

**Minutes of the meeting of the Pharmacy Practices Committee (PPC) held on
Wednesday, 1 February 2023 at 09:30 in the Centrestage, 15 Elmbank Drive,
Kilmarnock, KA1 3AE**

The composition of the PPC at this hearing was:

Chair: Ms Jean Ford, Vice Chair & Non-Executive Member of NHS
Ayrshire & Arran

Present: Lay Members Appointed by NHS Ayrshire & Arran

Ms Margaret Clark
Canon Matt McManus

Pharmacist Nominated by the Area Pharmaceutical Professional
Committee (included in Pharmaceutical List)

Ms Janice Gallagher (non-voting)

Pharmacist Nominated by Area Pharmaceutical Professional
Committee (not included in any Pharmaceutical List)

Ms Kirstie Church (non-voting)

Observer: Ms Elaine Coull, Central Legal Office

Secretariat: Ms Anne Ferguson, Committee Secretary, National Services
Scotland (not in attendance)

Recording: Zisys Events Ltd

1. APPLICATION BY MR MOHAMMED AMEEN

1.1. There was submitted an application and supporting documents from Mr Mohammed Ameen received on 31 December 2019 for inclusion in the pharmaceutical list of a new pharmacy at 20/4 Auchencar Drive, Kilmarnock, KA3 1QD (also known as OB Auchencar Drive).

1.2. Submission of Interested Parties

1.2.1. The following documents were received:

- i. Email dated 26 February 2020 from Mr John Connolly of Deans Pharmacy Group
- ii. Letter dated 27 February 2020 from Mrs Joanne Watson of Boots UK Ltd
- iii. Letter dated 23 March 2020 from Mr Matthew Cox of Lloyds Pharmacy
- iv. Letter dated 24 March 2020 from Mr Martin Green of M&D Green Group
- v. Email dated 26 March 2020 from Gavin McLaren of Central Pharmacies (UK) Ltd (Kilmaurs Pharmacy)
- vi. Email dated 26 March 2020 from Ms Elizabeth J Templeton of E J Templeton Ltd
- vii. Letter dated 27 March 2020 from Mr Sam Falconer/Mr Kerr Maconochie, Co-Chairs, Area Pharmaceutical Professional Committee
- viii. Letter from Mr Fraser Frame of Wm Morrison Supermarkets plc

1.3. **Correspondence from the wider consultation process undertaken**

- 1.3.1.
 - i) Consultation Analysis Report (CAR)
 - ii) Joint Public Consultation Document and completed questionnaires
 - iii) Joint Public Consultation Advert
 - iv) Letter of support from Carol Mochan MSP (South Scotland) dated 6 April 2022

2. **Procedure**

- 2.1. At 0920 hours on 1 February 2023, the Pharmacy Practices Committee (“the Committee”) convened to hear the application by Mr Mohammed Ameen on behalf of Kilmarnock Pharmacy (“the Applicant”). The hearing was convened under Paragraph 2 of Schedule 3 of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, (S.S.I. 2009 No.183) (“the Regulations”). In terms of paragraph 2(2) of Schedule 4 of the Regulations, the Committee, exercising the function on behalf of the Board, shall “determine any application in such manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the Committee was whether “the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List”.
- 2.2. The Chair welcomed all to the meeting and panel introductions were made. When asked by the Chair, members confirmed that the hearing papers had been received and considered. When committee members were asked by the Chair in turn to declare any interest in the application, no interests were declared.
- 2.3. Members of the Committee had undertaken individual site visits to Kilmarnock and the surrounding area. During which the location of the premises, pharmacies, general medical practices and other amenities in the area such as, but not limited to schools, sports facilities, community centres, supermarkets, post office, banks and churches had been noted.

- 2.4. The Chair advised that the hearing was being recorded and would be sent to NSS Committee Secretary, Ms Ferguson, to produce the meeting minute. Ms Ferguson was independent from the Health Board.
- 2.5. The Chair outlined the procedure for the hearing. All Members confirmed an understanding of these procedures.
- 2.6. Having ascertained that all Members understood the procedures, that there were no conflicts of interest or questions from Committee members the Chair confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers circulated. The Applicant and Interested Parties were invited to enter the hearing.

The open session convened at 09:30 hours

3. Attendance of Parties

- 3.1. The Chair welcomed all parties and introductions were made. The Applicant was Mr Mohammed Ameen. From the Interested Parties eligible to attend the hearing, the following accepted the invitation:
 - Mr Scott Jamieson representing Boots UK Ltd, accompanied by Ms Elaine Sharp
 - Mr Muhammad Mahmood representing Central Pharmacies (UK) (Kilmaurs Pharmacy) accompanied by Mr Gavin McLaren
 - Mr John Connolly representing Deans Healthcare Ltd (Deans Pharmacy)
 - Ms Elizabeth Templeton representing E J Templeton Ltd (Templeton Pharmacy)
 - Mr Tom Arnott representing Lloyds Pharmacy
 - Mr Martin Green representing M & D Green Dispensing Chemists (Bellfield Pharmacy) accompanied by Mrs Louise Carson
 - Mr Fraser Frame representing Morrisons Pharmacy
- 3.2. The Board received advanced notification that the Area Pharmaceutical Professional Committee would not attend the hearing.
- 3.3. As only one representative from each Interested Party was allowed to engage with the Committee, the Chair confirmed the spokesperson where more than one representative was present. It was also clarified that none of the representatives in attendance were appearing as a counsel, solicitor or paid advocate.
- 3.4. Following confirmation by the Chair that there were no objections to the attendance of a Central Legal Office (CLO) representative at this hearing in an observation capacity, Ms Coull joined the meeting. This representative would not participate in the Hearing and would leave with all Interested Parties prior to the closed session.

- 3.5. The Chair advised all present that the meeting was convened to determine the application submitted by Mr Mohammed Ameen in respect of a proposed new pharmacy at 20/4 Auchencar Drive, Kilmarnock, KA3 1QD (also known as OB Auchencar Drive). The Chair confirmed to all parties present that the decision of the Committee would be based entirely on the evidence submitted in writing as part of the application and consultation process, and the verbal evidence presented at the hearing itself, and according to the statutory test as set out in Regulations 5(10) of the 2009 regulations, as amended, which the Chair read out in part:
- 3.6. “5(10) an application shall be ... granted by the Board, ... only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located...”
- 3.7. The three components of the statutory test were emphasised. It was explained that the Committee, in making its decision, would consider these in reverse order, i.e. determine the neighbourhood first and then decide if the existing pharmaceutical services within and into that neighbourhood were adequate. Only if the Committee decided that existing services were inadequate would the Committee go on to consider whether the services to be provided by the Applicant were necessary or desirable in order to secure adequate services. That approach was accepted by all present.
- 3.8. The Chair outlined the procedure for the hearing. The Chair asked all parties for confirmation that these procedures had been understood. Having ascertained that all parties understood the procedures the Chair confirmed that the Oral Hearing would be conducted in accordance with the Procedure at Hearings document contained within the papers circulated.
- 3.9. The Chair confirmed that members of the Committee had individually conducted a site visit to understand better the issues arising from this application. Assurance was given that no member of the Committee had any interest in the application.
- 3.10. The Chair asked for confirmation that all parties fully understood the procedures to be operated during the hearing as explained, had no questions or queries about those procedures and were content to proceed. All confirmed agreement.

4. Applicant Submission

- 4.1. The Chair invited Mr Ameen, to speak first in support of the application.
- 4.2. Mr Ameen read aloud the following pre-prepared statement making alterations as necessary:
- 4.3. “Good Morning Ladies and Gentlemen. My name is Mohammed Ameen, the Applicant.

- 4.4. I've been a community pharmacist for more than 15 years, and since the 2016 application I've been operating a Pharmacy in Springside, this is a village just outside of Kilmarnock. I made this new pharmacy application because I understood this neighbourhood was deprived and access to the existing health services was difficult (be it by foot, car or bus). Now I'm proud to say that my team and I have been addressing the health inequalities here, so much so that we have actually lifted the ranks of the community from the 5% most deprived to the 10% most deprived (SIMD figures). This is in a timespan of less than 5 years.
- 4.5. So, I thank the Pharmacy Practice Committee (PPC) and Health Board for giving Springside residents and myself the opportunity to change health outcomes for the better.
- 4.6. Interestingly, my experience of Springside draws similar parallels to the Kilmarnock Pharmacy proposal. In that there is:
- Significant Deprivation, and;
 - Prohibitive access
- 4.7. However, these factors are far more prevalent and worse compared to Springside and this is affecting many thousands more people. It is for this reason we need to direct our attention here and extend the existing provision within this neighbourhood.
- 4.8. I believe that the Health Board have been aware of the issues within this neighbourhood. The grant of the 2007 pharmacy application contract within this settlement, which unfortunately was overturned, understood these very issues that there was:
- Significant deprivation
 - Wasn't any local access
 - and an impending population boom that was about to take place
- 4.9. Today I will prove that over the past decade, since that application, deprivation and access to services has been worsening, and that there is a population boom that's now in full effect. These three factors call for the need for a new pharmacy - immediately.
- 4.10. **Targeting Services to Areas of Greatest Need**
- 4.11. In the same year the pharmacy application was refused, the Health Board in a unique partnership with East Ayrshire set up a purpose built NHS facility called the North West Kilmarnock Centre where people could access a GP, dentist, and a host of health and social services. The Health Board did this as they were acutely aware of the severe levels of deprivation and the need to bring in local healthcare services. But for the Board to provide Pharmaceutical Services it requires an Applicant and has a separate process, very much like this one. The process of providing a new pharmacy is more challenging than other community based healthcare services.

4.12. Had the pharmacy contract in 2007 gone ahead, the residents of this neighbourhood would have had access to a full suite of healthcare services. But they are missing the most important one, a first port of call service, a community pharmacy that is easy to access. I'm hopeful that we can change that today.

4.13. **Neighbourhood**

4.14. Let's take a look at the neighbourhood and its boundaries. These two diagrams show the two community councils that actually cover the entire neighbourhood. If you bring the two red boundaries together they neatly fit the proposed neighbourhood boundaries. It is a very large neighbourhood and covers seven settlements. The National Appeal Panel (NAP) and previous PPCs have agreed that the proposed boundaries are the rough parameters of each section of the neighbourhood - North, West, South and East. For the purposes of this application I am going to adhere to those same boundaries.

4.15. It is a large neighbourhood and according to the 2020 statistics the population is in excess of 15,000. There is a large datazone to the West of the neighbourhood which has a population of over 2,000 people. The people in this datazone don't actually have access to any services or amenities they are coming in to use the services and amenities of this larger neighbourhood.

4.16. For the purposes of this specific application I am going to focus on the two settlements called Altonhill & Onthank because they use each other's services and happen to be the most deprived in the neighbourhood.

4.17. The population of Altonhill & Onthank is 6,273 people. A sizeable number that doesn't have access to a local pharmacy.

4.18. **Services**

4.19. So, what sort of services does it have? Within Altonhill & Onthank there is a host of services GP surgery, a dentist, a care home, a number of educational establishments, grocery stores, fast food outlets and a lot of social activities.

4.20. All in all. This is a self-sustaining settlement.

4.21. **Distribution of Pharmacies**

4.22. This is an aerial map showing the distribution of pharmacies where the red placeholders are the location of the existing pharmacies. You can see the highest concentration of pharmacies is in the town centre, where these pharmacies were set up prior to the NHS Pharmacy Contract.

4.23. Pharmacy distribution has now changed. It's no longer in town centres on high streets. Rather Health Boards actively focus on delivering services by being in the heart of local communities and targeting areas of greatest need.

