hearing. The Applicant rephrased the statement by asking whether The Interested Party thought this approach resulted in an unbiased response. The Interested Party replied that this method was not in the brief and the company involved had been asked to interview people on the high street. Information provided from customers in the pharmacy was of no use to Well Pharmacy. The Interested Party did not support interviews occurring in the pharmacy. The Applicant offered to provide a copy of the letter to The Interested Party. The Chair reminded both parties that a discussion was not appropriate and questions were required.

## 8.0 **QUESTIONS FROM PPC MEMBERS TO THE INTERESTED PARTY**

- 8.1 When asked to clarify the staffing levels at Well Pharmacy, The Interested Party confirmed there were 2.5 WTE pharmacy technicians (NVQ3), 2.5 WTE pharmacy assistants i.e. dispensers (NVQ2), 1.5 healthcare assistants (NVQ1), 1 full time pharmacist and an additional pharmacist to provide cover when required.
- 8.2 A Member of the Committee asked The Interested Party to offer an explanation as to why the existing service provision was not adequate given the apparently good level of staffing and skill mix. A Member of the Committee wondered whether it was an issue with staff continuity if several members of staff made up the WTE rather than one person. The Interested Party explained there was a cohort of staff that worked in the pharmacy full time. Additional staff worked at peak times so was not the reason.
- 8.3 A Member of the Committee then asked if poor levels of customer satisfaction in the CAR could be accounted for by lack of staff training or whether another explanation could be offered. The Interested Party had previously reviewed all evidence available, the GPHC report had been checked and staff training was fine. The Interested Party stated that staff were working to a good standard and could offer no explanation for the adverse comments about staff competency.
- 8.4 A Member of the Committee referred to the earlier discussion about the CAR which suggested a degree of dissatisfaction with the existing pharmacy from the people who responded to the questionnaire. Looking at prescription volumes from the GP surgeries these were on track to increase by 11.5% this year but the number of items dispensed from Well Pharmacy had increased only 3.5% and last year the number of items dispensed had gone down. A Member of the Committee asked why the number of items dispensed was out of kilter with the number of prescriptions issued in Moffat. The Interested Party said that patients had the ability to go elsewhere and suggested people were using pharmacies close to their workplace e.g. Lockerbie or Lochmaben.
- 8.5 When asked what would make people dissatisfied with the existing service in Moffat, The Interested Party did not believe the pharmacy was too stretched as there was pharmacist cover and an adequate level of staffing. The Interested Party just did not understand the results of the CAR and there was no specific reason that could be identified. There may be an element of historical dissatisfaction but there was nothing in the research The Interested Party had carried out to offer an explanation.

- 8.6 A Member of the Committee asked whether the manager had changed recently. The Interested Party replied not in the last four or five years.
- 8.7 A Member of the Committee then asked how many pharmacies get at least a satisfactory score from the GPHC inspection. The Interested Party said the majority but 1% were deemed poor and given action plans last year.
- 8.8 A Member of the Committee continued by asking for The Interested Party view as to why the APC were surprised at the negative responses. If this statement was made based solely on the CAR report then The Interested Party could understand it as it was not good reading and was of the same opinion. The Interested Party had done more digging and discovered it may not be the whole story and suggested the responses were a warning shot for the existing pharmacy rather than based on something tangible. There had been no complaints to either the Health Board or Head Office. However A Member of the Committee pointed out that people often did not like to complain especially about a pharmacy that was depended upon. The Interested Party disagreed and thought it a fair indicator. If bad service was continually experienced then people would take control of the situation by complaining but the complaints were just not happening.
- 8.9 A Member of the Committee asked about the view of the GPs that current demand was in excess of the existing pharmacy's capability. The Interested Party replied that going on numbers alone with only one pharmacy and two surgeries that might be assumed but questioned the areas the pharmacy was falling down on as it was working with the GPs, providing services to the elderly and care homes. It was not clear from the letter and may have been a general issue. Well Pharmacy was actually providing pharmacy services to a level above average for the neighbourhood and fully engaged with the neighbourhood.
- 8.10 Finally A Member of the Committee asked what Well Pharmacy was doing to support the GP shortage in Moffat. The Interested Party explained that the pharmacist was undertaking the independent prescribing course and the pharmacy had a repeat prescription service in place. There had not yet been discussion with the GPs about how the pharmacy could provide support but plans were in place to address that.
- 8.11 A Member of the Committee wanted to know whether the existing pharmacy obtained daily deliveries of medical supplies. The Interested Party said that it did from three main suppliers. Well Pharmacy had its own distribution hub in Stoke. This allowed Well to enter into buying deals to obtain better prices as well as source and secure its own supply of drugs in short supply.
- 8.12 A Member of the Committee asked why various documents had been read out during the presentation without being submitted to the Health Board for inclusion in the hearing documentation as the decision could have been influenced. A Member of the Committee noted that the Committee was being asked to accept the evidence as true without having had time to assess it. The Interested Party had made an enquiry last week but was told by the Board's administrator that it was not possible to submit documents after the initial 30 day consultation period. However before the end of the consultation period the evidence had not been obtained to submit. The independent survey was conducted in March so the evidence gathered was out-with 30 days of being notified.
- 8.13 A Member of the Committee then asked about the letter read out from Dr Sharkey in

