

APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST

Application by Mrs J Weir Ahmed of Holm Pharm Ltd (“the Applicant”), for inclusion in the Pharmaceutical List of Dumfries & Galloway Health Board (“the Board”) in respect of a proposed new pharmacy at Lochfield Road Primary Care Centre, 12-28 Lochfield Road, Dumfries, DG2 9BH

Hearing of Application: Tuesday, 8 October 2013.

Decision of the Pharmacy Practices Committee:

The Committee refused the application.

1. On Tuesday, 8 October 2013, the Pharmacy Practices Committee (“the Committee”) was convened to hear representations relating to the above application, which was received by the Board on 24 July 2012. Prior to the hearing, copies of the application and related documentation 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”). In addition, as per Schedule 3, a public consultation exercise was undertaken for a period of 60 days. Public notices were placed in the Dumfries & Galloway Standard and the Dumfries Courier with flyers made available in local libraries, GP Surgeries and hospital settings inviting members of the public to make representation to the Health Board about the application. The following parties were consulted directly:
 - Irongray and Lochside & Woodland Community Councils
 - All members of Dumfries & Galloway Public Partnership Forum
 - General Manager, Primary and Community Care Directorate
 - MSPs: Rt Hon Alex Fergusson, Dr Elaine Murray, Claudia Beamish, Joan McAlphine, Aileen McLeod, Graeme Pearson, Paul Wheelhouse, Jim Hume.
 - MPs: Russell Brown, David Mundell.
2. The Committee Members met at the Old Board Room, Crichton Hall, Dumfries, at 10am and toured the neighbourhood for the proposed pharmacy. This incorporated a visit to the existing pharmacy in the neighbourhood as defined by the Applicant, the proposed pharmacy and other pharmacies located within a two mile radius for the proposed site.
3. The Chair convened the hearing at 12:55pm and apologies were noted from Catherine Anderton, Lay Member. The Chair advised that the Committee were constituted to hear the application submitted by Jennifer Weir Ahmed who had applied to open a pharmacy at Lochfield Road Primary Care Centre.
4. She explained that this was a newly constituted PPC to hear this application for a second time following the National Appeal Panel (NAP) decision of 13 June 2013.
5. **Declaration of Interest.**
In accordance with Schedule 4 of the 2009 Pharmaceutical Regulations as amended the Chair ascertained that none of the members present had an interest to declare or was associated with a person who had any personal interest in respect of any matter to be considered at the hearing.

6. **Points of Information.**

The Chair ascertained that the Committee had received the relevant papers and had time to review them.

She informed the Committee that the Applicant, Jennifer Weir Ahmed, would present the application.

The Chair then informed the Committee that objections to the application had been submitted and the following interested parties would make representation to the Committee:

- Mr Tom Arnott of Lloyds Pharmacy Ltd.
- Mr John Currie of Dalhart Pharmacy T/as Wm Murray Chemist
- Mr Michael Rodden of AMR Drug Co. Ltd. T/as Northern Chemist
- Mr Charles Tait of Boots UK Ltd.

The Chair further informed the Committee that the applicant and interested parties may be accompanied by colleagues who would not be entitled to speak on behalf of the applicant or the interested parties but they may be consulted on points of information.

The Chair advised the Committee that the Area Pharmaceutical Committee had submitted an objection to the application but would not make representation at the hearing.

The Area Medical Committee had indicated that “there were no issues or objections to the application” and would not be making representation at the hearing.

The Chair then referred to Annex 4 of the circulated PPC papers which contained copies of the representations received from the Public Consultation Exercise:

- Dumfries & Galloway Public Health Partnership – two representations of support received;
- Lochside & Woodland Community Council (not as referred to in table as “Lochside and Woods” on page 11 of main papers) support Northern Chemist & Wm Murray but made no mention of the proposed pharmacy;
- Irongray Community council – representation of support;
- Aileen McLeod MSP – letter received after the closing date and therefore not included as part of the public consultation exercise;
- Public Consultation exercise – 17 representations of support received.

7. **The Legal Test.**

The Chair reminded the Committee of the legal test and of the importance of panel members asking questions of the 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.

The Chair then asked Mrs Kennedy to invite the applicant and interested parties into the hearing.

The Applicant and interested parties entered the hearing and the hearing was convened at 1:05pm.

8. The Chair welcomed the Applicant, interested parties and observers to the hearing and introductions were made. The Chair confirmed that Mrs Kennedy was in attendance to provide Secretariat support only. Interested parties confirmed the capacity of their observers and that no legal representatives were present. The Chair reminded the observers that they were present to assist the representation, but not entitled to speak on behalf of their main presenter.
9. It was noted that there were only two lay members present. The Chair advised that apologies had been received from Mrs Anderton but that the Committee was still quorate to continue with the hearing.
10. The Applicant and interested parties confirmed that they had received the PPC papers.

The Chair then advised all present of amendments to the circulated papers as noted below:

- Page 3 - Mrs Rogerson should read Mr Rogerson;
 - Page 15 – GP Prescribing Information. To note that the year to date figures were for the quarter ending 30 June 2013. The information presented was an extract from PRISMS and practice 1 data was incorrect. The Chair proposed that the PPC disregard the quarter to 30 June figures. In addition the Chair proposed that the PPC disregard Community Pharmacy number of items dispensed of the quarter to 30 June (noting that five full year’s data was available).
 - Appendix 1, page 1 of the Patient Feedback from Charlotte Medical Practice, the Applicant had requested that the PPC note the figure contained in the third paragraph “In answer to question 1, How positively do you support a pharmacy in Lochfield Road?” should read 94% not 88% as stated.
11. At this point Mr Rodden intervened. Mr Rodden stated that the distances quoted from both Murray Chemist and Northern Chemist to the proposed pharmacy were inaccurate as they had been calculated using postcode areas and not from actual location to location.
 12. The Chair noted that all of the mileage data provided in the PPC papers came from the same source i.e. AA Route Planner and was from postcode to postcode. The Chair acknowledged that there would be a margin of error and assured Mr Rodden his point would be taken into consideration.
 13. Mr Rodden further noted that a letter from Aileen McLeod, MSP had not been circulated as it had been received after the closing date for the public consultation, yet a survey which had been carried out at Charlotte Medical Practice, in the summer of 2013 had been circulated. He stated that this was clearly outwith the regulated timetable for public consultation and should not have been included.
 14. Concerns were also expressed by Mr Arnott and Mr Currie over the inclusion of this survey as it was noted that the public consultation exercise closed in October 2012. They considered it unfair to include this piece of evidence when the letter from the MSP had not been included because the Health Board received it outwith the closing date for submissions.

15. A debate ensued between the interested parties and the Committee on the inclusion of the survey and the exclusion of the letter from Aileen McLeod MSP. The Chair stated that she would call CLO to ask for guidance on the matter. The Applicant asked if CLO had all the paperwork on the case. Mrs Kennedy advised that they did not have any paperwork in relation to the case as they were only to be contacted for regulatory advice and not to comment on specific cases.
16. The Chair telephoned Mrs Joy Atterbury, Central Legal Office to obtain guidance on the inclusion of the evidence discussed.
17. The Chair advised that it was the view of the CLO that there was a difference between the statutory timed consultation period and the submission of additional evidence. As far as CLO were concerned the time regulations do not apply to the submission of the additional evidence presented in the paperwork. She also advised that she would allow the submission of the MSP letter to provide balance to the evidence if all parties confirmed agreement.
18. The Applicant informed all present that the supporting documentation provided i.e. the survey was conducted by Charlotte Medical Practice. She confirmed that she had not asked them to do this and it had not been done on her behalf or to demonstrate that the practice supported her application. It had been merely carried out by the Practice to show that patients wished a pharmacy located at Lochfield Road. The Applicant further advised she had contacted Shiona Burns, PCD Administration Manager of the Health Board to ask whether this be submitted from herself or directly from the Practice and had been advised that it should be submitted via herself.
19. A discussion followed where the interested parties expressed their views that the survey from the Practice was misleading as it was clearly not part of the public consultation exercise but it was presented as such. Mr Currie expressed his view that the placement of the survey at the front of the PPC documentation gave it gravitas and weight as a credible survey and therefore he felt it was extremely biased.
20. Mr Rodden agreed with the comments made and highlighted that there was no indication in the survey of who conducted it, who submitted the comments and where these people lived in the neighbourhood. He stated that this survey should never have been presented and it did not matter whether the survey was for or against the applicant. It was then discussed whether the survey could be disregarded. The Chair agreed to seek further legal advice from CLO.
21. The Chair telephoned Mrs Joy Atterbury, Central Legal Office to obtain further guidance on the inclusion of the evidence discussed.
22. The Chair advised that having taken further advice from CLO that this survey was purely supporting documentation. She further advised that from the discussion earlier that appropriate weighting would be given to this piece of evidence.
23. The Chair then asked all parties if they would agree to the submission of the letter from Aileen McLeod, MSP to provide a balanced viewpoint. The Applicant and all interested parties agreed to the inclusion of the letter.
24. Mrs Kennedy obtained copies of the letter and distributed to all present.
25. The Chair stated that the hearing had been convened to consider the application,

as detailed in the PPC papers circulated. Mrs Weir Ahmed had applied to open a pharmacy at Lochfield Road Primary Care Centre at 12-28 Lochfield Road, Dumfries, DG2 9BH. The Chair noted that the proposed commencement date of 5 November 2012 on the application form had now passed and that Mrs Weir Ahmed would no doubt advise the PPC of the revised schedule. The Chair reminded those present that the application was subject to the statutory test as set out in regulation 5(10) of the 2009 NHS Pharmaceutical Regulations as amended, which requires that the application be considered under the terms of Schedule 3, which indicated a full consultation process would be followed.

The Chair confirmed that this had been carried out and the PPC was now ready to consider the application.

26. The Chair informed the hearing that the application may only be approved if: “the Board 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”, as indicated on page 7 of the PPC papers.

27. The Chair outlined the format of the hearing. The Applicant would be invited to make oral representation in support of the application, and then the interested parties and the PPC members would be invited to ask questions or clarify points of information of the Applicant. Each interested party would be invited to make oral representation in turn by the Chair. After each party had made representation, the Applicant, each other interested party and then PPC Members would be provided with an opportunity to ask questions of that party or clarify a point of information with the Chair. In reverse order, the Applicant and interested parties would be invited to provide a closing summary.