- 4.24. And we see that here with the two new pharmacy contracts, Bellfield in the South and Deans to the East, they are in the heart of their sizable communities, targeting the need.
- 4.25. When we move to the North of Kilmarnock, the situation is quite different. You have Lloyds Pharmacy in the most northern part and EJ Templeton Pharmacy to the most southern part. Again, serving their own sizeable communities, but there is a clear caveat for Altonhill & Onthank with no pharmacy.
- 4.26. At this point Mr Green interrupted to question the mention of a second neighbourhood. The neighbourhood which was detailed by the Applicant earlier was not the one defined by the red delineation. Mr Jamieson also pointed out that a different neighbourhood had been listed in the Hearing documentation. Mr Green suggested that perhaps there was an issue with terminology and that Mr Ameen meant something else other than neighbourhood when referring to the areas of Altonhill and Onthank. Mr Ameen said that no pharmacy could provide a service to 15,000 people but each one had a sphere of influence. Most pharmacies catered to between 4,000-8,000 people. In fact, the Pharmaceutical Care Services Plan talked about an average number of people that a pharmacy served which was usually about 4,000 people. Again, for the purposes of this application the focus was on the two settlements that had a population of around 6,000 people. The Chair sought clarification of the neighbourhood and asked Mr Ameen to define the neighbourhood for the proposed pharmacy. Mr Ameen said that the neighbourhood was as cited in the application. The purpose of the red delineation was to show the location of Altonhill and Onthank. For clarification purposes, Mr Arnott asked whether 15,000 people could have responded to the CAR. Mr Ameen was willing to answer this question but suggested doing so after the presentation. The Chair stressed the importance of clarifying the neighbourhood situation because it was preventing the Hearing moving forward. Advice from CLO may need to be sought. The Chair said the over-riding question was whether the neighbourhood defined for the purposes of the public consultation was the wider neighbourhood described at the beginning of this presentation and that within that neighbourhood there was a smaller area with more deprivation that for presentation purposes the Applicant wanted to talk about specifically. Mr Ameen confirmed that this interpretation was correct explaining that most pharmacies had a sphere of influence. Within Kilmarnock, pharmacies catered to between five and ten thousand people. When asked by the Chair, the CLO representative present confirmed that the Hearing could proceed from a legal perspective. The Applicant was invited to continue with the presentation. Mr Ameen apologised to the Committee if the neighbourhood had been misconstrued. With hindsight Mr Ameen stated that a circle to indicate the sphere of influence of Kilmarnock Pharmacy would have had a better impact than showing the boundaries of Altonhill and Onthank.
- 4.27. **Deprivation**
- 4.28. So, let's talk about the deprivation. SIMD is the Scottish Index of Multiple Deprivation and is a tool used by the Scottish Government and NHS Scotland to determine where services and resources should be deployed. Specifically, they talk about the 15% most deprived so if you have a community that is in the 15%

most deprived you need to start offering services in the heart of that deprivation, in the area of greatest need. Health Boards use it to analyse health needs as well.

- 4.29. Our neighbourhood covers 21 datazones - it is a very large area. Eight of those datazones are in the 15% most health deprived.
- 4.30. This [map] is a visual representation of the health SIMD for 2020. You can see quite clearly that Kilmarnock is very deprived. However, the highest and most concentrated levels of deprivation are specifically in Altonhill and Onthank. The red dot is where the proposed pharmacy is located.
- 4.31. Continuing on our theme of health SIMD 2020 this is a list of all 21 datazones that cover the neighbourhood. The health rank goes from one to approximately 7,000 so the lower the number the more deprived the area. The higher the number the healthier it is. Looking at the first datazone Altonhill South, Longpark and Hillhead the health rank is 127. This means that there are 126 other areas across Scotland with a poorer health outcome. It puts into context the level of deprivation we have here.
- 4.32. If you look at health vigintile this is another way to measure health SIMD. It is an easier method of understanding the rank because it goes from one to 20. One being the poorest of health and 20 being the best of health. The first datazone sits in the poorest of health ranks.
- 4.33. Even although this says Altonhill South, Longpark and Hillhead this actual rank only applies to Altonhill. I will show you this in a more detailed format so this red square here is only for Altonhill, this rank 127. Even although it also says Longpark and Hillhead this deprivation rank is not really extending to these two areas but specifically focussed on Altonhill. This is precisely where the proposed pharmacy is actually situated.
- 4.34. The information sent to us had SIMD data. I was happy to see that because it shows us the level of deprivation that there actually is but it talks about intermediate datazones. This actually misrepresents and misconstrues the deprivation because it talks about Longhead and Hillpark having these extensive levels of deprivation but in reality they are only reflecting that of Altonhill.
- 4.35. Earlier I said about the eight datazones in the 15% most deprived and you can see quite clearly here Altonhill South, Altonhill North and Onthank are in the most severe classification levels.
- 4.36. It doesn't really stop there because there are 5 datazones that are in the 5% most deprived. So, the people living in this community can't be classified as having any poorer form of health. This is showing us the extreme levels of deprivation this community is experiencing and the need to have local pharmacy services.
- 4.37. So, what's been happening over a period of time? This time we are comparing datazones from 2016 to 2020, what we find is that the health rank has worsened by 7.4%. My question to you all is what's going to happen to this population's

health over the next 5-10 years if we don't extend pharmaceutical provision and bring in a local pharmacy.

4.38. We have looked at health in detail. Let's now look at access to services, the SIMD that looks at how easy it is to get to and access services. Again, we are looking at all the datazones and comparing 2016 to 2020. If you average each year we find it has gone from 7 to 5.4 and the red datazones have been worsening in access to services, which is predominantly Altonhill North, Altonhill South and Onthank. It has actually worsened by 22.9%. So again what are we going to do if we don't extend the healthcare provision to this community.

4.39. **Ante-natal Smoking**

4.40. Let's look at ante-natal smoking as it provides an indication to the level of smoking within the area and how the core pharmaceutical service of Smoking Cessation can help people. Smoking is the single biggest contributing factor to ill health and early death. The stop smoking service has been a very successful national programme offered from community pharmacies.

4.41. I believe that this service is difficult to offer to this population because access is prohibitive. For this service to work a patient has to make a commitment to attend a pharmacy every week, for 12 weeks, and that's a difficult thing to do because walking, using a car or taking public transport is challenging for most people because they have to move out of the settlement.

4.42. **Access Issues**

4.43. Let's take a look at this in a bit more detail:

4.44. WALK

4.45. Walking to the most northern and southern parts of the neighbourhood to access the two existing pharmacies is difficult as they are not central for 6,300 people. The pharmacies are not in the heart of the greatest need, that's why people are put off by walking and they're not proactive about seeking health care. So, this mode of transport is ruled out.

4.46. CAR

4.47. This settlement is one of the most deprived areas in Scotland, if you visit the area you can clearly see that residents don't have access to a car. This mode of transport is also ruled out.

4.48. BUS

4.49. We know that deprived populations have the highest unemployment rates, and that the cost of public travel can be prohibitive. Paying £3.20-£4.20 for a return bus fare to access a pharmacy is off putting. Because of its extreme deprivation, the higher cost of living seen recently is going to further marginalise this settlement -.

- 4.50. You could argue that despite these transport challenges people will go into Kilmarnock town centre to do their weekly shop where they may access existing pharmacies. Firstly, this population lives on a day to day basis and they don't do a weekly shop. Let's say they do a weekly shop, we are asking thousands of people to delay care and access a pharmacy on a weekly basis (access needs to be instantaneous, if it's not then health worsens). Pharmacy provision is also supposed to be a first port of call service and easy access - this is not the case for this population.
- 4.51. So, you can see that all three modes of transport are very difficult for the majority of the population to access a pharmacy service.
- 4.52. **Housing**
- 4.53. This is the 2015 Kilmarnock Housing Plan, where the new housing is marked in peach. There is a lot of new housing activity predominantly in the North and West of Kilmarnock, much of it has taken place within the neighbourhood. You might think there is some housing activity in the South but in actual fact these housing plots haven't had any housing activity. The main population growth in Kilmarnock as a town is predominantly within this neighbourhood.
- 4.54. This is the 2022 Kilmarnock Housing Plan. The area in green is an application that has been approved for 471 homes with 131 of those homes currently under construction. The second phase of this development is due to start in March 2023. The large section allocated in red has been allocated for a staggering 800 homes. Thousands of people are actually moving into the area [Altonhill and Onthank]. The area in blue is only one of two areas proposed for future growth. This is showing us that most of this growth is taking place within this neighbourhood.
- 4.55. **Population**
- 4.56. When you get more houses you get more population. When you look at the population from 2007 when the initial pharmacy grant took place, we see that the neighbourhood had a population of 12,890. This has now increased by 2,238 in 2020, giving a rise in population of more than 17%. As there has been house building taking place since 2020, the population increase of 2,238 is a conservative estimate.
- 4.57. **Viability**
- 4.58. It's important to talk about viability not only of Kilmarnock Pharmacy but of the existing pharmacies as well. We know that pharmacy applications have been granted to populations of 1,200 residents. The population of Altonhill & Onthank is 6,300, so in terms of a population perspective, the viability of Kilmarnock Pharmacy is guaranteed.
- 4.59. The existing Pharmacies will continue to be viable. From the Ayrshire & Arran Care Services plan, the average pharmacy population is approximately 3,700.

- 4.60. Our population within the neighbourhood is in excess of 17,000 people. The two closest pharmacies Templeton & Lloyds are catering to more than double the average with 8,572.
- 4.61. If you look at the whole of Kilmarnock the population is in excess of 47,000 and there are 11 pharmacies catering to 4,276 people on average which is far higher than the 3700 average stipulated within the NHS Ayrshire & Arran Pharmaceutical Care Services Plan. In the event of granting of the Kilmarnock Pharmacy proposal this would bring this average to 3,920 which is closer to the standard but still higher than pharmacies across NHS Ayrshire & Arran.
- 4.62. In terms of viability this shows that both the new and existing pharmacies will continue to remain viable.
- 4.63. **APPC Comments**
- 4.64. I think it is important to touch upon the comments the APPC made about the proposed premises and the concerns around it. A slide displayed the Kilmarnock Pharmacy floorplan and a list of eight pharmacies of similar size. Three of which given new contracts were smaller. Fenwick Pharmacy for example was granted by this very Health Board. If these pharmacies are offering adequate services then I see no reason why Kilmarnock Pharmacy can't offer adequate services as well.
- 4.65. **Complaints**
- 4.66. These are pharmacy complaints which are a good indication of the level of service provision at a ground level. Looking at the information for two of the closest pharmacies, in recent years unfortunately EJ Templeton has consistently received a high number of complaints. The 2022 figure is only for three quarters of the year and this is the highest number I have ever seen [23 complaints]. My question is whether this particular pharmacy is offering an adequate level of service to an already worsening area in terms of accessing services and health.
- 4.67. **Summary**
- 4.68. So, ladies and gentlemen I'm going to summarise. We have come to learn that Altonhill & Onthank experiences the most significant and prevalent levels of poor health and deprivation in Kilmarnock, and that it sits in the 5% most deprived category. Not only this, the health has worsened by 7.4% and access to services has worsened by 22.9%. This settlement experiences one of the most prevalent smoking rates as well.
- 4.69. We also got a better understanding of why access to the existing pharmacies is difficult. People in this settlement do not have access to cars, they are put off by walking long distances to existing pharmacies that are not central to them, and the cost of bus fares is prohibitive. This is now more than ever in an age of higher cost of living.

- 4.70. The housing boom is compounding all of this. Since the 2007 pharmacy grant, there's been a population increase of 17% in this neighbourhood with new housing currently taking place.
- 4.71. The situation is critical and something needs to be done about this now. What we need is to extend the pharmaceutical provision in line with this very Health Board's aims of offering local pharmacies in the heart of communities, and in the areas of greatest need. This is that very area.
- 4.72. I would like the PPC to give me the opportunity, just as you did with Springside, to allow me to provide Altonhill & Onthank residents the right care at the right time and reverse these health inequalities. In less than 5 years we've lifted Springside from its lowest [health] ranks. I have seen the benefits of having local populations begin to engage with local services and become more empowered. I would be proud to be given an opportunity to do the same with Kilmarnock Pharmacy, and finally give these residents much better health outcomes.
- 4.73. This concluded the presentation from Mr Ameen. The Chair sought clarification as to whether this was the entirety of the information that the Applicant wished to present to the Committee and was comfortable that the earlier intervention did not impact the presentation. Mr Ameen stated that all information had been imparted and the presentation had not been impacted. Mr Ameen reiterated that the neighbourhood on the slides was the same as that included in the application.