support of Well Pharmacy which did not tie up with that submitted as letter 2 in support of the Applicant. The Interested Party suggested the differing responses were a result of being asked for letters of support at different times.

- 8.14 In the event that the PPC hypothetically decided the service was inadequate, it had then to decide whether the application was necessary to secure adequacy of pharmacy services in or to the neighbourhood. A Member of the Committee asked whether The Interested Party did not accept any inadequacy in the existing service so that should the panel conclude inadequacy there would be a case for the application being unnecessary as all services could be secured by Well Pharmacy. The Interested Party did not support inadequacy because facts had not been found to support it. The CAR was unable to address perceived inadequacy as it did not go into that level of detail. Any inadequacy that might be deemed by the PPC could be addressed by the existing pharmacy which had the ability to extend its opening hours, put in an ACT or a second full time pharmacist could be employed which would give the neighbourhood the equivalent of two pharmacies without the Health Board incurring costs for an additional pharmacy. The Interested Party acknowledged that Well Pharmacy needed to address patient perception but provided an adequate service whilst striving towards excellence.
- 8.15 When asked when Well Pharmacy got sight of the public consultation document results, The Interested Party replied February 2016 after which Well had 30 days to submit comments.
- 8.16 A Member of the Committee requested what Well Pharmacy had done with the feedback. The Interested Party explained that the results prompted a review of pharmacy opening hours and staff profile. However this determined the pharmacy had a well trained complement of staff. The Interested Party had also looked at data concerning "owings" and had spoken to the local GPs and contacted care homes. In light of the CAR results, Mr Keir wanted to know whether Well Pharmacy had done anything differently. The Interested Party explained that there had been a focus on patient waiting times and was trying to identify where the perception was coming from. A mystery shopper had been used to provide information on the patient experience. Under the English contract for a community pharmacy the Moffat branch was required to conduct a community pharmacy patient questionnaire (PPQ) annually. This had been completed although the results had not yet been analysed. No other action had been taken by Well Pharmacy to collect feedback from customers.
- 8.17 The Interested Party confirmed when asked that Well Pharmacy had not had any complaints for the past 3 years.
- 8.18 A Member of the Committee asked for clarification about completion of the ACT course by a Well Pharmacy dispenser. The Interested Party explained that the course was just about to be embarked upon.
- 8.19 There had been a lot of talk about tourism in the summer months so Mr Keir asked whether the pharmacy had extra support during this time. The Interested Party confirmed that in the summer students worked in the pharmacy for work experience receiving prescriptions from customers. There was also a team of relief dispensers available to work in the pharmacy.
- 8.20 When asked about bank holiday opening, The Interested Party explained that the Moffat pharmacy would have done so had it been approached by the Health Board.

A Member of the Committee asked whether the pharmacy had been open during any of the bank holidays in 2015 but The Interested Party was unable to comment.