28. The Chair reported that the AMC had made representation in this case stating that they “concurred there were no issues or objections to the application” and that the AMC would not be represented at the hearing. The Chair further reported that the APC had submitted a letter indicating it did not support the application and would not be represented at the hearing.

29. The Chair then invited the Applicant to speak in support of the application.

30. **THE APPLICANT – HOLM PHARM LTD (MRS WEIR AHMED)**

30.1 The Applicant, Mrs Weir Ahmed, thanked everyone for allowing her to present the application. The Applicant stated that she represented Holm Pharm Ltd who was proposing the new pharmacy contract in the Lochfield Road facility.

30.2 The Applicant began her presentation by providing a brief personal background and business history. She graduated from Strathclyde University in 2001 and qualified as a pharmacist in 2002. Following that she worked in a variety of posts from relief manager progressing up to manager posts across the UK and it had always been a goal of hers to own her own pharmacy; in March 2007 she acquired her first pharmacy in Stirling. The following year in April 2008 she purchased the Dumfries pharmacy, a very busy health centre pharmacy which has excellent working practices with the health services provided.

30.3 The Applicant stated that she personally prides herself on being hands-on on a

daily basis with both her pharmacies and is constantly seeking to improve processes. She advised that staff training played an important role in her business and they currently had three school leavers who were being trained as dispensers. In addition, she stated that her pharmacy had made excellent progress in implementing the Chronic Medication Service (CMS). She was also actively encouraging family members to enrol in independent prescribing courses as she believed there was a real need for community pharmacies to be involved in this.

- 30.4 The Applicant then went on to give background information to the current application. She advised that the Lochfield Road process started in January 2012 when she saw an advert by Bryden in the Herald. She had also received a mail shot, which she assumed all Dumfries pharmacies had received, which asked people to submit an interest. Tenders were to be submitted by March 2012 including supplying business information, a note of a proposed annual rental and a capital payment, payable upfront. In May 2012 Bryden informed them they were the preferred bidder and from this point forward the application was pulled together and submitted.
- 30.5 The Applicant then advised that she had requested, under the Freedom of Information Act (FOI), to find out who else had submitted tenders for the proposed pharmacy unit at Lochfield Road. She advised that Mr Rodden, Mr Currie and Lloyds Pharmacy had all submitted bids and there had also been a bid submitted by Abbey Chemist in Paisley. In addition she had made a separate FOI request to obtain the prescription figures for Murray Chemist, Northern Chemist and other pharmacies in the area. From these figures she noted that since the relocation of the general practice to Lochfield Road there had been a fairly substantial rise in prescription business for both Mr Currie and Mr Rodden. Mr Rodden's business had increased 25% while Mr Currie's business has increased over 16%.
- 30.6 The Applicant then referred to Appendix 8 of the yellow booklet of circulated PPC papers which provided background information on the creation of the proposed pharmacy site located within the Lochfield Road Primary Care development. She advised that this information was not provided during the previous hearing and had only been presented for this second hearing. She stressed that at no point in the process was she aware that the unit ("proposed pharmacy") had another use earmarked for it. She stressed that it had only been advertised as a pharmacy unit. She noted that it stated that an alternative use as a Health Improvement Centre had also been incorporated within the business case and associated fit out costs had been included but stated this was Health Board costs.
- 30.7 The Applicant stated that the neighbourhood was as defined in her application: Lochfield Road with boundaries: North to the A75, south to Galloway Street and Castle Douglas Road, East to the curve in the River Nith and West to the A75 Castle Douglas Road intersection with the roundabout on the bypass. She explained that she had chosen this neighbourhood as there were fairly obvious natural boundaries; the river, bypass and main roads.
- 30.8 The Applicant referred to the data zones, listed in the paperwork. She indicated that the neighbourhood included Nithside, located south of the bypass which had high levels of deprivation, unemployment and poverty. Figures for the immediate area of Palmertson, surrounding the proposed pharmacy, showed that the over 65 population was 35% which was twice the national average. In October 2012

the Scottish Government reported that medication was the most common form of medical intervention. She stated that this was particularly relevant for people over 65 and for those from deprived areas with four out of five people over the age of 75 taking prescribed medicines and 36% taking four or more prescribed medications. The Applicant advised that the Health Board's Pharmaceutical Care Services plan had been updated in April 2013 which noted that there was increased burden on medicines and that it was important to ensure that pharmacies were well placed to meet those needs.

- 30.9 The Applicant stated that the population in Dumfries was very different to the majority of towns in Scotland as there were a larger proportion of older people to younger people. She quoted statistics which stated that the population in Dumfries and Galloway, by 2035, would have 45% of people over the age of 65. With this aged population there would be an increased requirement for pharmaceutical services in the community and would require much more access to services than Murrays Chemist in Galloway Street could provide.
- 30.10 She advised the Committee that they should not be hasty to take into account much of Mr Currie's argument considering he also submitted an application for this proposed pharmacy. She reminded the Committee that the patient survey conducted by Charlotte Medical Practice found that 94% were positive for having a pharmacy.
- 30.11 The Applicant noted that comments on the inadequacies of current services included; parking issues, cost of travel, an extra journey required from the GP surgery to the chemist and general access problems. She stated that there was only one bus route which ran along Northfield Road every 30 minutes. She noted from the statistical evidence the financial pressures faced by people in areas of high levels of deprivation, and in addition the reduced mobility of the elderly population.
- 30.12 The Applicant advised that Lochfield Road was a central and accessible main road located within a residential area. The location of the pharmacy within the GP surgery would mean that patients would not incur unnecessary travel to obtain their prescribed medicines at a chemist situated at a separate location. She also noted that the survey, conducted by Charlotte Medical Practice highlighted other issues with current services such as stock holding issues at Boots and waiting times at Lloyds. One comment was there was just too many Boots. She reported that some of the patients already felt they were being discriminated against. The Applicant advised that the original documents including the names and addresses of those who had completed the survey were available at the practice.
- 30.13 The Applicant noted that the issues with accessibility, travel costs, waiting times all contributed to delays in patients accessing pharmacy services and medication. She referred to the Health Board's Pharmaceutical Services Care Plan which stated one of its aims was to reduce unnecessary travel to be kinder to the environment.
- 30.14 The Applicant stated that the proposed opening hours for the pharmacy would be from 8:30 to 6:15 Monday to Friday to accommodate the first and last appointments available at the surgery.
- 30.15 The Applicant then referred to the other outcomes from the public consultation exercise; there was a neutral response from the Area Medical Committee (AMC)

and a negative response from the Area Pharmaceutical Committee (APC). She highlighted though that the APC could not be considered strictly independent as she understood that Mr Currie, owner of Murray Chemist was the Secretary to this Committee. In addition she pointed out that although the AMC had no issue with the proposed pharmacy she reported that, as noted in the Bryden's report (Appendix 8) that both Charlotte Medical Practice and Cairn Valley Practice appealed on two occasions to have a pharmacy therefore, she stated, that it was clear there was medical support.

30.16 The Applicant referred again to the provision of the Chronic Medication Service (CMS) which she had been instrumental in getting the serial prescriptions up and running in St Michael's Medical Centre. She advised that Charlotte Medical Practice had decided not to take part in this service following a meeting with Murray and Northern Chemists. She stated that she could only assume that the Practice was not sold on the benefits of rolling out this service but she believed it was a crucial service particularly in support of the demographics of this neighbourhood.

30.17 In conclusion the Applicant highlighted what this proposed pharmacy would bring to the local area. She advised that it would bring employment for four to six people and improved accessibility of services. She urged the Committee to look at the survey where it was clearly shown that people wanted and needed this pharmacy to be approved to secure adequate provision of pharmaceutical services in this area. She reiterated that there was support and asked that the application be granted.

31 **QUESTIONS FROM INTERESTED PARTIES TO THE APPLICANT**

31.1.1 **Dalhart Pharmacy Ltd (Mr Currie)**

31.1.2 Mr Currie noted that the Applicant had emphasised a great deal, in her original application, of the advent of CMS being an important new development in pharmaceutical services and stated that it would be an advantage to have a pharmacy located within the health centre in relation to the provision of CMS and asked what would be the advantage. The Applicant replied that she had not discussed this in her presentation this time therefore failed to see the relevance of bringing this up. Mr Currie explained that it worried him, as a businessman, for someone to come along and say that the services currently being provided were inadequate and that the argument appeared to be that only by having a pharmacy located within a health centre would there be adequacy.

31.1.3 Mr Currie then noted that the Applicant had stated that Charlotte Medical Practice had refused to engage with CMS and asked how that would impact on the Applicant. The Applicant replied that they may take part in the future. Mr Currie asked if CMS in St Michael's Practice was working well. The Applicant informed him that there were still some issues around the electronic part as this was still in its infancy.

31.1.4 Mr Currie noted that the Applicant had implied that Northern Chemist and Murray Chemist had pulled out of providing CMS. The Applicant replied that she assumed that after the meeting with Charlotte Medical Practice where it was noted that the Practice did not want to proceed then she assumed that the Chemists would not pursue.

31.1.5 Mr Currie asked the Applicant if she would have applied to open a pharmacy had

the building not been built. After further probing the Applicant replied no.

31.1.6 Mr Currie asked the Applicant to state which services in the neighbourhood were inadequate. The Applicant stated accessibility was the main issue. Mr Currie asked her to be more specific. The Applicant stated that she could not hazard an answer as to specific cases. Mr Currie continued to probe for an answer as to which services currently being provided were inadequate. The Applicant replied all of them.

31.2 **Boots UK Ltd (Mr Tait)**

31.2.1 Mr Tait noted that the Applicant had stated that there was one bus service on Lochside Road. The Applicant confirmed that was correct. Mr Tait then asked if the Applicant would consider Lochfield Road as being fairly close to Glasgow Street. In response the Applicant stated that it depended on what type of person was making the journey, if they were disabled or elderly then she would not consider them to be fairly close. Mr Tait explained that there were a number of buses that travelled along Glasgow Street, approximately 10 an hour. The Applicant stated that she did not agree there were as many as that.

31.2.2 Mr Tait then asked how many people were registered at Charlotte Medical Practice. The Applicant guessed approximately 10,000 people. Mr Tait then stated that out of those 10,000 only 250 answered the survey the Practice had conducted. Mr Tait stated that this equated to 2.5% and asked the Applicant if she would consider that to be a reasonable sample upon which to make a judgement. The Applicant replied that she would.