5. The Chair invited questions from the Interested Parties to the Applicant

5.1. Questions from Mr Jamieson (Boots UK Ltd) to Mr Ameen

- 5.1.1. Mr Jamieson referred to the demographics provided in the presentation and asked whether these referred to the neighbourhood as defined in the application or a sub neighbourhood within it. Mr Ameen clarified that the SIMD data focussed on the whole neighbourhood (i.e. the 21 data zones covering the whole neighbourhood) then stratified data for the locations of Altonhill and Onthank.
- 5.1.2. Mr Jamieson enquired how many pharmacies were owned or run by Mr Ameen. Mr Ameen had three pharmacies.
- 5.1.3. Mr Jamieson asked about staffing plans for this pharmacy should the application be successful. Mr Ameen advised that there would be one full time pharmacist and two other staff members. When the application had first been submitted in 2019, Mr Ameen had intended to fulfil the role of the full time pharmacist at Kilmarnock Pharmacy but a commitment had since been received from another pharmacist to run the pharmacy.
- 5.1.4. Mr Jamieson noted the irregularity in Saturday opening hours stated in the CAR (9am-5pm) and the application (9am-1pm) and asked Mr Ameen what the actual opening hours were going to be on a Saturday. Mr Ameen apologised for this oversight. The opening hours on a Saturday would be 9am to 5pm and reflected the response to the CAR.

- 5.1.5. There was also a discrepancy in pharmaceutical services to be offered as listed in the CAR and application. Mr Jamieson asked the reason for this. Changes to additional and enhanced service requirements were responsible for the differences.
- 5.1.6. Mr Jamieson quoted the response to section 4(iv) of the application form “surrounding areas benefit from easily accessible pharmacies and GP surgeries, however, this neighbourhood lacks any of these services.” Mr Ameen was asked whether it was correct that two pharmacies were located within the neighbourhood defined by the Applicant. Mr Ameen agreed. Mr Jamieson continued by asking the Applicant if this statement was confusing. Mr Ameen explained the point of the argument was that the neighbourhood was very large and the proposed pharmacy would mainly cater to residents of Altonhill and Onthank (community population 6,300) where there was definitely no existing pharmaceutical provision.
- 5.1.7. Mr Jamieson was keen to know how many GPs worked from the Northwest Centre. Mr Ameen did not know exactly but believed GPs from either the Old Irvine Road or Portland Road Practice used it as a satellite base.

5.2. **Questions from Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy) to Mr Ameen**

- 5.2.1. Given the number of existing pharmacies in the neighbourhood, Mr Mahmood sought the opinion of Mr Ameen as to whether there was a lack of service. Certainly when it came to Altonhill and Onthank, Mr Ameen stated that it was devoid of any pharmaceutical provision. Adding that the existing pharmacies were not providing an adequate service to 6,300 residents. This was demonstrated by looking at the SIMD for access to services in 2020 which had worsened by 22.9% whilst the health SIMD rank had worsened by 7.4% in the last 5-10 years. The data and statistics spoke for themselves. Mr Mahmood sought clarification on what had worsened whether it was health or access to services. Mr Ameen noted that both had worsened and that provision to this community was poor.
- 5.2.2. Mr Mahmood was interested to know what would make Kilmarnock Pharmacy so different from the existing pharmacies. Mr Ameen stated that the obvious answer was that it was located centrally in the community of Altonhill and Onthank – areas of great need with most deprivation. This was concurrent with how Health Boards delivered healthcare services centrally in locations where there was most need.
- 5.2.3. Mr Mahmood asked whether the proposed pharmacy would then serve the Altonhill and Onthank areas rather than the whole neighbourhood as defined by the Applicant. Mr Ameen responded that Kilmarnock Pharmacy would provide services to the whole neighbourhood but predominantly focus on Altonhill and Onthank. The sphere of influence for Kilmarnock Pharmacy was the communities of Altonhill and Onthank. The average number of patients using a pharmacy was around 4,000. None of the pharmacies in Kilmarnock were catering to 15,000 to 20,000 people.

- 5.2.4. Mr Mahmood explained that the question was about the neighbourhood and what made Kilmarnock Pharmacy so different from existing pharmacies. Mr Ameen emphasised that Kilmarnock Pharmacy was in the heart of greatest need. Given the level of deprivation and health rank of 127, being nestled in the heart of this data zone was a trump factor for Kilmarnock Pharmacy.
- 5.2.5. Mr Mahmood asked whether the Applicant was aware of any complaints made to the Health Board regarding a lack of service in the defined neighbourhood. Mr Ameen referred Mr Mahmood to the earlier presentation slide about complaints made about pharmaceutical provision. Mr Mahmood pursued this matter by asking whether these complaints related to a lack of service in the neighbourhood. Mr Ameen did not have access to the details of each complaint so was unable to comment.
- 5.2.6. Mr Mahmood sought clarification of the Saturday opening hours which differed in the CAR and application documents. Mr Ameen stated that this question had already been answered.
- 5.2.7. Mr Mahmood asked if the Applicant expected all patients to use existing pharmaceutical services on a Sunday when Kilmarnock Pharmacy would be closed. Mr Ameen said that should this application be granted there would be an extended pharmaceutical provision to Altonhill and Onthank which was better than it was currently. Kilmarnock Pharmacy proposed to open more than the model hours of service. However, Mr Ameen did not know where Altonhill and Onthank residents would access pharmaceutical services on a Sunday due to mobility issues, high unemployment rates and low car ownership.
- 5.2.8. Mr Mahmood enquired about the average walk from Altonhill and Onthank to the proposed pharmacy. Mr Ameen stated that it was 1-1.2 miles or 20-25 minutes but would take longer for the elderly or infirm.
- 5.2.9. Mr Ameen was asked where the Altonhill and Onthank residents currently accessed pharmaceutical services and obtained prescriptions. As the whole community was immobile Mr Ameen did not know and was reflective of the deprivation statistics. Adding that the reason health and access to services was worsening was because there wasn't any local pharmaceutical provision.
- 5.2.10. Mr Mahmood noted that certain health conditions such as high blood pressure occurred with age so asked whether the worsening of health in this area was due to an ageing population rather than inadequate access to services. Mr Ameen reiterated that the majority of this population was immobile and devoid of an easily accessible pharmaceutical provision.
- 5.3. **Questions from Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy) to Mr Ameen**
- 5.3.1. Mr Connolly asked for an explanation of the area in which the population of 6,000 related as usually the population of the whole neighbourhood was considered. Mr Ameen said it was Altonhill and Onthank.

- 5.3.2. Mr Connolly asked whether the new builds in Tobermory Drive were classed as Altonhill. Mr Ameen would need to show Mr Connolly on a map.
- 5.3.3. Mr Connolly enquired whether Mr Ameen would agree that those living in the new builds in Tobermory Drive, John Walker Drive etc. that were included in the 6,000 population figure were relatively wealthy employed individuals with high levels of car ownership. Mr Ameen disagreed with that statement as the houses being built were 3-4 bedroom homes for working class people with families. Having driven round the area Mr Ameen stated that none of the new homes were affluent buildings but conceded that some had two cars in the driveway so those households were not immobile.
- 5.3.4. Mr Connolly asked whether there was an access road or pathway from the newly developed area into Altonhill. Mr Ameen said there was not currently an access road or path. Mr Connolly continued by asking why these residents would undertake a convoluted journey by car to Auchencar Drive via Kilmaurs Road rather than going straight along Western Road to Morrisons. Mr Ameen would need to see a map but still thought Kilmarnock Pharmacy would be closer.
- 5.3.5. Mr Connolly compared the consultation response rate for the Springside pharmacy application (275 responses from a population of 1,200 people) with that for Kilmarnock Pharmacy (199 responses from a population of 15,000). When asked whether this response rate was low, Mr Ameen stated that the levels of public engagement with consultations differed but personally thought it a good response rate given that there was no community council to disseminate the news of the public consultation for a new pharmacy. The populations from deprived areas also did not usually engage with surveys.
- 5.3.6. Mr Connolly asked whether Mr Ameen envisaged a resident of Longpark or Innellan Drive having easier and quicker access to Templeton Pharmacy in Dean Street than Kilmarnock Pharmacy. Mr Ameen would need to consult a map to answer that question but stated that if these streets were on one of the peripheries of the neighbourhood then the same opportunity needed to be given to those living on the opposite side. For example, those on the most western boundary would need to walk 30-35 minutes to access an existing pharmacy and even longer if elderly.
- 5.3.7. Given that there was free bus travel for the over 60s and under 22s as well as discounted bus travel for those on income support, Mr Connolly asked whether the bus costs quoted during the Applicant's presentation applied to these groups which probably made up the majority of the population in question. Mr Ameen expected the majority of people in this deprived area to pay the full cost of bus travel. When asked where this statistic came from Mr Ameen said it was common knowledge – the average cost of a weekly bus pass was £18-£20 and the average weekly universal credit payment was approximately £80. Most people on universal credit weren't given a free bus pass.
- 5.3.8. Clarification was sought on the scale of the drawing provided by the Applicant. Mr Ameen said the drawing was provided by a professional architect and thought the scale quoted by Mr Connolly of 1 to 50 was possible.

- 5.3.9. Mr Connolly asked about the size requirement for a disabled toilet. Mr Ameen did not know offhand. Based on a scale of 1 to 50 drawing Mr Connolly asked whether the Applicant realised that the dimensions of the disabled toilet at 1400 x 1600 mm would not pass current building control standards. Mr Ameen stated that the drawing was a proposal and was happy to look at it and amend the design to comply.
- 5.3.10. Mr Connolly asked whether the Applicant accepted that the dimensions of the disabled toilet, consultation room and spaces to move between the pharmacy needed to comply with building standards regulations and that this drawing wouldn't meet those regulations. Mr Ameen responded by assuring the Committee that the proposed pharmacy would adhere to building standards regulations.
- 5.3.11. When asked by Mr Connolly if Mr Ameen would be surprised to learn that in the opinion of an architect, one of the most experienced pharmacy designers in Scotland, that a functioning pharmacy could not be contained in this unit as it was too small to comply with building standards. Mr Ameen was surprised by this as had just listed eight other existing pharmacies of similar size. In particular, Fenwick Pharmacy which had a very similar floor plan size to the proposed pharmacy and had an application granted. Mr Connolly stated that the Committee did not possess any evidence to that effect about the other pharmacies such as a floor plans, details of when those pharmacies were designed or any information on what the building standards were at the time. Although Mr Ameen stated that this information was freely available on the assessors website, Mr Connolly refused to respond as this was a statement not a question but would address this further during Deans Pharmacy presentation.
- 5.3.12. Mr Connolly noted that the Applicant had painted a very bleak picture of Altonhill and Onthank. Having grown up in this area and gone to school there, Mr Connolly asked about all the hard-working people who lived particularly in Onthank that had good jobs in local industries, bought their own homes and had good pensions. When asked, Mr Ameen recognised that there was a proportion of people within the Onthank community which were not in the situation portrayed during the presentation, but it was definitely not large. The level of deprivation in the area was reflected in the statistics. Mr Ameen referred to a health rank of 127. However, Mr Connolly pointed out that this statistic related to a small pocket in Altonhill rather than Onthank. Mr Ameen therefore quoted the statistic from five datazones covering Onthank and Altonhill which showed it to be in the 15% most deprived. This related to a significant population given that the population of each datazone covered 500-800 people. A significant proportion of the population was therefore deprived, had poor health indicators and poor access to services.
- 5.3.13. Mr Connolly asked whether the Applicant agreed with the statistics provided by the Health Board on pharmacy access i.e. maximum travel time to a GP by public transport - Southcraig & Beansburn (affluent area) 15.2, Altonhill North & Onthank 11.9, Altonhill South, Longpark and Hillhead 15.4. Mr Connolly also asked whether this access was better or worse than East Ayrshire Health & Social Care Partnership area. Mr Ameen did not think information from

intermediate datazones should be considered as the worst deprivation statistic within a cluster of datazones impacted the others. As a result, the statistic for Altonhill South, Longpark and Hillhead actually only related to a small pocket within Altonhill. So, looking at the overall area, Mr Connolly went on to ask whether a datazone of 15.4 was better or worse than the East Ayrshire average of 26.6. Mr Ameen reiterated the point that intermediate datazones were misconstruing and diluting the local levels of deprivation within an area. It was for this reason that the Applicant had listed each datazone within the neighbourhood, its corresponding health rank and access to services to determine the true picture of deprivation.