8.21 The Interested Party confirmed that the pharmacist training as a prescriber was the branch manager and was a permanent member of staff. Qualification was expected this summer.

8.22 A Member of the Committee then asked whether Well Pharmacy had any plans to set up clinics to which the reply was not as yet but it was working with the local hospital in this regard.

8.23 A Member of the Committee referred to the number of owings slips in the board report which were considered as not having totally fulfilled the prescription and wondered whether there was a way to bypass the system so the true figures were not reflected. The Interested Party conceded that owings were not good practice and sought advice from Mr Nathwani. The Interested Party stated that it was not possible to bypass the system – prescriptions were scanned at the start and when completed and the time in between monitored. There needed to be a minimum number of items scanned to be credible so it was impossible to scan only one or two choice items.

8.24 Having sought legal advice from Ms Murray, the Chair announced that in fairness to both parties the PPC would not consider any letters or documents submitted out with the time frame, including the survey carried out for Well Pharmacy.

8.25 The Chair was not convinced that people visiting or working in other towns accounted for the high percentage of prescriptions issued in Moffat but not dispensed in the existing pharmacy adding that people did not generally go from Moffat to Lockerbie to shop so asked for another explanation. The Interested Party reiterated that it was patient choice. The Chair wondered whether it was free patient choice or whether patients were being compelled by something else. The Interested Party was unable to elaborate any further.

8.26 When asked whether a lack of complaints confirmed customer satisfaction, The Interested Party said it did not but contributed to the measure. It was not a sole indicator but a partial indicator.

8.27 The Chair then enquired whether any management changes or action plans had been put in place since the CAR results were published. The Interested Party explained that the PPQ had been carried out and would be used to put together an action plan. The Chair pointed out that the response of Well Pharmacy to the survey results was to conduct another survey. The Interested Party did not agree with that statement saying it was a coincidence of timing. The Chair suggested that the answer was basically that no action had been taken as a result of the CAR. The Interested Party agreed.

8.28 This concluded the questioning of the interested party.

## 9.0 **SUMMARY OF REPRESENTATIONS**

9.1 The Chair invited both parties to provide a summary of the representations made and reminded all that in doing so no new evidence should be introduced. The summaries were to be given in reverse order starting with the interested party, and finishing with the Applicant.

## 9.2 **The Interested Party (Well Pharmacy Ltd)**

The Interested Party declined to make a closing statement.

## 9.3 **The Applicant (Dalston Pharmacy Ltd)**

The Applicant believed it had been demonstrated that the population could support an additional pharmacy, the neighbourhood was expanding and there was strong public backing for the proposal. The CAR showed public feeling about the existing pharmacy and the application had strong backing from the APC as well as from knowledgeable people in the neighbourhood - both public and professional. Another pharmacy in Moffat would have a positive impact but if the application was refused the existing pharmacy service would revert to the way it always was. The Applicant urged the PPC to grant this application to address the existing inadequacy and secure adequacy for the future. The Applicant thanked the Committee for its time.

9.4 The Chair thanked both parties for contributing.

## 10.0 **CLARIFICATIONS**

10.1 The Legal Adviser provided clarification of the Chair's statement made in 9.1 above. Reassurance was given that the PPC would take into account everything said during the hearing but the fact that letters and additional documentation had not been submitted on time affected the weight that could be attached to the evidence. It was noted that both applicant and interested party were in the same position.

10.2 Regarding the discrepancy in the prescription figures detailed in 1.14 above, clarification had been sought from the health board that the true prescription figure for High Street Surgery in 2011-12 was 58,849 making the total 112,904. The Chair advised that these amended figures would be used in the committee's deliberations.

## 11.0 **RETIRAL OF PARTIES**

11.1 The Chair then invited each of the parties present that had participated in the hearing to individually and separately confirm that a fair hearing had been received and that there was nothing further to be added. Having been advised that all parties were satisfied, the Chair advised that the Committee would consider the application and representations prior to making a determination, and that a written decision with reasons would be prepared, and a copy issued to all parties by 6 May 2016. The letter would also contain details of how to make an appeal against the Committee's decision and the time limits involved.