31.2.3 Mr Tait asked if the Applicant accepted that Charlotte Medical Practice had patients registered all over Dumfries therefore it was possible that on their journey they would travel past numerous pharmacies and be able to access services in a variety of locations. In response the Applicant stated that she could not comment on that.

31.3 **AMR Drug Co Ltd (Mr Rodden)**

31.3.1 Mr Rodden began by referring to the survey submitted as additional information and reiterated that only 2.5% responded and queried how many people did not respond. The Applicant stated that she did not understand the questioning and pointed out that the survey had only been conducted over August and September therefore it was not representative of all patients only those who accessed the surgery during those months.

31.3.2 Mr Rodden stated that no names or addresses were included in the results. The Applicant reiterated that they were all available at the practice. Mr Rodden asked if it included their age. In response the Applicant stated that the information did not include the age of the responders.

31.3.3 Mr Rodden again emphasised the fact that he did not know who had filled out the questionnaire as there was no names and no addresses and asked the Applicant if this questionnaire had been outwith her control to which the applicant replied yes. Mr Rodden continued to question the purpose of this survey by asking how many people, from the 2.5% that responded, were located within her defined neighbourhood. The Applicant stated she did not know where Mr Rodden was going with this question. Mr Rodden asked again if the Applicant knew how many of the people that had responded lived within the neighbourhood she had

- defined. The Applicant replied that she did not know the answer.
- 31.3.4 Mr Rodden referred to the previous discussion on access to buses between Northern and Murray Chemists and asked the Applicant to confirm how often they ran. The Applicant acknowledged there was a regular service but it was the additional cost and the extra journey time which all added up for the patients.
- 31.3.5 Mr Rodden informed the Applicant that he had roughly worked out the financial impact for those patients based on the number of prescriptions they handled per month, approximately 4,500; he stated this related to a handful of patients. He asked again, what was the difficulty for a handful of patients to travel this short distance. In response the Applicant stated that Mr Rodden would need to ask the people concerned. Some would have cars but there were only five car parking spaces available at his premises. Mr Rodden asked why the Applicant stated that there were only five car parking spaces when he had a photo that showed there were clearly more. **The Chair intervened at this point and asked Mr Rodden to keep to questions only and refer to any evidence he had in his statement.**
- 31.3.6 Mr Rodden asked the Applicant when the surgery was relocated to the other end of town did they lose all their patients. The Applicant replied that as far as she was aware that was not the case but there was a shift. Mr Rodden then asked if most people had no problem travelling to the other side of town for their GP then why would they have a problem in travelling to their chemist. The Applicant replied that the survey suggested otherwise.
- 31.3.7 Mr Rodden concluded his questioning by querying the Applicant's statement that there was an inadequacy of services when it appeared that what she was in fact alluding to was accessibility. He vehemently stated that the survey was worthless and should not have been included.
- 31.4 **Lloyds Pharmacy Ltd (Mr Arnott)**
- 31.4.1 Mr Arnott asked what the population of Dumfries was. The applicant replied about 31,000. He then asked how many pharmacies served that population. The Applicant replied nine. Mr Arnott stated that equated to less than 4,000 people per pharmacy. The Applicant stated that Locharbriggs had been separated out. Mr Arnott replied that one pharmacy was serving Locharbriggs and asked the Applicant if she thought that people lived there but did not use the pharmacy. The Applicant replied possibly not.
- 31.4.2 Mr Arnott asked the Applicant if either of the two pharmacies (Murrays and Northern) were at capacity. The Applicant stated that she did not know if they were at capacity but they had a vested interest in this neighbourhood. Mr Arnott then asked if these pharmacies were adequately serving the neighbourhood. The applicant replied that they were not.
- 31.4.3 Mr Arnott asked if an individual lived in Albert Road which pharmacy would be closer for access. The Applicant replied it depended on what end of the Road that individual lived in.
- 31.4.4 Mr Arnott noted that the Applicant had referred to stock issues in Boots and asked for further specifics. The Applicant did not have specifics and stated that it had been referred to in the survey.
- 31.4.5 Mr Arnott then asked what the waiting times were at Lloyds. The Applicant

replied that she had seen it was extremely busy and people had started coming to her. She then stated 20 minutes plus.

31.4.6 Mr Arnott asked how many items people had to wait this long for. The Applicant replied two. He then asked if this was a regular occurrence. The Applicant replied it could be pretty regular when young John (Mr Mowat) was not working. Mr Arnott spoke briefly with Mr Mowat and informed the Applicant that Mr Mowat did not think there was an issue.

31.4.7 Mr Arnott noted he had stated approximately 4,000 patients per pharmacy but it was probably more around 3,200 and asked the Applicant if she operated a collection and delivery service. The Applicant confirmed that she did and would propose to do so at the new pharmacy. Mr Arnott asked the Applicant why she would provide that service when her main argument for opening the pharmacy was being near the patients and queried whether there would be the need for that service. The Applicant replied that there would be patients that would have difficulty in accessing services. Mr Arnott replied that if that were the case then surely they would already be used to getting deliveries from elsewhere.

32. **QUESTIONS FROM PPC MEMBERS TO THE APPLICANT**

32.1 **Mrs Roberts (Non-Contractor Pharmacist)**

32.1.1 Mrs Roberts asked for clarification on the neighbourhood. The Applicant reiterated her description of the neighbourhood as North to the A75, south to Galloway Street and Castle Douglas Road, east to the curve in the River Nith and West to the A75 Castle Douglas Road intersection with the roundabout on the bypass. The Applicant accepted that it included land that was a flood plain area but stated it was easiest to describe the boundary following the River Nith up to and including College Mains till it met the A75.

32.1.2 Mrs Roberts asked if the Applicant felt that this neighbourhood was representative of the population that would access medical services at the Lochfield Road Practice. The Applicant replied that she did.

32.1.3 Mrs Roberts asked the Applicant what she felt was inadequate in the current services for these patients. The Applicant replied that the patients were clearly having difficulty through significant delays in getting medication or support as noted in the survey.

32.1.4 Mrs Roberts asked if the Applicant thought that the public fully understood how they could access their services, and how they could be delivered. The Applicant believed that they were starting to understand and stated that as a pharmacist it was her role to try and re-educate the patients in what was available to them.

32.1.5 Mrs Roberts then questioned whether services like MAS and Smoking Cessation could be delivered where the patients lived and worked. The Applicant replied that the GP surgery was a perfect location to work alongside the GPs in the delivery of such services. Mrs Roberts suggested that those services did not necessarily require a link to the GP. The Applicant acknowledged that not all services required a link with the GP.

32.1.6 Mrs Roberts then asked how much of the Applicant's current business accounted for CMS. The Applicant replied that it varied between 30 to 40% acute. Mrs

Roberts then asked the Applicant to explain how the CMS service worked. In response the Applicant stated that the pharmacy and patient would have an agreement with the GP and the patient would access the pharmacy every four to eight weeks where the pharmacist would feedback relevant patient information with regard to their progress to the GP surgery.

32.1.7 Mrs Roberts asked why the Applicant thought Charlotte Street Practice was not willing to participate in CMS. The Applicant replied that they may wish to wait until it had further bedded down but as far as she was aware the rest of the practices were participating in it.

32.2 **Mrs Gallagher (Contractor Pharmacist)**

32.2.1 Mrs Gallagher followed on from the previous line of questioning by stating to the Applicant that once CMS was fully up and running there was no advantage for the patient having to go to the GP and questioned why the Applicant would categorically state it was better to have the pharmacy located within the GP surgery. The Applicant replied that she accepted that point but in the interim there was still a lot of work to be done.

32.2.2 Mrs Gallagher asked the Applicant if she agreed that in the next 10 years pharmacists would be working with a wide range of social services not just GPs so again questioned the need for a pharmacy to be located next to a GP surgery. The Applicant agreed that would be the case but believed that a pharmacy and GP surgery would always go hand in hand.

32.2.3 Mrs Gallagher noted that the Applicant referred to a regular bus service being available but the issue was around the financial impact involved. She also noted that in the Applicant's evidence she had referred to Dumfries having a particularly high elderly population and noted therefore anyone over the age of 60 had a bus pass allowing them free travel therefore queried the financial impact. The Applicant stated that she was referring to those people on a low income. Mrs Gallagher asked if Dumfries had a "Dial A Bus" service. The Applicant replied that she did not know if that was available.

32.3 **Mrs Stitt (Contractor Pharmacist)**

32.3.1 Mrs Stitt asked what opening hours were in the current pharmacy. The Applicant replied Monday to Friday 9am to 6pm and from 9am to 12 on a Saturday. She confirmed, in response to further questioning that they were open right through lunchtime but there was no Sunday opening as that was covered by Boots.

32.3.2 Mrs Stitt noted that in the paperwork it was stated that following the public consultation exercise carried out by the Applicant there had been no response and asked the Applicant what form of consultation took place. The Applicant replied that she had placed an Advert in the Dumfries and Galloway Standard newspaper for the required time period and people were asked to respond in writing should they object or support the opening of the pharmacy; no responses were received.

32.3.3 Mrs Stitt then referred to the Patient Survey undertaken by Charlotte Street Medical Practice and asked the Applicant how this began. The Applicant informed her that the surgery had previously appealed for a pharmacy to be open on site therefore they were keen for this application to go through. She emphasised that they would have conducted this survey no matter who had

applied to open it and they were not personally supporting her, they were just supporting a pharmacy.

32.3.4 Mrs Stitt asked if the Applicant had any input to the questionnaire. The Applicant replied that she did not but she knew that they were planning to do this survey but they were clear that they did not want to be seen as supporting her.

32.3.5 Mrs Stitt asked why the Applicant thought the surgery was keen to have a pharmacy. The Applicant replied that it may be because they have lost patients to other GPs due to pharmacies being located nearby.

32.3.6 Mrs Stitt concluded by asking what had been the affect of the move of the existing practice on her business to which the Applicant replied minimal.

32.4 **Mrs Parker (Lay Member)**

32.4.1 Mrs Parker advised the Applicant that the Committee had visited nine pharmacies prior to the hearing which included the Applicant's current pharmacy and asked if that pharmacy was working at capacity. The Applicant replied no.