5.3.14. Mr Connolly referred to the statement made during the presentation that the Applicant had lifted the level of deprivation in Springside, wondered how this had been achieved and whether there was any evidence to back up this claim. Mr Ameen had not done this alone and apologised if this had been the impression. The success was attributed to the pharmacy team and had been dependent on patient interaction with the pharmacy service so was a two-way process which took time. Mr Ameen acknowledged that the NHS and wider Healthcare network had also played a part in eradicating the historical healthcare issues in Springside. When pushed for evidence that the pharmacy was directly responsible for the improvement, Mr Ameen was unable to answer.

5.4. **Questions from Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy) for Mr Ameen**

5.4.1. For the purposes of the legal test and a determination on adequacy of services, Mr Green began by requesting clarification of the neighbourhood upon which the decision was to be based. Mr Ameen confirmed that the neighbourhood as detailed in the application was to be used which had a population of approximately 15,000 people.

5.4.2. Mr Green asked the Applicant to display the slide showing the neighbourhood in which Altonhill and Onthank had been delineated and previously caused much confusion. Mr Ameen was asked to point out the centre of the neighbourhood to which Mr Ameen replied it was approximately the location of the proposed pharmacy.

5.4.3. Mr Green noted that the population estimated for Altonhill and Onthank was around 6,500 and that the total population of the neighbourhood was 15,000. Mr Ameen had stated during the presentation that for the Altonhill and Onthank communities the pharmaceutical service was inadequate. Mr Green checked whether the Applicant was saying that pharmacy provision for the remainder of the neighbourhood population (approximately 8,500) was adequate. On the third attempt at seeking an answer to this question by Mr Green, the following response was provided: Mr Ameen did not know about that because it was really about the pharmaceutical provision to this large section of the neighbourhood which was not receiving an adequate provision from the two existing pharmacies. This was a significant proportion of the neighbourhood.

5.4.4. Given its importance, Mr Green pursued this line of questioning and wanted to know the element of inadequacy in pharmaceutical services to the population of

approximately 8,500 people out-with the Altonhill and Onthank areas. Mr Ameen said it was the inability to challenge the worsening health outcomes and the worsening access to services. Mr Green said there were two pharmacies in those parts of the neighbourhood. Mr Green recognised that progress was not being made so ceased this line of questioning.

- 5.4.5. Mr Green referred to Kilmaurs Road which dissected the area of Altonhill and Onthank. When asked, Mr Ameen did not know whether Kilmarnock Pharmacy was visible from Kilmaurs Road.
- 5.4.6. Mr Green went on to ask whether Altonhill Tandoori was visible from Kilmaurs Road. Mr Ameen did not think it was.
- 5.4.7. Mr Green asked why people would visit Altonhill if not resident in that area. Mr Ameen said in Altonhill, there was a community centre, fast food outlet and a convenience store. Should this application be granted, Mr Ameen said people would come into the area to engage with the pharmacy because it was centrally located.
- 5.4.8. Reference was made to an earlier statement made by Mr Ameen that “most pharmacies looked after a population of between four and eight thousand people”. Mr Ameen said this was a general rule of thumb and obtained from experience looking at care plans across various health boards and from being a community pharmacist. The NHS Ayrshire & Arran Care Plan stated 3,700 people.
- 5.4.9. Mr Green said that the Applicant had mentioned that each pharmacy within Kilmarnock provided services to around 4,276 people so questioned whether this was at the lower end of the general rule of thumb. Mr Ameen said that general rule of thumb applied to the whole country. With the granting of the Kilmarnock Pharmacy proposal it was still way above the average of the 3,700 patients per pharmacy stipulated in the NHS Ayrshire & Arran Care Services Plan. Mr Green had calculated that it was actually 15% higher and asked whether this could be classed as far higher. Mr Ameen said that in terms of viability, the important point was that it was higher than the average.
- 5.4.10. Mr Green asked which GP surgery operated out of Kilmarnock Northwest Centre. Mr Ameen had answered that question previously but reminded Mr Green that one of the practices in central Kilmarnock used it as a satellite location. The practice in question was either Old Portland Road or Irvine Medical Practice. Mr Green had telephoned to find out how many GPs operated out of this facility and had been told there were no GPs only nurses so asked Mr Ameen what had happened. Mr Ameen did not know as this information differed from that shown on the Kilmarnock Northwest Centre website which listed one resident GP at the centre.
- 5.4.11. Mr Green referred to the 1.3% response rate to the consultation and asked whether this demonstrated that residents were not motivated or enthused about the prospect of a new pharmacy opening. Mr Ameen said this reflected the level

of deprivation in the community stating that deprived populations did not engage with services. It did not reflect the need which was demonstrated by the statistics.

5.4.12. Finally, Mr Green asked whether the Applicant owned the premises. Mr Ameen had a lease in place.

5.5. Questions from Mr Arnott (Lloyds Pharmacy) to Mr Ameen

5.5.1. Mr Arnott enquired which core services were not provided by current contractors. Mr Ameen did not consider that any of the core services were provided to the population of Altonhill and Onthank. Given this response Mr Arnott rephrased the question and asked whether any of the pharmacies within Kilmarnock were not offering core services. Mr Ameen replied that in general terms the pharmacies were offering core services.

5.5.2. Mr Arnott asked what extra hours Kilmarnock Pharmacy was to offer that were over and above those provided by current contractors. Mr Ameen stated that Kilmarnock Pharmacy was providing above average in terms of model hours and when pressed said that it would be doing more hours than Templeton Pharmacy. As a result of this response Mr Arnott asked whether Kilmarnock Pharmacy was to open more hours than Morrisons. Mr Ameen did not answer this question stating that an answer to the original question was being provided reiterating that Kilmarnock Pharmacy would be open longer than Templeton Pharmacy. Mr Arnott asked whether Mr Ameen accepted that Kilmarnock Pharmacy was not providing any extra hours over and above those already offered by the twelve existing pharmacies. Mr Ameen responded that the proposed pharmacy was most certainly open longer than Templeton Pharmacy which was the closest. Given these responses Mr Arnott did not pursue this line of questioning. At this point the Chair interjected clarifying that the question being asked was collectively if the opening hours of the all the existing pharmacies in Kilmarnock were taken into account was Kilmarnock Pharmacy providing anything extra. Mr Ameen said the answer was no.

5.5.3. Mr Arnott referred to question four of the CAR in relation to opening hours and asked whether Mr Ameen agreed that most of the comments were actually negative. All 63 comments were displayed by Mr Arnott on a slide with the negative ones highlighted. The proceedings were delayed whilst Mr Ameen consulted the hearing papers. Mr Arnott addressed the Chair stating that the slide demonstrated that there were more negative than positive comments but would leave that to the Panel to conclude to save time.

5.5.4. Mr Arnott asked what proportion of the Altonhill community (approximately 1,500 people) was aged over 65 years. Mr Ameen did not have the precise population statistics available to answer that question. Mr Arnott asked whether Mr Ameen would be surprised to know that it was only 11% which was well below the Scottish average of 18%. Mr Ameen did not comment.

5.5.5. Mr Arnott referred to the deprivation of the pocket around the pharmacy with SIMD codes of 3, 5 & 6 and whether the Applicant would be surprised that the largest datazone 5 was actually ranked 3,395 for health (not even in the bottom

40%). Mr Arnott sought clarification that the pocket of deprivation being referred to by the Applicant was 06 with a population of 577 so asked whether Mr Ameen agreed that it was a very small pocket of deprivation. Mr Ameen said absolutely not. The average population of that datazone is approximately 500-700 people the most concentrated datazones that were deprived were all sitting within Altonhill and were in five or six data zones so there are not just 500 people being referred to as deprived by the Applicant but several thousand people. Mr Arnott could only go on the SIMD figures. Mr Ameen was looking at those same figures.

- 5.5.6. During the Applicant's presentation reference was made to two community councils but in answer to a previous Interested Party question it was stated that the area had no community council. Clarification was therefore sought by Mr Arnott. Mr Ameen said that there had been two community councils covering the neighbourhood but both had been disbanded.
- 5.5.7. Mr Arnott referred to the definition of a village given during the Applicant's presentation and asked whether Altonhill was a village. Mr Ameen stated that Altonhill was not a village but a settlement.
- 5.5.8. Mr Arnott had visited the proposed pharmacy premises three times now and asked whether the Applicant would visit Kilmarnock Pharmacy on a dark night. Mr Ameen did not understand the question. Mr Arnott had felt unsafe in the neighbourhood and noted the run-down convenience store next to the proposed pharmacy location. Mr Arnott asked whether a resident of Knockinlaw Road would walk to Kilmarnock Pharmacy on a dark night as Mr Arnott certainly wouldn't. Mr Ameen thought this comment unfair as the people that would use the community pharmacy were those that lived in it. Mr Arnott did not think these safety fears would be uncommon. When asked, Mr Ameen said the premises would be secure and did not consider it to be isolated. Adding that there were a lot of pharmacies in Scotland located in deprived areas and the proposed pharmacy was very centrally located.
- 5.5.9. Given the complaints that were mentioned during the Applicant's presentation, Mr Arnott asked whether Mr Ameen had heard of the Patients' Rights Act. Mr Ameen was not entirely familiar with it, only in general terms. Mr Arnott said that under the Patients' Rights Act, a pharmacy even although the issue had been resolved it was legally bound to report the complaint to the Health Board. So, of the 23 complaints listed, 15 could have been about the attitude of a member of staff and the matter resolved, but the pharmacy would have reported it to the Health Board as a complaint under the Patients' Rights Act. Mr Ameen agreed that this was the procedure and did this as a pharmacy contractor.
- 5.5.10. Agreement was sought from the Applicant by Mr Arnott that the decision of the PPC was to be based on the provision of core services and not any additional services. Mr Ameen agreed.
- 5.5.11. Mr Arnott asked why the Applicant hadn't located the proposed Pharmacy in Knockinlaw Road which would have been nearer the centre of the mini area. Mr Ameen said the location wasn't based on geography but had been placed in the area of greatest need. As shown earlier in the slides, the concentrated

datazones with most deprivation was in Altonhill and Onthank so this was where Kilmarnock Pharmacy was to be located.

- 5.5.12. Mr Arnott was interested to know whether Craufurdland Road was part of the mini neighbourhood. Mr Ameen was unable to answer this question without a map. Given this response, Mr Arnott stated that the Applicant would be unable to answer the next question which was would a resident of Craufurdland Road be nearer Kilmarnock Pharmacy or an existing pharmacy. Mr Ameen believed this question had been answered earlier. If focussing on residents on peripheries and boundaries then the same opportunity needed to be given to those on the western part of the neighbourhood. Those residents arguably were having to walk far longer than 35 minutes to a pharmacy.
- 5.5.13. Mr Arnott enquired whether the viability of existing contractors had been considered by the Applicant. Mr Ameen said that it had.
- 5.5.14. It had previously been stated that the Applicant did not know where Altonhill and Onthank residents accessed pharmacy services. However, Mr Arnott asked if these residents accessed services from Templeton's pharmacy and whether the granting of this application would affect the viability of Templeton's pharmacy. Mr Ameen said a previous slide had shown that the two closest pharmacies to Altonhill and Onthank currently catered to above average populations, in fact twice the populations of the average stated in NHS Ayrshire & Arran's Care Services Plan. Mr Arnott pointed out that it had just been said that the Applicant did not know where those residents accessed services. Mr Ameen did not know for certain where people were accessing pharmaceutical services because it wasn't reflected in the statistics. Mr Ameen rejected the statement that people could be accessing pharmacies near places of work because it had been shown that the vast majority of people in Scotland accessed the nearest pharmacy to home (NHS Lothian Care Services Plan stipulated that 83% of people used the pharmacy closest to home). Using that logic Mr Ameen thought most Altonhill and Onthank residents would use the two closest pharmacies namely Lloyds and Templeton.
- 5.5.15. Mr Arnott had noticed whilst looking at the plan for the pharmacy that there was no area allocated for staff to take refreshments or have a break. Mr Ameen said this was true but there was a small kitchen area where staff could possibly sit. Mr Arnott doubted this space would still be available once the disabled toilet had been incorporated meeting building standards regulations.
- 5.5.16. This was the lowest response rate for a consultation that Mr Arnott had ever seen. Given that not all the neighbourhood population were deprived, Mr Arnott asked for reasons for this occurrence. Mr Ameen believed this question had been answered earlier.