11.2 The Chair advised the Applicant and Interested Party that it was in their interest to remain in the building until the Committee had completed its private deliberations. Ms Murray said this was in case the open session was reconvened should the Committee require further legal advice. In such an event the Applicant and interested party would be invited to hear the advice and to question and comment on that advice. All parties present acknowledged an understanding of that possible situation.

11.3 The Applicant, the interested party, their assistants and Ms Murray then withdrew from the hearing.

11.4 The hearing adjourned at 1720 hours. The Committee reconvened at 1730 hours to

consider the application and deliberate on the written and verbal submissions.

11.5 The Chair reminded the Committee of the legal test as detailed on page 6 of the PPC papers as the framework for discussion.

## 12.0 **SUMMARY OF CONSULTATION ANALYSIS REPORT (CAR)**

### 12.1 **Introduction**

NHS Dumfries & Galloway undertook a joint consultation exercise with Dalston Pharmacy Ltd regarding the application for a new pharmacy at 2-3 High Street, Moffat, DG10 9ET.

### 12.2 **Purpose of Consultation**

The purpose of the consultation was to seek views of local people who may be affected by the application or use the pharmacy at its proposed new location. The consultation also aimed to gauge local opinion on whether people felt access to pharmacy services in the area was adequate.

### 12.3 **Method of Engagement to Undertake Consultation**

The consultation was conducted by

- placing an advertisement in the Annandale Herald and Moffat News
- displaying posters in the local hospital, library, GP practices, dental surgery, shops, schools and parish churches.
- using a standard questionnaire to capture respondents' definitive responses and free text views for accurate reproduction graphically and textually
- allowing general comments if preferred
- disseminating notifications of the consultation to lead officers of the Health Board, Dumfries & Galloway Council, Councillors, Local MP, MSPs, Scottish Health Council, Community Councils, League of Friends, Nursing Homes, Housing Partnership, school groups, charitable organisations and local community groups
- providing general information about a new pharmacy application, how to access associated statutory documents and useful website links including the consultation link on the Health Board's public website [www.nhsdg.scot.nhs.uk](http://www.nhsdg.scot.nhs.uk) and Health Board's Pharmaceutical Care Services Plan
- Providing printed copies of the questionnaire in addition to the Survey Monkey questionnaire. Copies of the questionnaire and prepaid envelopes were available from all locations where posters were displayed.
- Reminding the public at regular intervals about the consultation exercise through Tweets to the Health Board's Facebook page and Moffat On-Line

The Consultation commenced on 17 September 2015 and concluded on 16 December 2015.

### 12.4 **Summary of Questions and Analysis of Responses**

Questions covered: the neighbourhood; location of the proposed pharmacy; adequacy of the existing pharmaceutical service, the proposed pharmaceutical services and the wider impact.

Question	Response Percent			Response Count		
	Yes	No	Don't know	Yes	No	Don't know
1. Do you think the	94.33	4.45	1.21	233	11	3