32.4.2 Mrs Parker stated that she understood the Charlotte Street practice had moved previously and asked the Applicant what the impact had been then on her business. The Applicant informed her that she was unsure of the impact as it had occurred after she had purchased the pharmacy.

32.4.3 Mrs Parker asked if the Applicant offered anything more than was already available in the other pharmacies in the area. The Applicant replied that she would like to be able to offer independent prescribing.

32.5 **Mr Rogerson (Lay Member)**

No questions

33. **PRESENTATION FROM INTERESTED PARTY - DALHART PHARMACY LTD (MR CURRIE)**

33.1 Mr Currie stated he accepted the neighbourhood as defined by the applicant but noted that the neighbourhood defined by the Area Pharmaceutical Committee (APC) extended further south with Murray Chemist at its centre. No matter what definition used, Mr Currie stated that it included his pharmacy, and it was providing adequate pharmaceutical services within that neighbourhood. Mr Currie noted that the Applicant could not point out any inadequacies of service and highlighted that it was 0.4 of a mile from the Medical Practice.

33.2 He informed the Committee that he had owned the business for seven years and was not aware of any complaints. He stated that although Murray's was the only pharmacy directly located within the neighbourhood in addition to this all interested parties delivered into the neighbourhood.

33.3 Mr Currie quoted that the last available local pharmaceutical care plan stated "the current distribution of pharmacy premises is sufficient to deliver pharmacy services as available through current pharmacy contracts and that they are well distributed across the entire region".

33.4 Mr Currie referred to a previous application that Tesco made in 2004 to open a pharmacy within their store which included the area of Lincluden as defined by

the PPC. The application was refused on the grounds that the current pharmaceutical services were found to be adequate. He stressed in the ensuing nine years there had only been a slight change in the area namely a reduction in population due to the demolition of flats to make way for the Lochfield site. He further highlighted that there had been no further applications made in the area since 2004.

- 33.5 Mr Currie stated that the application was based solely on the surgery opening, which in itself had no bearing on the adequacy of pharmaceutical services within the neighbourhood. In his opinion, Mr Currie felt that the application was an opportunistic attempt to take business away from contractors, two of which were the smallest in the area.
- 33.6 Mr Currie stated that Murray Chemist provided all of the core service and was one of only two pharmacies noted in the area as providing all listed services as detailed in the PPC papers. In addition, he noted that Murrays was well placed to cope with the demands of new services such as the minor ailments service, acute and chronic medication services.
- 33.7 Mr Currie reported that the store had recently been refitted and refurbished. He had two delivery drivers who delivered all over Dumfries each week day. In addition he was the busiest contractor in methadone dispensing and provided the needle exchange programme. Both services were provided in a suitable discreet and confidential manner.
- 33.8 Mr Currie stated that the Committee may have observed on their site visit that there was adequate parking available at the premises, for approximately 40 cars.
- 33.9 Mr Currie stated that Murrays Chemist, similar to all the interested parties, served patients who came from every surgery in Dumfries. Patients accessed services depending on where they lived, worked or a number of other factors. The services provided had not changed. He stated that the population was mobile despite the scare stories by the Applicant in her presentation, with the last census recording that Dumfries had the highest number of both two and three, or more, car families in Scotland. He advised that this would be the third relocation for the Charlotte Street Practice in the past few years therefore their patients were used to travelling or to receiving deliveries.
- 33.10 Mr Currie noted that the Applicant had stated in her presentation that Murrays business had increased yet he found it odd that she did not produce the prescriptions figures. He stressed that nobody had co-located with a GP surgery and that each share of the pharmacy prescriptions remained the same.
- 33.11 Mr Currie noted that the Area Pharmaceutical Committee defined a slightly larger neighbourhood such that Northern Chemist and Blounts were on the border of the neighbourhood therefore Mr Currie believed that both pharmacies would see a significant number of patients from the neighbourhood.
- 33.12 Mr Currie referred to the Applicant's statement that her neighbourhood was densely populated but from referring to the map he stated it was one of the least densely populated areas in Dumfries as it included: the retail park, Palmerston Park, the Ice Rink, HMP, D&G Golf Course, King George V playing fields, Goldie Park, the large green belt area to the east of Nithside and another set of playing fields all of which are not populated; apart from the prison of course. What was left equated to approximately 20 streets.

- 33.13 Mr Currie reiterated his need to know which of his services were inadequate as he had heard nothing to suggest any inadequacies.
- 33.14 Mr Currie acknowledged he was the Secretary of the Area Pharmaceutical Committee and did offer to recuse himself when this application was discussed but was asked to stay in the room to record the comments.
- 33.15 Mr Currie referred the Committee to their papers which contained the dispensing figures and stated he thought the Applicant owned the largest dispensing practice in Dumfries but yet she was trying to take over more business. He argued that if this application was granted it could lead to a redistribution of business from existing contractors and may even destabilise Murrays and Northern Chemists, reducing choice for patients and potentially impacting on the future adequacy of services within this neighbourhood and others.
- 33.16 Mr Currie voiced his opinion that the tender process used by Dumfries and Galloway Health Board was flawed as he believed it only allowed the highest bidder to win a pharmacy contract even when the regulations may not allow for a contract to be granted. He stated pharmaceutical contracts were not to be bought but to be proved that they were inadequate and therefore necessary or desirable to ensure adequate service provision.
- 33.17 Mr Currie stated that what this application represented was the old fashioned pharmacy term of "leapfrogging" where chemists would leapfrog over each other to be in closer proximity to a GP surgery.
- 33.18 Mr Currie referred to the Applicant as presenting a cute career story at the beginning of her presentation. He reported that he employs a man who has worked for him on and off since he was 16 years age of age and worked his way up through the business. This same man had moved with him from Linwood to Dumfries. The point of this story, he explained, was to demonstrate that people were involved in the outcome.
- 33.19 Mr Currie concluded his presentation by requesting that this application be refused.

34. **QUESTIONS FROM THE APPLICANT (MRS WEIR AHMED) – TO DALART PHARMACY LTD**

- 34.1 The Applicant asked Mr Currie to confirm his opening hours to which he replied Monday to Friday from 9am to 5.30pm. In response to questioning from the Applicant he further confirmed that the opening hours had changed and stated that the reason for this was the surgery having moved location.
- 34.2 The Applicant noted that in the Health Board's Pharmaceutical Services Care Plan, Murray Chemist was still listed as being closed at lunch time and asked if this was incorrect. Mr Currie confirmed that the Care Plan was incorrect.
- 34.3 The Applicant asked Mr Currie to confirm whether he submitted a bid for this pharmacy unit. Mr Currie replied that he did submit a bid but not individually.
- 34.4 The Applicant referred to Mr Currie's presentation in which he referred to the application made by Tesco in 2004 and asked Mr Currie if he did not think this was out-of-date and therefore irrelevant to her application. Mr Currie replied that

- he was merely using it as an example to demonstrate that since that application nine years ago there had been no further applications in that neighbourhood.
- 34.5 The Applicant asked Mr Currie if he thought that having a GP surgery and pharmacy located together was a valuable asset for the public. Mr Currie replied that people had got used to moving around over the past nine years therefore he did not think it was necessary.
- 34.6 The Applicant noted that Mr Currie had referred to the tender process as being flawed as it was predicated on the highest bidder winning and asked Mr Currie if he had any evidence of this. Mr Currie stated he had tried to get information under a Freedom of Information request to the Health Board but it was not allowed and queried how the Applicant had received the evidence of who had submitted bids. The Applicant replied she had only asked for the names of the bidders, not how much each had submitted as a bid. Again she asked Mr Currie what evidence was there to suggest that the highest bidder would win the tender. Mr Currie informed her that his only evidence was through experience of a bidding process. The Applicant reiterated that it was not a bidding process but a tendering process. Mr Currie stated that if she chose to live in a naive world then that was up to her.
- 34.7 The Applicant asked Mr Currie what relevance was there in referring to her prescriptions figures. Mr Currie explained that he was demonstrating how two of the smallest contractors had to fend off the biggest contractor from taking business away from them.
- 34.8 The Applicant asked Mr Currie to further explain what he meant by his earlier comment on submitting a bid through the tender process but not as an individual. Mr Currie explained that he believed there was more of a chance of a pharmacy being granted as part of relocation or to form a cooperative in the town. That is why he entered a joint bid along with Mr Rodden.
- 34.9 In response to questioning from the Applicant regarding the high number of prescriptions Mr Currie replied that it could be partly tradition that people continued to use his pharmacy or it could be down to location and the fact that they were providing adequate pharmaceutical services,
35. **QUESTIONS FROM OTHER INTERESTED PARTIES – TO DALART PHARMACY LTD**
- 35.1 **Boots UK Ltd (Mr Tait)**
No questions.
- 35.2 **AMR Drug Co Ltd (Mr Rodden)**
No questions.
- 35.3 **Lloyds Pharmacy Ltd (Mr Arnott)**
- 35.3.1 Mr Arnott referred to the Applicant's statement that Murrays Chemist prescription numbers had grown by 16% and asked did the relocation of Charlotte Street Medical Practice affect his numbers. Mr Currie replied that there had been an increase.
- 35.3.2 Mr Arnott then asked if Mr Currie would expect his business to increase by 16% if his services were deemed inadequate. Mr Currie replied that he did not think they would have increased if they were supposedly inadequate.

36. **QUESTIONS FROM PPC MEMBERS TO DALHART PHARMACY LTD**

36.1 **Mrs Roberts (Non-Contractor Pharmacist)**

36.1.1 Mrs Roberts asked Mr Currie if he thought there was a need to have extended opening hours. Mr Currie stated that he had no complaints and there were not many people after 6pm or before 9am.

36.1.2 Mrs Roberts then asked who Murray Chemist delivered to. Mr Currie informed her that he would deliver to anybody that requested it. It was not possible to impose restrictions particularly when he felt his business was under threat it was more important to try harder and do more.

36.2 **Mrs Gallagher (Contractor Pharmacist)**

Mrs Gallagher asked Mr Currie if he would refuse to deliver prescriptions if he found out the house in question had two cars in the driveway. Mr Currie informed her that type of scenario happened often and the drivers did complain and it was galling but no they would not refuse to deliver again to that house. These things happened; sometimes people were not home when you delivered which was equally annoying.