5.6. **Questions from Mr Frame (Morrisons Pharmacy) to Mr Ameen**

- 5.6.1. Mr Frame noted the repeated discussion around Altonhill and Onthank which were sub areas of the neighbourhood. As the legal test considered the whole neighbourhood as defined in the application, Mr Frame asked for evidence that

the existing pharmacy service was inadequate particularly in the two pharmacies located in the neighbourhood. Mr Ameen stated that there was a high number of complaints from the two closest pharmacies which indicated the level of pharmaceutical provision provided. It was also reflected in the deprivation statistics because the two pharmacies located in the neighbourhood were in the northernmost and southernmost parts. Mr Frame again noted the mention of the sub neighbourhood but the Panel would base the decision on the neighbourhood defined on the application that was significantly larger. Mr Ameen said there was no attempt to misconstrue the situation.

5.6.2. Mr Frame gave some context to the 23 complaints reported by E J Templeton Ltd which equated to 0.05% and asked whether this was really a significant number of complaints. Mr Ameen said the number of complaints reported was actually higher than any previously experienced and considered 0.05% to be significant.

5.6.3. Although this question had already been raised, Mr Frame asked for evidence of inadequacy within the pharmacy service from the complaint statistics. Mr Ameen did not know the details of the complaints made. For clarity, Mr Frame said that Mr Ameen did not know whether the complaints were about an inadequacy of the existing pharmaceutical service or a more trivial matter - "yes" or "no"? Mr Ameen sought permission from the Chair to answer this question more fully and the request was granted. Mr Ameen said that both nearest pharmacies had a higher than average number of complaints. The reason the number of complaints was considered was because it provided a general indication of pharmaceutical provision on a ground level. To say that it was not really the case was obtuse as it was being used as a general rule of thumb. Mr Ameen stated that having a higher number of complaints than average probably meant that the pharmaceutical provision was being affected. Mr Frame said that this wasn't known for certain. Mr Ameen said it was determined on the basis of the information. Mr Frame stated that there was no evidence that the complaints reflected any inadequacy of service. In the experience of the Applicant, complaints were made about a significant issue (e.g. dispensing errors) rather than a trivial matter.

5.7. Questions from Ms Templeton (E J Templeton Ltd) to Mr Ameen

5.7.1. Ms Templeton asked whether there was access from John Walker Drive and the new development to the West of Altonhill. Mr Ameen said that there was no direct access but most people did not access pharmacies in that fashion. People tended to travel to a relatively central location then onto the settlement. Ms Templeton pursued the point by asking if there was any pedestrian access from one area to the other. Mr Ameen said there was not.

5.7.2. As there was no pedestrian access from the new development into Altonhill, Ms Templeton queried why this new development was part of the neighbourhood. Mr Ameen said Kilmarnock Pharmacy was much closer than any of the existing provision.

- 5.7.3. Ms Templeton noted that the Applicant had likened this area to Springside. However, Springside was a village and a village pharmacy was an entirely different proposition because if there was no pharmacy then people would need to travel out of the village to access pharmaceutical services. Ms Templeton questioned whether Springside Pharmacy and Kilmarnock Pharmacy were comparable. Mr Ameen said that certain parallels could be drawn for example health deprivation and poor access and that in these respects was far worse than Springside.
- 5.7.4. Ms Templeton recognised that there were definitely deprived areas in Kilmarnock which had always been the case. However, generally not many residents from these deprived areas came to pharmacies for services. Ms Templeton was interested to know how the Applicant would take the pharmacy services to these residents and advertise the services available. Mr Ameen stated that the Scottish Government premise on how to deliver services would be followed. Services needed to be local and at the heart of greatest need. There was much deprivation in the North of the whole town of Kilmarnock with much of that deprivation localised in Altonhill and Onthank. In order to target pharmaceutical services these needed to be offered within that area.
- 5.7.5. Ms Templeton asked for the reasoning behind the inclusion of two pharmacies within the neighbourhood as defined in the application. Mr Ameen stated that there had been a number of expert individuals that had previously defined the neighbourhood as such - the community council, the council itself, the PPC and previous NAPs.
- 5.7.6. Ms Templeton asked about the source of the complaints information as had not been aware of any complaints relating to Templeton Pharmacy. Mr Ameen said this information had been received from the Health Board so the fact that Ms Templeton was not aware of these was troubling. When asked about the detail of the complaints, Mr Ameen reiterated that only complaint numbers were available not full details of the complaint. Adding that people did not tend to make complaints about trivial matters but serious issues from a pharmaceutical perspective. Ms Templeton had not heard about any prescribing issues in EJ Templeton Pharmacy.
- 5.8. **This concluded questions from the Interested Parties so the Chair invited questions from the Committee members.**
- 5.9. **Questions from Canon McManus (Lay Member) to Mr Ameen**
- 5.9.1. Canon McManus sought assurance that in the event of granting this application, these premises could fulfil pharmacy building standards regulations. Mr Ameen confirmed this was the case.
- 5.9.2. Canon McManus had looked at the bus timetables and asked Mr Ameen for information on how long it would take to get a bus back from existing pharmacies including waiting times. Mr Ameen had looked at bus provision in Kilmarnock and Stagecoach had made some commitments. Canon McManus had not seen a bus during the site visit but had only been there for one hour. Mr Ameen had

asked people during site visits whether buses were used to access existing pharmacy services but the answer was that buses weren't used. Many people also didn't have access to a car so people weren't using common modes of transport to access pharmacy services.

5.9.3. Canon McManus asked whether services should only be provided to areas if requested by the public. Mr Ameen said services should always be provided to areas of greatest need.

5.9.4. When asked for information on the unemployment rate in the Altonhill and Onthank areas, Mr Ameen said the statistics available showed it was very high compared with the rest of Kilmarnock.

5.9.5. Mr Ameen was asked to comment on whether the neighbourhood as defined in the application could support three pharmacies. Mr Ameen thought it could.

5.10. **Questions from Ms Clark (Lay Member) to Mr Ameen**

5.10.1. Ms Clark had no questions that had not already been raised.

5.11. **Questions from Ms Church (Non-contractor Pharmacist Member) to Mr Ameen**

5.11.1. Ms Church wanted to understand a bit more about the population and whether travel was necessary to undertake weekly grocery shopping. Mr Ameen explained that there was a limited number of amenities located within Altonhill and Onthank which were shared and used by both communities for daily living.

5.12. **Questions from Ms Gallagher (Contractor Pharmacist Member) to Mr Ameen**

5.12.1. The discrepancy between pharmacy services listed in the CAR and the application had already been highlighted. However, Ms Gallagher did not think that the premises were of sufficient size to provide all the services mentioned in the CAR so sought the view of the Applicant. Mr Ameen referred to the presentation which had listed another eight pharmacies of similar size, some of which were offering enhanced services and strongly believed it was possible in the proposed pharmacy site.

5.12.2. There had been many comments in the CAR opposed to the dispensing of methadone. Ms Gallagher asked how this would be managed in Kilmarnock Pharmacy. As with most pharmacies, Mr Ameen planned to use the public consultation room for this purpose. When asked about the size of the public consultation room, Mr Ameen did not have that information to hand

5.12.3. The Chair noted that this concluded the Applicant presentation and questioning and moved on to submissions from the Interested Parties.

6. **Interested Parties' Submissions**

6.1. Submission from Mr Jamieson (Boots UK Ltd)

- 6.1.1. Just as a preliminary point, Mr Jamieson found the difference in the information in the CAR and application initially quite confusing and that confusion has been compounded by the Applicant's presentation. As several people had already mentioned, the legal test needed to be fulfilled and required the neighbourhood to be defined. The information prepared by Boots was therefore based on the population, demographics and statistics of that neighbourhood as defined in the application. What Mr Jamieson found confusing was that the information presented by the Applicant was not about the neighbourhood as defined in the application.
- 6.1.2. Mr Jamieson read out the following prepared statement:
- 6.1.3. "Moving onto the neighbourhood, we do essentially agree with the neighbourhood defined by the Applicant which is similar to that defined by the PPC when they considered a previous application for this area. There are two pharmacies within the Applicant's defined neighbourhood (Lloyds and Templeton's). Morrisons and the town centre pharmacies sitting just out with the neighbourhood.
- 6.1.4. The town centre sits at the centre of Kilmarnock, is accessible from the neighbourhood and has all services people require and access as part of their everyday lives including:
- GP surgeries
 - Supermarkets
 - Junior and senior schools
 - Railway station
 - Kilmarnock College (near to railway station formerly Johnnie Walker)
 - Post Office
- 6.1.5. Mr Jamieson referred to the Northwest Centre and the confusion as to whether there was a GP located there or not. From the information obtained by Boots, there was a reception desk for the Old Irvine Road surgery that was manned for part of the day but Mr Jamieson was not aware of any GPs actually based there.
- 6.1.6. It is highly likely that residents residing in the Auchencar Drive area will access shops, GPs and other key amenities in the adjacent neighbourhoods, and will find the existing pharmacies easily accessible when doing so.
- 6.1.7. The panel will be aware of the need to consider the provision of pharmaceutical services provided to the neighbourhood from pharmacies located out-with in addition to those provided in the neighbourhood in question
- 6.1.8. Population

- 6.1.9. Information provided by NHS Ayrshire & Arran states that there are 12 community pharmacies in Kilmarnock and Kilmaurs. There are a further two pharmacies in Crosshouse and Hurlford. Therefore, a total of 14 pharmacies serve the wider Kilmarnock area all of which are within 2.5 miles of central Kilmarnock.
- 6.1.10. The Kilmarnock Locality Profile July 2020 produced by Public Health Scotland gives a total population for the Kilmarnock locality of just over 54,000. The area covered by the Kilmarnock Locality Profile includes Crosshouse and Hurlford but doesn't include Kilmaurs (which has an estimated population of 2,800).
- 6.1.11. There has already been conversation about the average population per pharmacy. Boots calculated this to be not terribly different from that quoted by the Applicant at 4,176 residents per pharmacy. Boots compared this to the Scottish average though of 4,400 so it would be below the Scottish average.
- 6.1.12. Also from the Kilmarnock Local Profile Population it does go on to say that the population of Kilmarnock is estimated to decrease by 1.2% from 2018 to 2025. If the Committee look at the graph in the Boots presentation notes submitted you can see that it is a steady decline
- 6.1.13. So, in summary, there are two pharmacies in the neighbourhood and a further 12 pharmacies in the wider Kilmarnock area. The population of Kilmarnock has declined in recent years and information from the Local Profile suggests the population will continue to decrease. The number of residents per pharmacy in the Kilmarnock locality is lower than the nation average.
- 6.1.14. Demographics
- 6.1.15. Kilmarnock both as a whole and within the neighbourhood defined by the Applicant, has varying degrees of deprivation and affluence, ranging from the most deprived to the most affluent output areas.
- 6.1.16. When you look at the neighbourhood in totality (above map of purple shaded area) information from the Scotland Census website (2011 census data) that covers the neighbourhood indicates:
- The population is just below 15,000
 - Levels of car ownership are in line with the national average.
 - 69% of households have access to a private vehicle. This is the same as the national average for Scotland. As mentioned previously a lot of the new housing developments that have gone up in that North West area of Kilmarnock would suggest those people are a bit wealthier and have higher car ownership. Many would be commuters and travel for work.
 - 83.5% of people in the Applicant's neighbourhood rate their health as good or very good compared to 82% nationally and 5.6% rate their health as bad or very bad which is the same as the national average.
 - Unemployment rate was slightly below the average in 2011 - 7% v 7.7%

nationally.