area highlighted in the map describes the neighbourhood where the proposed pharmacy is situated?						
2. Do you think the location of the proposed pharmacy will provide adequate access to pharmaceutical services in and to the neighbourhood?	<b>90.69</b>	<b>6.48</b>	<b>2.83</b>	<b>224</b>	<b>16</b>	<b>7</b>
3. Do you think that the following existing pharmaceutical services currently being provided in the neighbourhood are adequate?						
a. Dispensing NHS Prescriptions with reasonable promptness	<b>16.60</b>	<b>83.40</b>	<b>n/a</b>	<b>41</b>	<b>206</b>	<b>n/a</b>
b. Supply of Medicines under the Minor Ailments Service	<b>48.73</b>	<b>51.27</b>	<b>n/a</b>	<b>96</b>	<b>101</b>	<b>n/a</b>
c. National Pharmaceutical Public Health Services	<b>44.25</b>	<b>55.75</b>	<b>n/a</b>	<b>50</b>	<b>63</b>	<b>n/a</b>
d. Chronic Medication Service	<b>35.44</b>	<b>64.56</b>	<b>n/a</b>	<b>56</b>	<b>102</b>	<b>n/a</b>
e. Substance Misuse Services	<b>52.81</b>	<b>47.19</b>	<b>n/a</b>	<b>47</b>	<b>42</b>	<b>n/a</b>
f. Stoma Services	<b>42.35</b>	<b>57.65</b>	<b>n/a</b>	<b>36</b>	<b>49</b>	<b>n/a</b>
g. Unscheduled Care	<b>28.03</b>	<b>71.97</b>	<b>n/a</b>	<b>44</b>	<b>113</b>	<b>n/a</b>
4. Do you think that the following pharmaceutical services being proposed for the new pharmacy are required within this neighbourhood						
a. Dispensing NHS Prescriptions with reasonable promptness	<b>90.61</b>	<b>9.39</b>	<b>n/a</b>	<b>222</b>	<b>23</b>	<b>n/a</b>
b. Supply of Medicines under the Minor Ailments Service	<b>90.29</b>	<b>9.71</b>	<b>n/a</b>	<b>186</b>	<b>20</b>	<b>n/a</b>
c. National Pharmaceutical Public Health Services	<b>86.54</b>	<b>13.46</b>	<b>n/a</b>	<b>135</b>	<b>21</b>	<b>n/a</b>
d. Chronic Medication Service	<b>90.71</b>	<b>9.29</b>	<b>n/a</b>	<b>166</b>	<b>17</b>	<b>n/a</b>
e. Substance Misuse Services	<b>81.88</b>	<b>18.12</b>	<b>n/a</b>	<b>113</b>	<b>25</b>	<b>n/a</b>
f. Stoma Services	<b>89.93</b>	<b>10.07</b>	<b>n/a</b>	<b>125</b>	<b>14</b>	<b>n/a</b>
g. Unscheduled Care	<b>88.46</b>	<b>11.54</b>	<b>n/a</b>	<b>161</b>	<b>21</b>	<b>n/a</b>
5. Do you think the proposed opening hours are appropriate?	<b>79.84</b>	<b>17.28</b>	<b>2.88</b>	<b>194</b>	<b>42</b>	<b>7</b>
6. Do you think there are other NHS services that the proposed pharmacy should consider providing?	<b>15.74</b>	<b>17.02</b>	<b>67.73</b>	<b>37</b>	<b>40</b>	<b>158</b>
7. In your opinion would the proposed application help other healthcare providers to work closer together?	<b>69.39</b>	<b>6.94</b>	<b>23.67</b>	<b>170</b>	<b>17</b>	<b>58</b>

8. In your opinion would the proposed application impact on other healthcare providers?	<b>52.26</b>	<b>26.75</b>	<b>20.99</b>	<b>127</b>	<b>65</b>	<b>51</b>
9. Do you support the opening of a new pharmacy proposed at 2-3 High Street, Moffat?	<b>85.02</b>	<b>11.74</b>	<b>3.24</b>	<b>210</b>	<b>29</b>	<b>8</b>

In total 252 responses were received, 131 via SurveyMonkey, 119 paper questionnaires were returned and 2 letters. All 252 responses were received within the consultation timescale and included in the CAR.

From the responses 250 were identified as individual responses and 2 were on behalf of a group/organisation.

The two letters received both supported the new pharmacy application.