36.3 **Mrs Stitt (Contractor Pharmacist)**

36.3.1 Mrs Stitt queried whether Murrays had adequate disabled access. Mr Currie informed her that there was proper ramps fitted as part of the refit three years ago at the front of the store and they had a disabled toilet in the premises. Mrs Stitt noted that from the site visit conducted earlier access from the back of store had two steps and asked if he had portable ramps for this should anyone park at the back and require access. Mr Currie stated that he did not have a ramp for the back steps but it had never been raised as an issue.

36.3.2 Mrs Stitt referred back to the admission from Mr Currie that he was present in his role of Secretary when the APC discussed this application and asked if he contributed to the discussion. Mr Currie informed her that he did not give a presentation but he was asked for his opinion.

36.3.3 Mrs Stitt asked for further information on why Mr Currie had submitted a joint bid in the tendering process. Mr Currie explained that there were two reasons why he submitted a bid, firstly that the opening of another pharmacy would affect his business therefore he thought he should try to capture the business himself. Secondly he thought that it would be a stronger bid if it was classed as a relocation along with another businessman. He believed Mr Rodden approached him first about entering a joint bid. Mr Rodden nodded agreement. He further stated that he did not believe that if either he or Mr Rodden submitted individual bids they would have gotten anywhere.

36.4 **Mrs Parker (Lay Member)**

36.4.1 Mrs Parker noted that there had been discussion about the increasing number of elderly patients in the area therefore the possible increase to dispensing and other services and asked Mr Currie if he felt there was possibly a need for another pharmacy to cope with increasing demands. In response, Mr Currie, stated that he did not think another pharmacy was necessary as the population of the neighbourhood was estimated between 3,000 and 4,000 people. He further stated that the Charlotte Street Medical Practice patients lived all over Dumfries therefore it seemed ludicrous that a pharmacy was being built specifically for a

small number of residents in the immediate area.

36.5 Mr Rogerson (Lay Member)

36.5.1 Mr Rogerson asked for clarification on the 2004 application made by Tesco and whether there was a pharmacy located within Lincluden. Mr Currie replied yes there was one pharmacy in Lincluden.

36.5.2 Mr Rogerson referred to the joint bid made by Mr Currie and Mr Rodden and asked for clarification on what Mr Currie meant by the possible destabilisation of business should this application be granted. Mr Currie stated that he and Mr Rodden would have a share in the business but if Mrs Weir Ahmed owned the pharmacy they would not have a share and they would lose out on possible income. Mr Rogerson stated that he thought Mr Currie wanted to have his cake and eat it. Mr Currie disagreed and stated that it made good business sense, if the application was granted to another contractor he and Mr Rodden would stand to lose income but if they had a stake in the future business then they would not lose out.

A short adjournment for a comfort break was called for 3:15pm

The hearing reconvened at 3:25pm. Mr Tait informed the Committee that Ms Wilson left during the break for a prior engagement.

37. PRESENTATION FROM INTERESTED PARTY – BOOTS UK LTD (MR TAIT)

37.1 Mr Tait began by stating he was content with the neighbourhood as defined by the Applicant.

37.2 He then addressed the issue of deprivation which had been discussed during the hearing but on referring to the Scottish index of multiple deprivation rankings; the only area that appeared to be slightly deprived was the area surrounding the prison. Geographically, in terms of access to pharmaceutical services, he stated that these areas were not deprived at all. He also indicated that the same was true on looking at Health deprivation rankings.

37.3 Mr Tait stated that from looking across the four data zones the population had only reduced by about 200 people in the mid 2011 census.

37.4 Mr Tait stated that the neighbourhood had one of the best served bus routes in Scotland as it included Glasgow Street which had numerous buses going through all localities.

37.5 Mr Tait expressed his opinion that the argument for this application to be granted appeared to be based on the premise that a pharmacy was needed because there was a health centre. He noted that there was a dental pharmacy located on the outskirts of that neighbourhood which also provided services.

37.6 Mr Tait stated that multiple prescriptions were already in existence and patients had a choice of pharmacies that would collect and deliver your prescriptions. He further stated that as the roll out of CMS continued this would mean a move to obtaining a prescription every six months therefore a reduced need to visit both GPs and pharmacies.

37.7 He stressed that the test in this case was essentially to ask whether it was necessary or desirable to secure adequate provision of services and in his

opinion it was not as there had been no indication of any inadequacy of services.

- 37.8 As stated earlier during questioning Mr Tait referred to patients being located all over Dumfries and would be travelling past current pharmacies near where they lived or worked therefore a pharmacy located within the surgery was not necessary.
- 37.9 Mr Tait stated that it was important to consider the balance of information presented and whether or not current services would remain adequate in the foreseeable future. Given that there were no anticipated changes in population or neighbourhood, Mr Tait believed the current pharmacy services remained adequate.
- 37.10 Mr Tait informed the Committee that they had spoken to the Health Board regarding supply issues and was informed that there had been no issues. He also informed the Committee that the Health Board has the lowest growth in prescription items in Scotland.
- 37.11 Mr Tait expressed his belief that this application was purely submitted on the basis of obtaining business from a health centre. He maintained it was not particularly difficult for patients to access services elsewhere. This was essentially an argument for convenience which was not part of the legal test.
- 37.12 Mr Tait stated that the application had not been shown to be either necessary or desirable as there was no inadequacy and there was adequate provision and it would remain so for the foreseeable future. He concluded his presentation by stating on the aforementioned reasons this application should fail.

38. QUESTIONS FROM THE APPLICANT (MRS WEIR AHMED) TO BOOTS UK LTD

- 38.1 The Applicant asked Mr Tait to clarify what constituted one of the best served bus services in Scotland. Mr Tait replied that there were numerous bus routes available from Glasgow Street, approximately 10 buses an hour. The applicant disagreed.
- 38.2 The Applicant referred to Mr Tait's statement that there were no significant changes to the population in the neighbourhood and asked if he was disagreeing with the facts and figures presented on the rise of the elderly population. Mr Tait replied that the ageing population was a fact across the whole of Scotland. It was recognised that people were living well into their old age but that did not mean that they were all becoming decrepit.
- 38.3 The Applicant queried Mr Tait's comment with regard to the Health Board stating there were no supply issues. Mr Tait confirmed that was what he had been told four weeks ago.
- 38.4 The Applicant asked Mr Tait if he had any evidence that Dumfries and Galloway had the lowest prescription growth in Scotland. Mr Tait informed her that he did not but that was what he had been told by the Health Board.

39. QUESTIONS FROM INTERESTED PARTIES TO BOOTS UK LTD

- 39.1 **Dalhart Pharmacy Ltd (Mr Currie)**

- 39.1.1 In response to Mr Currie's enquiry regarding Boots delivery service Mr Tait confirmed that Boots have a delivery service which covered the whole of Dumfries, delivering from all Boots pharmacies across the whole area not just the town.
- 39.1.2 Mr Currie asked if this application was unsuccessful what he would consider the effect on prescription distribution across the pharmacies in Dumfries would be. He also asked what the effect would be if the application was successful. Mr Tait replied that if the application was unsuccessful there would be no effect. If it was successful then at a minimum it would affect the levels of acute prescriptions being carried out by other pharmacies as they would be picked up at the surgery.
- 39.1.3 Mr Currie asked if Mr Tait considered the current services adequate. Mr Tait confirmed that he did believe they were adequate.
- 39.1.4 Mr Currie asked Mr Tait if he was familiar with the proposed site to which Mr Tait confirmed that he was. Mr Currie then asked if Mr Tait considered the site to be suitable to embrace all pharmaceutical services. Mr Tait replied that it was not according to a recent publication by the Scottish Government, particularly over the coming six/seven years it would fail on the grounds laid out in this publication.
- 39.2 **AMR Drug Co Ltd (Mr Rodden)**
No questions.
- 39.3 **Lloyds Pharmacy Ltd (Mr Arnott)**
No questions.
40. **QUESTIONS FROM PPC MEMBERS TO BOOTS UK LTD**
- 40.1 **Mrs Roberts (Non-Contractor Pharmacist)**
- 40.1.1 Mrs Roberts noted that Mr Tait had stated that Dumfries and Galloway had the lowest growth in dispensing figures across all of Scotland but noted that the number of prescriptions had increased and asked for Mr Tait's view on this. Mr Tait agreed that the number of prescriptions had increased but according to the Health Board statistics it was still the lowest growth in comparison with other Boards.
- 40.2 **Mrs Gallagher (Contractor Pharmacist)**
- 40.2.1 Mrs Gallagher asked Mr Tait to confirm whether he agreed with the definition of the neighbourhood as defined by the Applicant. Mr Tait confirmed he agreed it was exactly the same.
- 40.3 **Mrs Stitt (Contractor Pharmacist)**
- 40.3.1 Mrs Stitt asked if there was a possibility of Glasgow Road being classed as a boundary as it was difficult to cross. Mr Tait agreed that could be the case as there were only two crossing points but he was content with the defined neighbourhood.
- 40.3.2 Mrs Stitt asked if Mr Tait knew that the premises could be used for something other than a pharmacy. Mr Tait replied that he did not know that but whatever decision was reached he hoped it would stand firm. He reiterated that he did not see the current services as being inadequate nor did he see them as being inadequate in the foreseeable future. The new regulations made it quite clear on this matter.