- 6.1.17. So in summary, whilst there may be varying degrees of deprivation in the neighbourhood - when taken as a whole, the above statistics do not differ considerably from national averages.
- 6.1.18. Housing Developments
- 6.1.19. There have been new housing developments in Kilmarnock. However, the existing pharmacies have accommodated any increase in demand for services arising from recent developments and have capacity to meet future increase in demand.
- 6.1.20. The Proposed Site
- 6.1.21. Moving onto the proposed site there are very limited facilities in the immediate area. We have all done site visits. There is a very small convenience store there and the Tandoori takeaway. There are no surgeries in close proximity to the proposed site and as other people have mentioned there are access issues so how would you walk to that pharmacy from the new housing development. Even if you chose to drive by the time you drove round you could quite easily drive up to Lloyds, down to Morrisons or the town centre and park there. There is the Community Centre but I think it is fair to say from everyone I have spoken to locally there is some confusion as to what is actually available and I'm not sure how much of a draw that would be for people to go to that area.
- 6.1.22. As has already been mentioned there are real concerns about the premises as they are proposed. They are very small to meet all Disability Discrimination Act (DDA) requirements and be able to offer the range of services we would also question whether that is possible.
- 6.1.23. Adequacy of Existing Services
- 6.1.24. The existing pharmacies provide access to services seven days a week. Morrisons pharmacy is open until 8pm Monday to Friday, from 8am - 6pm Saturday and on Sundays from 10am - 5pm. The pharmacies in the town centre are where people shop and where people will access GP surgeries.
- 6.1.25. Boots has five pharmacies in the centre of Kilmarnock. All five provide all core national and all locally negotiated services. Between them offer services seven days a week (King Street Pharmacy is open until 7pm on weekdays). All have the capacity for growth.
- 6.1.26. Just a little bit more detail in terms of the services that Boots offer:
- Grange Street Pharmacy has an independent prescriber and offers Pharmacy First Plus services supporting the local community and GPs around that area
 - The Burns Mall pharmacist is due to qualifying imminently as an independent prescriber and will have Pharmacy First Plus operating

from there from March 2023

- The King Street Pharmacy pharmacist is expected to qualify as an independent prescriber slightly later in the year so by September 2023 would be up and running Pharmacy First Plus there
- St Marnock's pharmacy will also have Pharmacy First Plus available in September 2023
- Boots will have Pharmacy First Plus operating from four out of the five pharmacies in Kilmarnock as this year progresses
- Pharmacy First - there is a fantastic take up in that from the local population
- Serial prescriptions and Medicines Care and Review
- Public Health Services - provided by all
- Emergency Hormonal Contraception and bridging contraception
- Stop smoking
- Unscheduled care
- Substance misuse services
- Multi-compartment Compliance Aids (additional service)
- Deliveries to those in need (additional service)

6.1.27. We are not aware of any complaints regarding the availability or accessibility of the existing services

6.1.28. In summary, the application does not propose to offer opening hours that extend beyond those already available. Nor does the application propose to offer any services that are not currently being provided or that could not be provided by the existing contractors should a new service become available. The existing Boots pharmacies all have capacity for growth. There is no evidence of an inadequacy in the existing services.

6.1.29. Access

6.1.30. From the proposed site/neighbourhood:

6.1.31. By car

6.1.32. Levels of car ownership in the Applicant's neighbourhood are in line with the national average. We spoke about 69% and 30% had two cars or more. The existing pharmacies are accessible by car as most have parking outside or close by. There are hundreds of parking spaces within the town centre car parks, with ample additional spaces in the customer car parks at the larger supermarkets. We have provided details of the numbers of car parking spaces in the presentation notes submitted (information below).

6.1.33.

Car Park	Location	Spaces
East George Street	Town Centre	116
St Marnock St	Town Centre	75
Sturrock St - East & West	Town Centre	96
Queen Street	Town Centre	42
Queen Street South	Town Centre	96
Foregate	Town Centre	79

6.1.34. Parking facilities at pharmacies in Kilmarnock are as follows:

- Boots Kings Street (pedestrianised street) - Town centre car parks, the nearest being Sturrock St
- Boots Marnock Street - St Marnock Street Car Park and number of on street spaces
- Boots Burns Precinct (pedestrianised mall) - Town centre car parks
- Boots Portland Road - on street parking directly outside
- Boots Grange Street - on street parking directly outside and at the surgery
- Morrisons - 500 Free car parking spaces with dedicated disabled spaces
- Lloyds Pharmacy, Glasgow Road -173 Free car parking spaces (co-located with Tesco)
- E J Templeton - on street parking directly outside
- Deans - on street parking directly outside

6.1.35. By bus

6.1.36. The area is also served by public transport - Bus services run from the junction of Auchencar Drive/Altonhill Avenue, down Kilmaurs Road into the town centre. The number 9 service runs along this route every half hour during the day.

6.1.37. There is also a number 3 service which runs from Onthank near to the Altonhill area which runs every 20 minutes from stops near Kilmaurs Road and on to the town centre.

6.1.38. On foot

6.1.39. The closest to the proposed site is Templeton's Pharmacy which is approximately a mile walk. However, residents to the North of the Applicant's neighbourhood may find that Lloyds is more accessible, and those to the South may choose to walk to Morrisons or the town centre pharmacies.

- 6.1.40. Community Transport
- 6.1.41. There is also community transport available in Kilmarnock which is provided by the MyBus service. MyBus is advertised as “a bookable bus service offering door-to-door transport in your area. MyBus can be used for shopping, GP appointments, visiting friends, attending local clubs, and much more. MyBus will pick you up and drop you off as close as possible to your destination. All vehicles are low-floor and wheelchair friendly.”
- 6.1.42. Delivery services are also available from the existing pharmacies should a patient require it.
- 6.1.43. In summary, the existing pharmacies are reasonably accessible from the proposed neighbourhood should a patient choose to travel on foot, by car, or by public transport. If not delivery services are available.
- 6.1.44. The Public Consultation
- 6.1.45. The CAR Report
- 6.1.46. The total number of responses received was 199 which is less than 1.5% of the neighbourhood population a very low figure indeed. Of these 160 respondents answered that they would support the opening of a new pharmacy at Auchencar Drive which is just 1% of the Applicant's neighbourhood. Not a high response rate given the population the Applicant intends to serve and doesn't demonstrate a high level of support amongst residents for the proposal.
- 6.1.47. When it came to Q6 'Do you believe there are any gaps or deficiencies in the existing provision in this neighbourhood - 37% said no/didn't know. Comments within the CAR also suggest that not all respondents support the application and the services the pharmacy proposes to offer. Several comment voicing concerns about drugs user services being provided in the area
- Page 18 - Disagree with neighbourhood, but nothing in the location where pharmacy is proposed, people travel to Tesco at the top of Onthank, Morrisons in Riccarton, town centre Tesco etc every day for their daily needs. Pharmacy not needed in this area as we already have plenty'
 - Page 18 - we already have enough it has worked well enough for years'
 - Page 21- less accessible than other chemists for the majority of people in the area described
- 6.1.48. In summary, the response rate is low at 1.5% of the population of the Applicant's neighbourhood. Comments suggest not all respondents believe there to be gaps or deficiencies. The hours and services consulted on in the CAR do not mirror those in the application.
- 6.1.49. Summary

- 6.1.50. The existing pharmacies offer extended opening hours and an extensive range of services. The existing pharmacies have the capacity to accommodate future increase in demand for services and there is no evidence the existing pharmacies are under stress.
- 6.1.51. The existing pharmacies are accessible:
- by car - car ownership and free parking was mentioned
 - by public transport
 - on foot
- 6.1.52. Only a relatively small percentage of residents of the Applicant's neighbourhood responded to the CAR and fewer still supported the proposal or felt there were any gaps in the existing services.
- 6.1.53. In summary there is no evidence to suggest any inadequacy in the existing services. We would therefore respectfully ask for the application to be refused.”
- 6.1.54. This concluded the representation from Boots UK Ltd.
- 6.1.55. **The Chair invited Mr Ameen (the Applicant) to question Mr Jamieson (Boots UK Ltd)**
- 6.1.55.1. Mr Ameen noted comments made by Mr Jamieson that information provided in the Applicant’s presentation did not focus on the whole neighbourhood so asked whether Mr Jamieson agreed that the health SIMD provided covered all 21 zones for the whole neighbourhood. Mr Jamieson felt that the Applicant was cherry picking certain information during the presentation. Mr Ameen referred Mr Jamieson back to the question. Mr Jamieson said that if the 21 datazones related exactly to the neighbourhood then would trust the information the Applicant provided but differed from information obtained by Boots UK Ltd.
- 6.1.55.2. Similarly, Mr Ameen asked whether the SIMD information provided on access to services for the 21 datazones covered the whole neighbourhood. Mr Jamieson acknowledged that the Applicant had stated that this was the case but it was confusing.
- 6.1.55.3. Mr Ameen referred to concerns made about the size of the proposed premises and the eight similarly sized pharmacies listed during the Applicant’s presentation. Mr Ameen asked whether these eight pharmacies provided an adequate service. Mr Jamieson said there was a difference between opening a brand new pharmacy and one that had been operating for years which would have been designed when the range of services offered was different as well as different planning regulations. An Applicant wouldn’t necessarily have come up with the same space if designing a pharmacy from scratch. Mr Ameen said this didn’t really answer the question that had been asked so asked whether Fenwick Pharmacy with a similar floorplan offered an adequate service. Mr Jamieson did not have any information about Fenwick Pharmacy so was unable to comment. Mr Ameen stated that Fenwick Pharmacy was a new contract pharmacy with similar floorplan space so why would Kilmarnock Pharmacy not be able to

provide an adequate service. Mr Jamieson thought it had been made clear during the Hearing that many had concerns that the size of the proposed pharmacy was not adequate to provide the range of services articulated. This concluded questioning by Mr Ameen.

6.1.55.4. The Chair stated that concerns had been raised several times about the size of the proposed pharmacy and would be considered by the Committee during its deliberations.

6.1.56. **Questions from Mr Frame (Morrison's Pharmacy) to Mr Jamieson (Boots UK Ltd)**

6.1.56.1. Mr Frame wanted to know whether there had been any complaints about the pharmaceutical service provided by any of the five Boots pharmacies in Kilmarnock. Mr Jamieson said no complaints had been received.

6.1.56.2. Mr Frame had no further questions.

6.1.57. **Questions from Ms Templeton (E J Templeton Ltd) to Mr Jamieson (Boots UK Ltd)**

6.1.57.1. Ms Templeton had no questions.

6.1.58. **Questions from Mr Mahmood (Central Pharmacies UK) to Mr Jamieson (Boots UK Ltd)**

6.1.58.1. Mr Mahmood had no questions

6.1.59. **Questions from Mr Green (M & D Green Dispensing Chemists) to Mr Jamieson (Boots UK Ltd)**

6.1.59.1. Mr Green asked whether Boots UK Ltd provided pharmaceutical services to the population of the neighbourhood defined by the Applicant. Mr Jamieson believed this to be the case.

6.1.59.2. When asked whether any of the pharmaceutical services provided by Boots UK Ltd were at capacity Mr Jamieson said these services were not at capacity.

6.1.59.3. Mr Green asked whether Boots had scope to take on additional patients should there be a demand for services. The response from Mr Jamieson was 100%.