## 13. **DECISION**

### **Neighbourhood**

- 13.1 The Committee noted the neighbourhood as defined by the Applicant and the views of the Interested Party and that it should be a neighbourhood for all purposes. A number of factors were taken into account when defining the neighbourhood, including those resident in it, natural and physical boundaries, general amenities such as schools/shopping areas, the mixture of public and private housing, the provision of parks and other recreational facilities, the distances residents had to travel to obtain pharmaceutical and other services and also the availability of public transport.
- 13.2 It became apparent during the deliberations that the committee were uncertain whether neighbourhood boundaries needed to be specified or whether a postal district would be sufficient. Legal advice was therefore sought and the open session reconvened at 1740 hours.
- 13.3 The Applicant, Interested Party, accompanying representatives and Ms Murray re-entered the room and the question asked by the Chair. Ms Murray advised that it was acceptable to describe the neighbourhood as a postal area but actual physical boundaries should be set out. The words used should enable an outline of the neighbourhood to be drawn on a map. Ms Murray said that whilst not an appealable issue, it was best practice to define the boundaries.
- 13.4 Having received this advice, the applicant, interested parties, accompanying representatives and Ms Murray left the room and the Panel continued with its deliberations.
- 13.5 The Chair confirmed that the neighbourhood was to be described as the entire DG10 postcode area and that boundaries were not to be stipulated.
- 13.6 The reason the DG10 postcode area was used for the neighbourhood and boundaries not defined was because it was a rural area with no clear natural or physical boundaries. It is clearly identifiable from postcode maps available from Royal Mail and easily accessed online. Both the applicant and interested party agreed the neighbourhood was DG10, information had been provided by the Health Board using the DG10 area and the vast majority of respondents to the joint consultation exercise described the neighbourhood as being the DG10 postcode area. The Committee concluded the DG10 postcode area was the neighbourhood because the community said that was the case. DG10 was a

neighbourhood for all purposes containing amenities such as a hospital, GP surgeries, schools, areas of recreation, churches and housing.

### **Adequacy of Existing Pharmaceutical Services**

- 13.4 Having reached a conclusion as to neighbourhood, the Committee then required to consider the adequacy of existing pharmaceutical services in or to the neighbourhood, and whether granting the Application was necessary or desirable in order to secure adequate pharmaceutical service provision. In doing so, the Committee took full account of the lengthy presentations which had been made to it by the Applicant and the Interested Party, as well as the detailed set of papers that had been provided to Committee members by the Board, which included the joint consultation report.
- 13.5 The Committee firstly considered the existing pharmaceutical services provided to the neighbourhood, from both within the neighbourhood and outwith, as provided by Well Pharmacy and other pharmacies situated in nearby towns. It took account of the fact that Well Pharmacy, situated centrally within Moffat town centre, currently provided the full range of core pharmaceutical services to the neighbourhood. These included dispensing prescriptions, minor ailment service, acute medication service and public health services. The wide range of non core services also provided by Well Pharmacy included substance misuse services, advice to care homes, prescribed medication compliance support, care at home, smoking cessation, stoma service, Chlamydia testing, supply of health start vitamins and a gluten free service. The Committee noted the evidence before it that demonstrated that Well Pharmacy was appropriately staffed for the number of items dispensed, that its staff were appropriately trained, and that there was good patient uptake of pharmacy services such as eMAS, CMS and unscheduled care. It also noted that the GPs in Moffat had not expressed criticism of the existing pharmacy services provided to the neighbourhood. One had, in fact, been very supportive of the existing pharmacy service delivery. The Committee also took account of the satisfactory GPHC inspection that Well Pharmacy had received, that no patient complaints about Well Pharmacy had been made to the Health Board and that there were good levels of patient re-registration for the minor ailment service offered by Well Pharmacy.
- 13.6 The Committee considered the issue of the number of prescriptions being dispensed within the neighbourhood, as opposed to the number being dispensed outwith. The information available to the Committee indicated that that, each week, around 400 prescriptions issued by GPs in the neighbourhood were being dispensed outwith the neighbourhood. The Committee was aware that there had been a rising trend towards this level over the last three years, with the most recent annual figures showing that 24% of an approximate annual figure of 120,000 prescriptions issued by GPs situated within Moffat, were being dispensed outwith Moffat. The Committee considered the likely reasons for this, including that many neighbourhood residents work outwith the neighbourhood, including for such large employers situated in the surrounding area as the Creamery in Lockerbie, Stevens Croft biomass power

station, a garden furniture maker and Lockerbie saw mill. Therefore, it would be reasonable to infer that neighbourhood residents working regularly outwith Moffat would likely be obtaining prescription items in pharmacies closer to the locations where they were working each day, rather than in Moffat itself. Also, the Committee was aware that shopping and leisure facilities outwith the neighbourhood, such as the Tesco Supermarket and ice rink in Lockerbie, drew many neighbourhood residents outwith Moffat on a daily basis, which could also well account for the number of prescription items being dispensed outwith the neighbourhood.