- 40.4 **Mrs Parker (Lay Member)**
- 40.4.1 Mrs Parker noted that Boots had a large dispensing figure and asked if they were operating at capacity. Mr Tait replied that they were not operating at capacity and asked the Committee to note that Boots also served a number of care homes across Dumfries and Galloway hence the large figure. This in turn meant that there were some delays in obtaining certain items as they were more specialised than the general prescriptions in Dumfries.
- 40.4.2 In response to further probing on the increase of prescriptions for the elderly Mr Tait informed the committee that he had been involved with various groups surrounding the care of the elderly and the vision of the Scottish Government to retain people for as long as possible in their own homes instead of being put into care. He could only state that with the ageing population there might be an increase in dispensing but there was not one simple solution and these discussions had been ongoing for a number of years and would no doubt continue.
- 40.5 **Mr Rogerson (Lay Member)**
- 40.5.1 Mr Rogerson continued with this line of questioning and put to Mr Tait that no matter where the elderly were cared for they would still require medication. Mr Tait confirmed that would be the case and it would be down to the Health Board to ensure that there was adequate services in place to cope.
41. **PRESENTATION FROM INTERESTED PARTY - AMR DRUG CO LTD (MR RODDEN)**
- 41.1 Mr Rodden introduced himself to the Committee and stated that he ran Northern Chemist in Lochside Road which was located in North West Dumfries. Mr Rodden began by giving a brief history of his career noting that he qualified in pharmacy in 1984 and started work in Parkhead, Glasgow just before contract limitation came into force. He referred to the great instability in the provision of pharmaceutical services during this period including the term, “leapfrogging” as mentioned earlier. He reported that he spent one year working in the East End of Glasgow and during that period two new pharmacies opened, a further one was planned and there was one closure, all within 500 yards.
- 41.2 Mr Rodden stated that the consequences of “leapfrogging” meant there was a cluster of pharmacies around health centres and GP surgeries with no provision of pharmacy services in outlying areas such as Lochside, Lincluden and North West Dumfries. Since the control of entry regulations in 1987 new contracts have only been granted where there was an inadequacy of service. Mr Rodden expressed his view that this application reminded him of those dark days and aggressive contract seeking.
- 41.3 Mr Rodden stated that this proposed pharmacy was only 0.4 miles from Murrays Chemist and 0.6 miles from Northern Chemist. He stated that if this application was granted it would provide the ultimate example of leapfrogging by allowing entry to the health centre premises. In addition, he stated that it would strangle the flow of prescriptions from Lochfield, threatening the very existence of Northern Chemist and possibly Murrays as well.
- 41.4 Mr Rodden stated that the Applicant dispenses approximately 18,000 prescriptions, the largest in Dumfries and now she was applying to open a pharmacy located between two of the smallest pharmacies – Murrays and Northern Chemist who dispensed between 4,000 and 6,000 prescriptions. Mr

Rodden noted that he found it odd that the Applicant had objected against an application made by Mrs Moore recently when she proposed to open a pharmacy approximately one mile from the Applicant's current pharmacy when now she was proposing to do just the same against Murrays and Northern Chemist.

- 41.5 Mr Rodden disputed the neighbourhood defined by the Applicant stating that it had been very much drawn around an area to fit with the health centre and therefore was more about convenience than adequacy. He also pointed out that it omitted any area to the south of Galloway Street. Mr Rodden stated that if there were no health centre there would not have been an application particular to service a mere 2,000/3,000 people.
- 41.6 Mr Rodden stated that North West Dumfries was adequately served by Murray Chemist and Northern Chemist, both of which provided a full range of services including collection and delivery services. In addition Boots, Lloyds and Blounts also delivered services into the neighbourhood. Mr Rodden stated that the proposed pharmacy would provide services to the whole of Dumfries not just the defined neighbourhood as stated by the Applicant.
- 41.7 Mr Rodden then referred to prescription information that he had obtained under the Freedom of Information Act providing figures for Blounts Pharmacy at St Michaels Medical Centre which he stated was not a densely populated part of Dumfries. In January 2012, Blounts dispensed around 17,000 NHS items and in April 2012 more than 18,000 prescriptions. Mr Rodden stated that in the year to November 2011 they were paid in excess of £2.5 million for NHS services, which was five times that paid to Northern Chemist. He provided further details for Lloyds Pharmacy co-located at Gillbrae Medical Centre who dispensed around 12,000 items in May 2012. Mr Rodden stated that this was because these pharmacies did not only serve the immediate area. He also reported that both were above the national average which he believed reflected their co-location position.
- 41.8 Mr Rodden expressed his view that if this contract was granted he would expect a similar pattern with the dispensing volume being in the region of 12,000 or more prescriptions per month within a short period of time because they would serve more than the defined neighbourhood. This would also lead to the strangulation of the flow of prescription from the health centre to the detriment of other pharmacies in the vicinity.
- 41.9 Mr Rodden informed the Committee that 50% of Northern Chemist patients came from the Charlotte surgery and based on previous experience of the co-location of St Michaels Surgery with Blounts Pharmacy he would expect to lose a large number of those over the next year if the application was granted. He stated that already patients were being directed to the new pharmacy by the GP surgery; which he stated was hardly impartial advice.
- 41.10 Mr Rodden stated that a new pharmacy located within the health centre would affect the viability of his business, not just the prescription dispensing but also minor ailments and smoking cessation services. He noted that the closing of a business came long before the dispensing figures reached zero.
- 41.11 Mr Rodden referred to the letter received from Dr Aileen McLeod MSP, circulated earlier to all present at the hearing. He quoted: "I visited Northern Chemist with Community Pharmacy Scotland's development Officer. At that time concerns were raised that a third pharmacy within a relatively small geographical area

could have serious implication on the viability of either or both of the existing pharmacies, neither of which are operating at full capacity. Whilst I appreciate that the choice remains with the patient as to where they collect their prescription, the situating of a chemist within the only GP's surgery in the entire area would give that chemist an unfair advantage over the existing chemists who had made significant investments to upgrade their facilities.”

- 41.12 Mr Rodden disputed the boundaries of the neighbourhood stating that the northern boundary should include Lincluden and Lochside since the surgery had a large number of patients from those areas. He also stated that the southern boundary should be extended to include the area around the Observatory.
- 41.13 Mr Rodden referred to the previous application by Tesco in 2004 highlighting that this site was approximately 150 metres away from the proposed pharmacy and the PPC also defined the neighbourhood the same way as he had just defined it. Mr Rodden then quoted the PPC decision that the Committee agreed the exclusion of Lochside and Lincluden was not appropriate though they were separated from the Retail Park where Tesco was situated by the A75 bypass as there was a very good pedestrian footbridge which provided easy access north and south of the bypass to all categories of residents. The Committee was of the opinion that it was necessary to redefine the neighbourhood and the northern boundary should be extended beyond the A75 bypass to include Lochside and Lincluden.
- 41.14 Mr Rodden stated that there had been little change since this application in 2004. There was the same road, same bridge and same population to all intents and purposes. He noted that there had been the demolition of flats in the most densely populated areas to make way for the new health centre with some of the remaining area being built on providing low density housing. Not much had really changed apart from the addition of a health centre.
- 41.15 Mr Rodden stated that the services within the neighbourhood were adequate and therefore this application should be rejected. Referring back to the 2004 decision made against Tesco he stated that the Committee then had noted:
there were two existing pharmacies providing services to residents in the neighbourhood – Northern Chemist in Lincluden, north of the bypass, 0.5 miles by car from the site of the proposed pharmacy and accessible by a pedestrian footbridge;
- Murrays Chemist in Galloway Street, 0.4 miles away to the south of the site of the proposed pharmacy and could be accessed by pavement along the A76 road.
 - In addition they noted that the dispensing data for both these pharmacies indicated that there was not unusually high numbers of prescriptions being dispensed.
 - A full range of pharmaceutical services was being provided by the existing pharmacies including supervised methadone and needle exchange.
 - The pharmacies also operated a collection and delivery service to patients.
 - The committee thought there was an adequacy of services in the redefined neighbourhood and evidence had not been presented to the contrary.
 - The Applicant had been unable to provide evidence of inadequacy of service from questions during the hearing.
 - It was noted that there had been no request for extension of the current

- services and that the out of hours arrangements were rarely called upon.
- The Board had not received any complaints regarding inadequacy of services.

The Committee therefore unanimously rejected the application. Mr Rodden stated that he agreed with all of the aforementioned statements from that PPC hearing.

41.16 Mr Rodden referred to the initial application which had been rejected. In the subsequent appeal made by the Applicant he stated that the Chair of NAP had rejected all points of appeal apart from two points; one being because of a procedural irregularity – the attendance of Mrs Linda Bunney from the Health Board and the other with regards to the sale of property by Mr Currie to Mr Winter which Mr Rodden stated he knew about. There were no other substantive points accepted by the Chair of NAP.

41.17 Mr Rodden stated that Murrays Chemist and Northern Chemist were located one mile apart. It was clear they were coping and meeting the current demands and they could cope with more and have room to expand. Both had recently undergone refits to meet current and future demands and had the option of recruiting more staff when required. He emphasised that they both had the capacity to change and easily adapt as the workloads increased.

41.18 Mr Rodden in summary stated that the decision making process was reasonably simple. According to Mr Rodden the questions to be asked were:

- Were the current pharmacies able to cope – he answered yes;
- Were the current services accessible – he answered yes Murrays was 0.4 miles and Northern Chemist was 0.6 miles from the proposed pharmacy;
- Did the current services have spare capacity – he answered yes and they could recruit more staff to meet any additional needs in the future.

If the answer was yes to all of the questions then Mr Rodden stated that the application should be rejected.

42. **QUESTIONS FROM THE APPLICANT (MRS WEIR AHMED) TO AMR DRUG CO LTD**

42.1 The Applicant stated that nobody would have applied to open a pharmacy had the health centre not been built there. She then asked Mr Rodden if he did submit a bid through the tendering process. He confirmed that he had put in a joint bid with Mr Currie.

42.2 The Applicant referred to the prescription numbers quoted by Mr Rodden and stated that from her Freedom of Information request they were approximately 7,000/5,000 per month. Mr Rodden stated he did not have all the figures from earlier but he would accept what the Applicant stated.

42.3 The Applicant then referred to the statement made about her objections to Mrs Moore's application for Lockerbie Road and stated that the situation was completely different to this application. The Lockerbie Road application was in a more affluent area. Mr Rodden replied he accepted that and noted that the Applicant used to live in that area. The Applicant confirmed she used to live there.