6.1.59.4. Mr Green had no further questions.

6.1.60. **Questions from Mr Connolly (Deans Healthcare Ltd) to Mr Jamieson (Boots UK Ltd)**

6.1.60.1. Mr Connolly had no questions.

6.1.61. **Questions from Mr Arnott (Lloyds Pharmacy) to Mr Jamieson (Boots UK Ltd)**

- 6.1.61.1. Mr Arnott had no questions
- 6.1.62. The Chair then invited questions from the Committee to Mr Jamieson.
- 6.1.63. **Questions from Ms Clark (Lay Member) to Mr Jamieson (Boots UK Ltd)**
- 6.1.63.1. Ms Clark had no questions.
- 6.1.64. **Questions from Canon McManus (Lay Member) to Mr Jamieson (Boots UK Ltd)**
- 6.1.64.1. Canon McManus was interested to know whether any of the Boots Pharmacies would become unviable in the event of Kilmarnock Pharmacy opening. Mr Jamieson stated this could be the case as some were low item pharmacies so depended on the percentage of business lost.
- 6.1.65. **Questions from Ms Gallagher (Contractor Pharmacist Member) to Mr Jamieson (Boots UK Ltd)**
- 6.1.65.1. Ms Gallagher had no questions.
- 6.1.66. **Questions from Ms Church (Non-Contractor Pharmacist Member) to Mr Jamieson (Boots UK Ltd)**
- 6.1.66.1. Ms Church had no questions.
- 6.1.67. **Questions from Ms Ford (the Chair) to Mr Jamieson (Boots UK Ltd)**
- 6.1.67.1. As Ms Ford had no questions for Mr Jamieson this concluded Boots representation and questioning. The Committee broke for lunch.
- 6.2. **Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**
- 6.2.1. Mr Mahmood read the following presentation making adjustments as necessary
- 6.2.2. "I would like to thank the panel for the opportunity to represent the views of Kilmaurs Pharmacy.
- 6.2.3. Our objection to this application is on the basis that the area defined by the Applicant is already well provided for with capacity from existing pharmacies, we do not believe there are any unmet needs. This is based on our discussions with patients, GP's, service users and our own personal knowledge of the areas that we have been servicing for many years. There are no services the Applicant is offering that are not already being offered by any of the other pharmacies, including Kilmaurs Pharmacy.

- 6.2.4. We offer a full range of NHS core services, and we offer additional services such as a collection and delivery service, vaccination services and free blood pressure checking. We have had a lot more people presenting at the chemist for blood pressure check-ups, which should show you that access to our premises isn't limited. During the flu vaccine year, we have had a good intake of patients, once again, showing you that access to our premises isn't limited.
- 6.2.5. In 2020 we invested a lot of money in a full refit. This refit was designed to enhance the existing premises and to increase patient access and capacity. We increased the size of the dispensary and waiting area and we have installed two large consultation rooms in our premises, in which we will operate a drop-in clinic for acutes and run medication reviews with patients. The drop-in clinic will be run by an independent prescriber, whilst the normal day to day running of the chemist will be run by a named responsible pharmacist. Both myself and my colleague who work at Kilmaurs Pharmacy are undergoing our Independent Prescribing training, and we will both be present at Kilmaurs Pharmacy once we qualify. We have been actively working with patients in our area and their GP practices, and in the Applicant's proposed neighbourhood, in switching patients to serial prescriptions, and we will continue to offer patient medication reviews in our pharmacy. We have approximately 721 patients registered on serial prescriptions, and these patients often obtain their serial prescriptions by either phoning us or dropping into the chemist and we usually deliver them on the same day.
- 6.2.6. We provide pharmaceutical care to many residents in the Applicant's proposed neighbourhood daily, and there has been no evidence to suggest poor or inadequate service. In the combined area, only 1.3% of the population responded to the application, and that majority of the responses received were tailored around convenience of a pharmacy, rather than a lack of services being offered.
- 6.2.7. Our pharmacy is open 9am – 6pm Monday to Friday and 9am-1pm on Saturdays, which is more than the model hours of 9am-5:30pm on weekdays, but if there were ever a demand, we would be happy to accommodate longer hours.
- 6.2.8. If we back track to pandemic times, again, we did not lack in delivering essential services. Many of our services were conducted remotely, and we are still happy to provide our services remotely. We are aware that things are slowly returning to normal and people are no longer living under the same restrictions we once did during covid, and even though GP surgeries are signposting patients to pharmacies we have still been able to provide the essential and core services to the Applicant's proposed neighbourhood. Furthermore, taking into consideration the previous point about accessibility, if patients cannot access the pharmacy for a preferred face-to-face consultation, there are many ways we can conduct consultations. Patients are able to access pharmacy services through phone calls or sending in pictures to the clinical mailbox, and we have been continually providing services through the phone. In my experience, I have done many consultations over the phone for urinary tract infections. There was nothing that needed to be face-to-face at that point and the patient had an antibiotic delivery within 30 minutes. In some ways the service has improved slightly. I would argue

that when you look through the Pharmacy First list most of those things can be done remotely to a certain extent.

- 6.2.9. In the application, it states that residents are unable to access existing services, however, I do not believe that this is the case. Again, going back to my point earlier, existing pharmacies have been around for many years and there has not been one complaint made to the health board from the Applicant's proposed neighbourhood that there is a lack or inadequacy of services being provided. Furthermore, there is no supporting evidence from the local councillors, community groups, GPs or local MPs.
- 6.2.10. Therefore I respectfully ask the panel to refuse the application.”
- 6.2.11. This concluded the representation from Central Pharmacies UK - Kilmaurs Pharmacy.
- 6.2.12. **Questions from Mr Ameen (the Applicant) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**
- 6.2.12.1. Mr Ameen noted the statement made that Kilmaurs Pharmacy had been serving patients for many years and asked which patients these were specifically. Mr Mahmood said these patients were from around the area and could be from the neighbourhood proposed by the Applicant.
- 6.2.12.2. Mr Ameen asked how many patients from the proposed neighbourhood accessed Kilmaurs Pharmacy. Mr Mahmood did not have that information to hand but could find out from the postcodes listed in the pharmacy's Patient Medical Records.
- 6.2.12.3. This concluded questioning of Mr Mahmood by the Applicant.
- 6.2.13. **Questions from Mr Jamieson (Boots UK Ltd) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**
- 6.2.13.1. Mr Jamieson enquired whether there was capacity for growth at Kilmaurs Pharmacy. Mr Mahmood confirmed that there was.
- 6.2.13.2. This concluded the questioning by Mr Jamieson.
- 6.2.14. **Questions from Mr Arnott (Lloyds Pharmacy) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**
- 6.2.14.1. Mr Arnott had no questions.
- 6.2.15. **Questions from Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**
- 6.2.15.1. Mr Connolly had no questions.

6.2.16. **Questions from Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**

6.2.16.1. Mr Green had no questions.

6.2.17. **Questions from Ms Templeton (E J Templeton Ltd) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**

6.2.17.1. Ms Templeton had no questions.

6.2.18. **Questions from Mr Frame (Morrison's Pharmacy) to Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)**

6.2.18.1. Mr Frame had no questions.

6.2.18.2. This concluded the questioning of Mr Mahmood by the other Interested Parties.

6.2.19. The Chair invited questions from the Committee but none were forthcoming.

6.3. **Submission from Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)**

6.3.1. Mr Connolly made the following submission:

6.3.2. "Thank you very much for the opportunity to present. I am here today as I believe in the legal test and also because the NHS has a finite resource to finance community pharmacy and they need to make sure that is focussed on a sustainable network, granting unnecessary pharmacy contracts is a threat to the sustainability of the Community Pharmacy network and the service that patients receive.

6.3.3. In terms of the neighbourhood, as I said earlier on, I know it really well. I went to primary school here, one of my friends grew up in Machrie Road, which is just literally a couple of hundred yards away from the proposed premises. My sister and her family live in Southcraigs at the northern edge of the Applicant's neighbourhood.

6.3.4. You could sit and argue about neighbourhoods and the fact that Southcraigs, Wardneuk and the new housing built behind Altonhill are very different in socioeconomic terms but I don't think it actually comes down massively to neighbourhood.

6.3.5. I'd be content with the neighbourhood that the Applicant is proposing and previous PPCs and National Appeal Panels have all found a similar neighbourhood.

6.3.6. There are two existing community pharmacies in that neighbourhood providing all core national services as well as locally negotiated services. All the amenities that are in the wider neighbourhood I'm going to call it as it's gotten a bit

confusing. I'm not within the Applicant's small pocket within the neighbourhood and people require to travel out-with that area for all of their daily needs. In fact the vast majority of people that live in the defined neighbourhood would never go anywhere near the Applicant's proposed premises. I'm saying this on the basis of experience and on the people that I know that live in that neighbourhood.

- 6.3.7. There are a further nine pharmacies in Kilmarnock and one in Kilmaurs that provide services into the neighbourhood. I think that we all know that is absolutely key when determining the legal test - the services into the neighbourhood.
- 6.3.8. There are independent prescribers delivering Pharmacy First Plus and extended opening hours. Again, the vast majority of people that live in the neighbourhood are actually closer to an existing community pharmacy already so this absolutely does nothing to improve access for the vast majority of people.
- 6.3.9. The Applicant has chosen to focus on a very small number of residents who are the most deprived within that neighbourhood and absolutely there is deprivation in the neighbourhood but as I alluded to in my questioning, and it would have been nice to have had sight of these numbers that the Applicant was referring to because a lot of them were quite difficult to follow. If you look at out-with that very small part of Altonhill, the picture is nowhere near as bleak as the Applicant has painted it. To be honest no-one that lives on the other side of Kilmaurs Road would ever venture into Altonhill and have never done so. It's the way the neighbourhood flows and people go about their daily lives in that area does not take them anywhere near that part of the neighbourhood. The Applicant talks about peripheries. His is in the periphery of a neighbourhood isolated from the new housing that's built behind it. As I said there is no access there. People that live any distance into Onthank are much closer to Templeton Pharmacy or the Lloyds.
- 6.3.10. Car ownership, as Mr Jamieson alluded to, in the wider neighbourhood is in line with the national average.
- 6.3.11. That said there are pockets of deprivation and it is a varied neighbourhood but there are excellent bus services. The number 9 which passes down Kilmaurs Road every 30 minutes. The number 3 runs every 20 minutes up the Western Road, doing a loop of Onthank. There is also the number 332 Shuttle Bus which runs from Southcraigs to the top end of Onthank near Wardneuk. The X71 and X79 both stop in Southcraigs, stop on Dean Street (near Mrs Templeton's Pharmacy). The number 4, X76 and X77 all travel down through parts of the neighbourhood. So, there are eight bus services regularly servicing the neighbourhood.
- 6.3.12. As I said earlier, everyone in Scotland under the age of 22 and over the age of 60 can travel on these services free of charge as can people in receipt of disability benefits and attendance allowance. There is a 50% discount for those on Job Seekers Allowance, Employment Support Allowance, Income Support and Universal Credit.

- 6.3.13. The CAR, there were 15,000 people and 199 responses. Mr Ameen managed to generate 275 responses from a population of 1200 people [in Springside]. We see from the CAR how well the public are engaged, they've had the opportunity to comment and the fact that they haven't really points to the fact that there isn't a great unmet demand for pharmaceutical services in the neighbourhood. The supportive comments if you would call them that are based around convenience which is not part of the legal test.
- 6.3.14. The statistical data provided by the Board shows that access to services is actually good and better than East Ayrshire and Scotland as a whole.
- 6.3.15. In terms of my own pharmacy, it's quite far away from the proposed pharmacy so you might wonder why I'm here but I'm passionately in favour of the legal test to ensure we get the right services for people. We have an Independent Prescriber Pharmacist and double cover pharmacists. This allows us to make home visits where necessary which is not limited to any geographical scope within Kilmarnock. The pharmacy delivers to patients' homes, which sees our drivers trained to the same level as members of the Pharmacy team to provide better connections with patients and identify those where pharmacist intervention is required.
- 6.3.16. We're currently at an advanced stage in acquiring the unit next door to the pharmacy which will enable us to double our size.
- 6.3.17. If you disagree with everything I've just said there it still comes down to the point that the Panel have to secure adequate access to pharmaceutical services and you cannot secure adequate access to pharmaceutical services from that premise. I can guarantee you of that. The building standards regulations that need to be applied to these premises make it impossible to fit out a functioning fit for purpose pharmacy capable of delivering all aspects of the pharmacy contract. You have a very experienced pharmacy operator here today, don't take my word for it ask the very experienced pharmacy operator who has probably fitted out numerous pharmacies over the years. If the Applicant could have provided that he would have drawn that. Like I say, I refitted a pharmacy a month ago and it's just impossible, it can't work and you can't have a fully functional pharmacy. You cannot secure adequate access to services even if you disagree with everything I've just said.
- 6.3.18. So for all of these reasons, even if you disagree, that point still remains. Go and look at building standards. For these reasons I would urge the committee to refuse the application."
- 6.3.19. This concluded the submission from Mr Connolly.
- 6.3.20. **Questions from Mr Ameen (the Applicant) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)**
- 6.3.20.1. Mr Ameen declined the invitation to question Mr Connolly.