- 13.7 The Committee then considered what pharmacy services the Applicant had indicated that a new pharmacy at the premises could provide. In doing so, the Committee noted the full range of core and non core services already being provided by Well Pharmacy. It considered that there were no new or additional pharmaceutical services that could be provided by the Applicant that were not either already being provided by Well Pharmacy or were not capable of being provided by Well Pharmacy. Specifically, the Committee was not assured that a pharmacist in the proposed new pharmacy would have more time to spend with patients than in the Well Pharmacy, given that Dalston Pharmacy Ltd did not currently employ ACTs in any of its six pharmacies. Although the Committee noted that the Applicant had indicated that the proposed pharmacy would open on a Saturday afternoon, it accepted that this was not a service that could be guaranteed to be provided, either on a short or long term basis.
- 13.8 The Committee gave lengthy and detailed consideration to the results of the CAR, which had been responded to by a relatively large number of the neighbourhood population. In particular, the Committee's interpretation of the CAR was that there was a strong theme of dissatisfaction concerning customer service issues amongst patients attending the Well Pharmacy. The Committee also took account of the fact that there were letters of support in favour of the application from politicians, doctors and the Community Council, as well as from the APC, albeit that the Community Council had chosen not to be represented at the hearing on the Application.
- 13.9 Overall, the Committee considered that the evidence before it on the issue of adequacy was mixed, and this made determination of the question of adequacy of pharmaceutical service provision to the neighbourhood difficult in this instance. Legal advice was sought as to the correct practical approach towards applying the legal test in terms of the Regulations, in such circumstances. In the presence of representatives of both the Applicant and the Interested Party, the legal advice tendered was that the legal test had to be approached on a step by step basis. The Committee would require to conclude its deliberations on the issue of adequacy before being able to assess whether it required to proceed to consider issues of necessity, desirability and securement of pharmaceutical service provision.
- 13.10 After the legal advice had been tendered, the Committee continued its deliberations on the issue of adequacy. It reflected on how adequacy of pharmaceutical service provision should be assessed, what both the Applicant and the Interested Party had had to say about assessment of adequacy and what was the appropriate standard to

be achieved. In this regard, the Committee decided that the standard to be achieved was not “excellent”, nor “poor”, but “adequate”, using the normal meaning of all of those words. In this context, in addition to considering the evidence before it as a whole, the Committee specifically considered what the CAR demonstrated, in terms of the themes that could be drawn from the comments given by members of the public, in answer to the questions posed. Overall, the Committee considered that the themes leaned more towards disgruntlement with customer service received in the Well Pharmacy, rather than complaint about the actual pharmaceutical services themselves. The Committee hoped that Well Pharmacy would respond positively to the CAR by addressing these service issues, as part of its ongoing corporate service improvement strategy, which had been presented to the Committee.

- 13.11 Taking account of all of the evidence before it on the level and standard of existing pharmaceutical service provision within the neighbourhood, the Committee did not consider that the current service provision could be judged inadequate. It was rather to be considered adequate and so there was, in the event, no requirement for the Committee to go on to consider any other aspects of the legal test.

### **VOTING**

- 13.12 The non-voting members of the Committee were asked to withdraw from the hearing in order that the vote be taken.
- 13.13 Taking into account of all of the information and evidence available, all of the deliberations of the Committee, and for the reasons set out above, it was the unanimous view of the voting members of the Committee that the provision of pharmaceutical services in the neighbourhood was adequate. Therefore the Application by Dalston Pharmacy Ltd was refused.
- 13.14 The non-voting members were invited to return to the meeting and were informed of the decision.
- 13.15 The Chair thanked Committee Members and the Hearing was concluded.

Revised at PPC Meeting held on 13 January 2017  
Noted on behalf of Board 20 January 2017