- 42.4 The Applicant referred to Mr Rodden's claim that the opening of her pharmacy would lead to the strangulation of prescription figures and asked Mr Rodden did that happen at the Gillbrae Health Centre when Lloyds opened. Mr Rodden stated that he had time to survey where all of his prescriptions came from and 50% came from Charlotte Street and about 24% came from St Michaels Health Centre therefore if he lost about half of his business from each of those places it would result in over 30% of his prescription business being lost. He did not mention Lloyds as he only got about 12% of prescriptions from Gillbrae therefore it was not as big as the others. When Blounts went into St Michaels he lost half of the 24%. The Applicant stated that Mr Rodden's business had increased by 25%. Mr Rodden agreed that it had risen slightly but it was not extra profit as the money had been used for the refit and funding the opening hours across lunch time which had been previously closed. In addition they now opened an extra afternoon so needed extra staff. He informed the Applicant that they were now open Monday to Friday from 9am to 6pm and from 9am to 12 noon on a Saturday. The money had been used to respond to the changing needs of the patients in the area.
- 42.5 In response to questioning by the Applicant Mr Rodden confirmed that he still received some business from St Michaels Health Centre but less since Lloyds had moved in. He stated the business from St Michaels was by far the smallest.
- 42.6 The Applicant referred to the letter from Dr Aileen McLeod MSP and asked if she was a medical doctor. Mr Rodden replied that he did not know and stated that it was not a solicited letter. She had contacted Community Pharmacy Scotland about visiting a pharmacy and they had been chosen.
- 42.7 The Applicant then referred to the points made by Mr Rodden in relation to the Tesco application and asked Mr Rodden if he suggested that there were no changes in workloads since 2004. Mr Rodden stated that there were changes in everything but that they were still not running to capacity. He also added that the CMS would mean the prescriptions would last longer - 6 or 12 months therefore that would become less of a burden.
- 42.8 The Applicant then asked if there had been a small change in the population since 2004. Mr Rodden agreed that there had been a small change in the population with the majority of new houses being private housing in a fairly affluent area.
- 42.9 The Applicant asked how much other business came from St Michaels and from other areas. Mr Rodden replied that he did not know specifics but he knew that a lot came from Charlotte Street. He referred to the amount of increased business that Blounts saw after the fire and that they had a significant increase when Charlotte Street moved.
- 42.10 The Applicant stated that she thought Mr Rodden was under the impression that she only currently dealt with prescriptions from St Michaels but she stated she too handled prescriptions from all health centres. Mr Rodden accepted that point.

43. **QUESTIONS FROM INTERESTED PARTIES TO AMR DRUG CO LTD**

43.1 **Dalhart Pharmacy Ltd (Mr Currie)**

- 43.1.1 Mr Currie asked Mr Rodden if they delivered into the neighbourhood. Mr Rodden

confirmed they did deliver into the neighbourhood and in fact would deliver anywhere but predominantly it was to Lochside.

43.1.2 In response to questioning from Mr Currie, Mr Rodden confirmed that he believed the current services were adequate, he went further to state that he believed the level of services were exceptionally good and because Lloyds were dispensing huge volumes left him with more time to spend with the patients on other matters.

43.1.3 Mr Currie referred to the drawings for the proposed pharmacy and asked Mr Rodden if he thought this was a purpose built pharmacy. Mr Rodden, stated, in his opinion it was pretty small as it was only about 700 square feet. He noted there was a consultation room but there was only one door into the premises therefore could not see how it would handle methadone dispensing although he noted Cameron House had a methadone centre close to it. He further stated that both Murray Chemist and Northern Chemist had separate facilities for methadone dispensing. Mr Currie asked if Mr Rodden felt that he was stigmatizing those who came for methadone by having a separate facility. Mr Rodden replied no, as he had specifically asked them and they were grateful for the privacy and confidentiality of the facility.

43.2 **Boots UK Ltd (Mr Tait)**
No questions.

43.3 **Lloyds Pharmacy Ltd (Mr Arnott)**

43.3.1 Mr Arnott referred to the statement made by Mr Rodden on the viability of existing contractors and asked Mr Rodden how serious were his concerns about losing volumes of business. Mr Rodden responded by stating that he was very serious, initially he would look at decreasing opening hours and staff but reiterated that viability of a business did not wait until prescription business was down to zero it happened way before that stage. He stated it was not just about patients' thinking that they would try this new centre; they were being directed from their GP surgery. He had had people in his pharmacy stating that their GP had told them to go to this pharmacy and asked what they should do.

43.3.2 Mr Arnott asked if the impact of this pharmacy being granted would affect the most deprived area of the community. Mr Rodden confirmed that it would as they had a large number of methadone clients and patients registered with the minor ailments service. He stressed that Northern Chemist was very much a local community pharmacy.

43.3.3 Mr Arnott noted that Northern Chemist was located only 0.4 miles from the proposed pharmacy and asked, with a nation that was becoming increasingly obese, was 0.4 miles an acceptable distance for people to walk. Mr Rodden replied that when that same surgery was relocated to the other end of town, two miles away, patients still managed to access the services. Mr Rodden then relayed a story of a 85 year old woman who he thought should be using the delivery service and had also suggested to her that her GP could visit her at home but she had vehemently argued against that stating that she was not housebound and liked to get out and talk to people.

44. **QUESTIONS FROM PPC MEMBERS TO AMR DRUG CO LTD**

44.1 **Mrs Roberts (Non-Contractor Pharmacist)**

44.1.1 Mrs Roberts asked Mr Rodden if it was a straight forward walk to Northern Chemist from the Health Centre. Mr Rodden explained the walk confirming that it

was a fairly straight road with no hills to negotiate and a bridge over the road and a bus stop outside the premises.

44.2 **Mrs Gallagher (Contractor Pharmacist)**

44.2.1 Mrs Gallagher asked if it would be easier for the 85 year old woman he spoke of to attend the proposed pharmacy. Mr Rodden agreed that it probably would and stated it would be easier if there was a pharmacy located on every corner but there were constraints. He went further to state that what Mrs Gallagher was suggesting was more about convenience. In addition it was probably the case that GP surgeries were not located ideally to where patients wanted.

44.3 **Mrs Stitt (Contractor Pharmacist)**

No questions.

44.4 **Mrs Parker (Lay Member)**

No questions.

44.5 **Mr Rogerson (Lay Member)**

44.5.1 Mr Rogerson asked if there was dedicated car parking available at Northern Chemist as according to the Applicant there was not. Mr Rodden stated that the council owned the car parking spaces and there was seven located at the front of premises and a further 20 at the back and there were plenty of spaces when he left the premises at 11:15 earlier.

In response to further questioning Mr Rodden confirmed that there was no disabled access at the back of the premises and people would have to enter the front of the pharmacy but this had never been an issue.

44.5.2 Mr Rogerson noted that Mr Rodden had disputed the boundaries stating that it should include Lochside and Lincluden and asked if it should also have included the Barnhill development which had since arisen and which must have changed the neighbourhood. Mr Rodden stated that he did not have any customers from Barnhill; he would have expected them to go to Murrays and also added that he did not expect a pharmacy would be located there as there was no health centre.

45. **PRESENTATION FROM INTERESTED PARTY – LLOYDS PHARMACY LTD (MR ARNOTT)**

45.1 Mr Arnott began his presentation by discussing the neighbourhood to which he suggested that Dumfries could be argued as one neighbourhood. He then defined the neighbourhood as east to Glasgow Street/Road (A76) which was a very busy road, west to Castle Douglas Road, north to the A75 and south to Galloway Street/Road as there were only two crossing points on that road which made access to Nithside on foot extremely difficult.

45.2 Mr Arnott stated that no matter the definition of the neighbourhood adequacy of services was not an issue as there was a pharmacy less than 0.5 miles from the proposed pharmacy. Services provided by Murrays Chemist were adequate. Mr Arnott stated that no evidence had been presented by the Applicant to suggest otherwise. In addition there were a further four pharmacies within one mile all offering the required services.

45.3 Mr Arnott noted that the pharmaceutical care plan published by the Health Board had stated that the current distribution of pharmacy premises were sufficient to deliver pharmaceutical services through current pharmacy contracts.

45.4 Mr Arnott noted that the results from the survey conducted by Charlotte Medical Practice had been discussed at length. In addition he noted that the results from the public consultation exercise showed that the vast majority of people who responded did not even live in the neighbourhood; they were from Lochside. He also noted that the APC did not support the application.

45.5 Mr Arnott noted that for Irongray Community Council, only the Chairman gave an opinion and Lochside and Woodlands Community Council did not support the application. Mr Arnott further noted that he had reviewed the public consultation responses included in the papers and highlighted some of the points made:

- Enjoy the benefit.
- If you happen to stay in the area of the new surgery.
- Convenience provides whole service at one shop.
- Be an asset.
- Quite happy with Murrays.
- Very good idea for people at that side of town.
- I think if I lived in the area.
- Another chemist would be a welcomed addition.
- Another pharmacy would be welcome.
- Would benefit patients within the town.
- This would be beneficial to people from that side of Dumfries.
- A fantastic additional service.

45.6 Mr Arnott stated that the responses were more about convenience. Mr Arnott stated that nineteen responses in total hardly constituted the support of the local community and not one raised any issue around the inadequacy of current service provision.

45.7 Mr Arnott stated that the Applicant had not demonstrated inadequacy in current service provision and in view of this it was neither necessary nor desirable to grant this application in order to secure the adequate provision of pharmaceutical services to the neighbourhood in which the premises were located.

46. **QUESTIONS FROM THE APPLICANT TO LLOYDS PHARMACY LTD**

46.1 The Applicant asked Mr Arnott whether he could confirm if Lloyds submitted a tender. Mr Arnott replied that he could not confirm as he did not know and if he had been asked whether they should submit a tender he would have told them not to do so as it would have been a complete waste of time as the current services were adequate.

47. **QUESTIONS FROM INTERESTED PARTIES TO LLOYDS PHARMACY LTD**

47.1 **Dalhart Pharmacy Ltd (Mr Currie)**

No questions.

47.2 **Boots UK Ltd (Mr Tait)**

No questions.

47.3 **AMR Drug Co Ltd (Mr Rodden)**

No questions.

48. **QUESTIONS FROM PPC MEMBERS TO LLOYDS PHARMACY LTD**

48.1 **Mrs Roberts (Non-Contractor Pharmacist)**

48.1.1 In response to questioning about Mr Arnott's defined neighbourhood from Mrs Roberts about how a patient would access Northern Chemist from the east side of Glasgow Road/Street, Mr Arnott confirmed that a patient would have to cross the busy road using the pelican crossing.

48.2 **Mrs Gallagher (Contractor Pharmacist)**

No questions.

48.3 **Mrs Stitt (Contractor Pharmacist)**

No questions.

48.4 **Mrs Parker (Lay Member)**

No questions.

48.5 **Mr Rogerson (Lay Member)**

No questions.

49. **CLOSING STATEMENTS**

The Chair asked the Applicant and interested parties to make closing statements.

49.1 **INTERESTED PARTY - Dalhart Pharmacy Ltd (Mr Currie)**

49.1.1 Mr Currie stated that there had been no evidence to support a lack of adequacy in the neighbourhood. He further stated that no matter which definition of the neighbourhood was used Murrays was always located within the neighbourhood and the other interested parties provided services into the neighbourhood including Blounts.

49.1.2 Mr Currie said the Charlotte Surgery was in its third location within 10 years. The surgery moving into the neighbourhood did not change the level of pharmaceutical services needed; their patients still lived where they lived.

49.1.3 Mr Currie stated that the Health Board tender process was inherently flawed and stated that he saw this as a flagrant opportunistic application to take business from fellow contractors and it had absolutely nothing to do with pharmaceutical services and should therefore be denied. He concluded by stating that he hoped the patient survey would be given the relevant weighting during deliberations.

49.2 **INTERESTED PARTY - Boots UK Ltd (Mr Tait)**

49.2.1 Mr Tait stated that the regulations were clear on considering applications namely that they should be based on a defined neighbourhood and then to decide whether or not there was adequate provision within that neighbourhood. He stated that in this neighbourhood the population was small and there were plenty of services to choose from with no difficulty in accessing those services. In reaching that decision, if the pharmaceutical service in the neighbourhood was found to be adequate then there was no question to ask in terms of necessity or desirability as it was already adequate and therefore there was no need to secure adequate services.

49.2.2 Mr Tait stated that the services in the neighbourhood were adequate and therefore the application should be denied.

49.3 **INTERESTED PARTY - AMR Drug Co Ltd (Mr Rodden)**

49.3.1 Mr Rodden reminded the Committee that in the previous hearing this application had been rejected. He noted that the current two pharmacies were small however they did have the capacity to change and evolve as workload increased. In addition there were no inadequacies presented at the hearing today.

49.3.2 Mr Rodden stated that the decision making process should consider whether the current two pharmacies were able to cope with current demands and whether they could cope with future demands through expansion or recruitment of more staff. He stated that the answer to those questions was yes and it was clear that there was no need for another pharmacy.

49.3.3 Mr Rodden stated that this application, in his opinion, was neither necessary nor desirable and should fail.

49.4 **INTERESTED PARTY - Lloyds Pharmacy Ltd (Mr Arnott)**

49.4.1 Mr Arnott referred to the defined neighbourhood noting that there were two pharmacies both less than one mile away from the proposed pharmacy. There had been no complaints about adequacy of services currently provided and the Applicant had failed to demonstrate any inadequacies in the current services provided therefore the application failed.

49.5 **APPLICANT - Holm Pharm Ltd (Mrs Weir Ahmed)**

49.5.1 The Applicant reminded the Committee that all of the Interested Parties had submitted tenders for this unit. Mr Currie and Mr Rodden had detailed their reason for submitting a joint bid stating that they wanted to form a cooperative but queried why she had not been included in this.

49.5.2 The Applicant referred to the Bryden report which stated for the first time, as far as she was aware, that an alternative use for the premises had been costed.

49.5.3 The Applicant asked the Committee to consider the demographics and the population statistic projections whereby there were high levels of deprivation in the area and over 45% of the population in Dumfries and Galloway would be over 65 by 2035 indicating that this demonstrated a need for pharmaceutical services.

49.5.4 The Applicant also reminded the Committee that patients had experienced delays in receiving prescription items and there were issues with access to services.

49.5.5 The Applicant advised that it would help the local economy as she would be looking to employ four to six people and referred again to the recent consultation exercise carried out by Charlotte Medical Practice where patients wanted this application to be approved.

49.5.6 The Applicant stated that the contract was definitely necessary for that ageing population and desirable for other people in the neighbourhood to secure adequate service provision.

50. **FAIR HEARING**

- 50.1 The Chair ascertained that the Applicant and the interested parties had a fair hearing.
- 50.2 The Chair then notified all present that the Applicant and all interested parties would receive formal notification of the Committee's decision within 15 working days of the hearing – **by 30 October 2013.**
- 50.3 The Chair then advised that she would ask the Applicant and interested parties to withdraw from the hearing which would close the open session of the hearing. She further advised that should the Committee require legal advice during the closed session the applicant and interested parties would be invited back into the hearing to return to open session.
- 50.4 The Applicant and the interested parties then withdrew from the hearing.
- The hearing was adjourned for a comfort break at 4.40 pm.*
- 50.5 The hearing reconvened at 4.55 pm to consider the application. The Chair reminded the Committee of the legal test as detailed on page 7 of the PPC papers as the framework for discussion.

51. **NEIGHBOURHOOD**

- 51.1 Having heard the evidence presented to it and the Committee's observations from a site visit, the Committee first had to decide the question of the neighbourhood in which the premises, to which the application related, were located.
- 51.2 The Chair confirmed the Applicant had detailed in her presentation the proposed neighbourhood as being East to the River Nith, West to Castle Douglas Road, North to the A75 and South to Galloway Street.
- 51.3 The Chair noted that there general agreement with the neighbourhood as defined by the Applicant although Mr Arnott on behalf of Lloyds Pharmacy Ltd considered the eastern boundary to be the main Glasgow Road, the A76, as this was a very busy road to cross and therefore excluded Nithside from the neighbourhood.
- 51.4 The Committee also noted Mr Rodden's disagreement with the neighbourhood defined by the Applicant whereby he considered it had been defined for convenience to fit around the health centre and had excluded both Lochside and Lincluden.
- 51.5 The Committee also noted Mr Currie's contention that the southern boundary be extended to include the area between Galloway Street and the Dumfries Observatory.
- 51.6 In addition the Committee took account of a number of factors in defining the neighbourhood, including whether the neighbourhood was one for all purpose, that it had natural boundaries, the presence of schools, shops, churches and other general medical practices, and the distance over which the residents had to travel to obtain pharmaceutical services. The Committee agreed that taking account of such criteria that the neighbourhood be defined as being East to the River Nith, West to Castle Douglas Road, North to the A75 and South to Galloway Street as detailed in the application. The Committee agreed that the River Nith forms a natural boundary to the east with Galloway Street to the south,

Castle Douglas Road to the west and the A75 to the north as they are all busy main roads and thus form natural boundaries of the neighbourhood.

52. **Adequacy of Existing Pharmaceutical Services**

- 52.1 Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of existing pharmaceutical services in the neighbourhood and whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.
- 52.3 The Committee considered the population information provided by Health Intelligence and further noted the points made by several of the interested parties in respect of the actual population of the Applicant's proposed neighbourhood. They also noted the wider Dumfries town and Nithsdale population.
- 52.4 The Committee agreed that the population of the neighbourhood would be between 3,000 and 4,000 people and that there were no immediate or foreseeable increases to this figure.
- 52.5 The prescribing and dispensing information provided in the PPC papers were noted by the Committee. It was noted that many factors other than prescription volume would determine a pharmacy workload and it was difficult to draw any conclusions from prescription numbers in isolation.
- 52.6 The Committee discussed the issues of deprivation and ageing population submitted as evidence by the Applicant and noted that if the viability of Northern Chemist was in jeopardy then it would have the biggest impact in the neighbourhood as it served the area with the highest deprivation.
- 52.7 The Committee noted the survey submitted as additional evidence by the Applicant, which had been conducted by Charlotte Street Medical Practice and felt that this was not substantial and that most of the comments related more to convenience and desirability.
- 52.8 The Committee noted that the interested parties and all stated that there were no complaints about the provision of existing pharmaceutical services and there was no information on any complaints contained within the PPC papers. The Applicant had also not provided any robust argument or evidence of any inadequacies in the current service provision.
- 52.9 The Committee noted that in response to questioning regarding what was inadequate with the current service the Applicant had replied that she was unable to provide specific details other than anecdotal evidence supplied by the survey conducted by Charlotte Medical Practice.
- 52.10 The Committee noted that there was one pharmacy (Murray Chemist) within the neighbourhood, providing all core services and located 0.4 of a mile away from the proposed premises. In addition a further four pharmacies (Boots, Lloyds, Northern and Blounts) were situated on the periphery of the neighbourhood. Northern were located 0.6 of a mile from the proposed premises and all were providing core services into the neighbourhood.
- 52.11 The Committee noted that the Applicant, in response to questioning about what additional services she would bring to the neighbourhood, replied independent

prescribing. There was no mention of anything above those services that were currently being provided by the existing contractors.

52.12 The Committee noted that the Applicant and interested parties had all indicated their provision of a collection and delivery service for patients.

52.13 The Committee noted the public consultation process and issues raised regarding prescriptions but again no robust evidence had been provided to demonstrate an inadequacy of service provision.

52.14 The Committee noted that both Murrays and Northern Chemist being the two closest pharmacies to the proposed premises were busy local community pharmacies and had been assured by both owners that they were not working at capacity and in addition they had the capacity to expand.

52.15 The Committee noted that there had been a lot of debate about bus routes and public transport, whilst they did not agree with Mr Tait's statement of 10 buses per hour they did accept there was a regular bus service which provided suitable access to services.

52.16 In addition the Committee noted that it was unusual for pharmacies to have dedicated car parking facilities but that both Murrays and Northern Chemist did have adequate car parking available. It was noted however that a disabled car space was not available outside Murrays but that could be easily rectified.

52.17 The Committee took the view that there was not sufficient evidence to demonstrate that the current provision of pharmacy services was inadequate and, as such, it was not necessary to proceed to a discussion of necessity or desirability to secure adequate provision of pharmaceutical services in the neighbourhood.

53. **DECISION**

53.1 The non-voting members of the Committee were asked to withdraw from the hearing and the vote was taken.

53.2 Taking into account all of the information available, and for reasons set out above, it was the view of the voting members of the Committee, by a majority vote, that the provision of pharmaceutical services in the neighbourhood were adequate. Therefore the application by Mrs Jennifer Weir Ahmed of Holm Pharm Ltd was refused.

53.3 The non-voting members were invited to return to the meeting and the decision was communicated to them.

54. **REPORT**

54.1 The Chair confirmed the regulatory timetable for notification of the decision requires a report to the Board within 10 working days. The Applicant and interested parties would be notified within a further 5 working days. The Applicant would also be notified of a right to appeal within 21 working days of the notification.

54.2 The Chair thanked the Committee Members for their attendance and the hearing was concluded.

MRS LESLEY GARBUTT
Chair
Pharmacy Practices Committee

15 October 2013