6.3.21. Questions from Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.21.1. Mr Mahmood had no questions.

6.3.22. Questions from Ms Templeton (E J Templeton Ltd) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.22.1. Ms Templeton had no questions.

6.3.23. Questions from Mr Frame (Morrison's Pharmacy) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.23.1. Mr Frame had no questions.

6.3.24. Questions from Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.24.1. Reference was made to Mr Connolly's local knowledge and the fact that residents on the north side of Kilmaurs Road in Onthank wouldn't travel into Altonhill. That being the case, Mr Green wondered whether Kilmarnock Pharmacy would be financially viable. Mr Connolly doubted this very much as had personal experience from opening a pharmacy in Coltness in Wishaw which was a very similar situation to this off the main road. That pharmacy was run for eight months until a relocation onto the main road was obtained. There were similar levels of deprivation and was dispensing about 800 items per month. It cost Mr Connolly money to operate. Kilmarnock Pharmacy was not visible from the main road. Even getting from Kilmaurs Road into Auchencar Drive was a convoluted journey. The only reason a resident from Onthank crossed Kilmaurs Road was if alighting from a bus in Kilmaurs Road.

6.3.25. Questions from Mr Arnott (Lloyds Pharmacy) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.26. Mr Arnott had no questions.

6.3.27. Questions from Mr Jamieson (Boots UK Ltd) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.27.1. Mr Jamieson had no questions.

6.3.28. This concluded questioning of Mr Connolly by the other interested parties. The Chair therefore invited questions from the Committee.

6.3.29. Questions from Ms Clark (Lay Member) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.29.1. Ms Clark had no questions.

6.3.30. Questions from Canon McManus (Lay Member) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.30.1. Canon McManus had no questions.

6.3.31. Questions from Ms Church (Non-Contractor Pharmacist Member) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.32. Ms Church had no questions.

6.3.33. Questions from Ms Gallagher (Contractor Pharmacist Member) to Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

6.3.33.1. Out of curiosity, Ms Gallagher asked why the location of the proposed pharmacy was also known as OB Auchencar Drive. Mr Connolly thought this was a designation of the number which had probably been a subdivision. These generally resulted from an old title deed defect and the cost involved to clear up the address prohibited it being done.

6.3.33.2. This concluded the questioning of Mr Connolly. The Chair invited Mr Green to make a submission to the Committee.

6.4. Submission from Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.1. Mr Green made the following representation from a previously prepared statement making adjustments as necessary:

6.4.2. "I'm here representing M & D Green which is a pharmacy on the South side of Kilmarnock in an area known as Bellfield. I don't just run the M & D Green group, I am also involved in pharmacy representation at a local and national level and that is why I'm here today as I have been operating pharmacies for over 30 years. Pharmacy resources have never been as stretched as they are right now. I use resources as I mean multiple resources both in terms of finance and in terms of staffing resources. I passionately do not want to introduce new pharmacies to the network unless there is an absolute need for those pharmacies because all they are doing is tapping into seriously depleted resources. I have operated through the financial crisis of 2008 and 2023 is worse than that situation.

6.4.3. I am happy to accept the neighbourhood as defined by the Applicant, which broadly defines the area to the North of Kilmarnock above the railway line and West of Kilmarnock Water which runs through Dean Park Country Park and Kay Park.

6.4.4. It is an area made up of a number of identifiable areas; Southcraigs, Onthank, Knockinlaw, Beansburn, Hillhead and Altonhill.

6.4.5. The area is well connected with three main thoroughfares; Kilmaurs Road, Western Road and Glasgow Road supporting access around the neighbourhood

and to adjoining areas, such as the town centre, New Farm Loch and also Kilmaurs.

- 6.4.6. The neighbourhood as defined benefits from pharmacy services provided by two existing pharmacies. Lloyds on Glasgow Road and Templeton's on Dean Street and then a further 10 pharmacies in the surrounding area.
- 6.4.7. The Applicant is not proposing to offer any additional services to those already available from within and just outside the neighbourhood and the two pharmacies within the neighbourhood cannot be described as busy pharmacies.
- 6.4.8. The Applicant has identified premises at 20/4 Auchencar Drive, which is located deep in the Altonhill (North) housing estate, from a unit currently trading as Altonhill Tandoori, beside a small Convenience Store.
- 6.4.9. In its location in the far South West corner of the Applicants neighbourhood it is not easy to find and is not visible from the main Kilmaurs Road. It is not readily accessible for the vast majority of the defined neighbourhood and I would imagine that only residents from Altonhill North and potentially Altonhill South are likely to access these amenities. A population from those two datazones of 644 and possibly 577 combined; a very small population altogether.
- 6.4.10. [In] the Applicant's summary of the views expressed in the CAR, he uses the expression "the vast majority agreed with" to describe the responses under a number of different headings. However, the CAR itself only attracted 199 responses from quite a large distribution, an area with approximately 15,000 is not a strong response in fact is a very weak response, and not all of these responses were supportive. I think it has already been mentioned that those that went further than agreeing or disagreeing and added comments, lots of them were negative which suggests to me that the resident population are not particularly motivated by a proposal to open a new pharmacy in the area.
- 6.4.11. Residents from the North of Kilmarnock will use services outside their neighbourhood on a daily basis. There are no secondary schools, with the closest being in New Farm Loch. There is a supermarket located to the extreme North of the neighbourhood. The other supermarkets are out-with the neighbourhood. There are no GP Practices. There are no GPs that consult and sit in the Kilmarnock West Centre. This perhaps explains why the two pharmacies already located within the neighbourhood are not especially busy pharmacies despite the large population, as patients move around Kilmarnock readily and often, accessing services all across the town including other pharmacies of which there are many.
- 6.4.12. The Applicant's presentation itself, focussed primarily on a subsection of his defined neighbourhood in the application. He actually hasn't made an attempt to establish an inadequacy of service provision in his defined neighbourhood as a whole which calls into question the relevance of the public consultation exercise altogether.
- 6.4.13. I would strongly recommend that the Committee reject the application today, as the Applicant has not demonstrated any inadequacies in current service provision

and the proposed premises offer no better access for the vast majority of the neighbourhood, in fact most of the population would find it quite inaccessible.”

6.4.14. Questions from Mr Ameen (the Applicant) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.14.1. Mr Ameen asked whether Mr Green knew the name of the Applicant that made an application in 2007. Mr Green had made that application which was granted then subsequently rejected

6.4.14.2. Mr Ameen noted that Mr Green had made an application to open a pharmacy in the same neighbourhood in 2007 yet now opposed this application. Mr Green was invited to explain the reasoning behind this change. Mr Green said the application was made several years ago in 2007, it was not the neighbourhood defined by Mr Ameen, it was different premises, it was different regulations which had been reviewed twice since 2007. The application was ultimately rejected and not pursued any further.

6.4.14.3. Mr Ameen said Mr Green had stated that there had been changes in the neighbourhood since 2007. Mr Ameen acknowledged that changes had taken place and were apparent as health and access to services had worsened in the entire neighbourhood. Mr Green was asked whether pharmacy provision was now warranted. It was stressed that Mr Green had not said the neighbourhood had changed but had applied for a different neighbourhood in 2007.

6.4.14.4. When asked what the defined neighbourhood was in 2007, Mr Green stated that the boundaries were Western Road, Kilmaurs Road and the separation between Onthank and Southcraigs. Mr Ameen noted that this largely occupied the neighbourhood that was proposed in this application. Mr Green said Kilmarnock Pharmacy was not located in the neighbourhood defined in 2007. Mr Ameen said that was not the question which was reiterated. Mr Green would have described the neighbourhood defined in 2007 as Knockinlaw and Onthank. Mr Ameen suggested that the neighbourhood was roughly similar to that proposed today. Mr Green said it was significantly smaller and the application had been rejected.

6.4.14.5. This concluded questioning of Mr Green by the Applicant.

6.4.15. Questions from Mr Frame (Morrisons Pharmacy) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.15.1. Mr Frame had no questions.

6.4.16. Questions from Ms Templeton (E J Templeton Ltd) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.16.1. Ms Templeton had no questions.

6.4.17. Questions from Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.17.1. Mr Mahmood had no questions.

6.4.18. Questions from Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.18.1. Mr Connolly had no questions.

6.4.19. Questions from Mr Arnott (Lloyds Pharmacy) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.19.1. Mr Arnott had no questions.

6.4.20. Questions from Mr Jamieson (Boots UK Ltd) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.20.1. Mr Jamieson asked Mr Green whether it was more economically challenging now to run a pharmacy than 2007. Mr Green said it was. Using population information to determine viability, a pharmacy would have been viable 15-20 years ago with a population of 2,000-2,500 whereas now it would be closer to 4,000.

6.4.20.2. This concluded questioning of Mr Green by the other Interested Parties. The Chair invited questions by the Panel.

6.4.21. Questions from Ms Clark (Lay Member) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.21.1. Ms Clark had no questions.

6.4.22. Questions from Canon McManus (Lay Member) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.22.1. Canon McManus had no questions.

6.4.23. Questions from Ms Church (Non-Contractor Pharmacist Member) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.23.1. Ms Church had no questions.

6.4.24. Questions from Ms Gallagher (Contractor Pharmacist Member) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.24.1. Ms Gallagher had no questions.

6.4.25. Questions from Ms Ford (the Chair) to Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

6.4.25.1. The Chair noted that the question of whether there were GP services at the Northwest Area Centre had been raised repeatedly and for clarity it was agreed that the Committee would obtain an answer to that question. It was further noted that the GP services were provided at Northwest Area Centre as detailed in the further information paper provided to the Committee.

6.5. Submission from Mr Arnott (Lloyds Pharmacy)

6.5.1. Mr Arnott read the following from a preprepared statement making adjustments as necessary:

6.5.2. "I would like to thank the Panel for allowing me to speak today.

6.5.3. The Applicant's reason for making this application seems to be that the Pharmaceutical Services provided by current contractors is inadequate, I cannot agree with that.

6.5.4. Kilmarnock has a population of 46,770 and the residents pharmaceutical needs are served by 12 existing pharmacies, this is an average of 4,251 residents per pharmacy the Scottish Average is 4,500. There are eight Pharmacies within two miles of the Applicant's proposed site. There are, as the Panel is aware, numerous examples from Pharmacy Practice Committee Hearings and numerous National Appeal Panel Hearings that adequate pharmaceutical services can be provided to a neighbourhood from pharmacies situated out with that neighbourhood and this is the case in this application. As well as having two pharmacies in the neighbourhood there's a further ten.

6.5.5. The Panel must take account as to whether the granting of an application would adversely impact on the security and sustainable provision of existing NHS primary medical and pharmaceutical services in the area concerned.

6.5.6. As regards the Applicant's definition of the neighbourhood, and there were two I think, the best description probably comes from a comment on the CAR and I quote "This isn't a recognised neighbourhood. It's mashed together to meet the needs of the Applicant"

6.5.7. When I've looked at this, where the Applicant is proposing to situate his pharmacy is actually on the map in a place that says Altonhill which has a population of 1,221. It is interesting to note that the majority of residents in the Applicant's proposed neighbourhood actually live closer to the existing Lloyds Pharmacy and the Templeton Pharmacy. The Panel will have noted that at the Applicant's proposed site there is a convenience store which is not well stocked and a bit run down. There is nothing else. It's hardly the hub of the neighbourhood and demonstrates that the residents of Altonhill on a regular basis

travel out with the neighbourhood to access services such as supermarkets, banks and GP surgeries.

- 6.5.8. Although Delivery is not a Core Service, all contractors offer this service for anyone who is housebound. All existing pharmacies offer all Core Services and the Lloyds Pharmacy is fully engaged with Medicine Case Reviews, Pharmacy First and AMS and the Panel will have noted the Applicant offers no more opening hours than current contractors.
- 6.5.9. Convenience is not a reason for granting a pharmacy contract. And indeed, the Applicant has shown no inadequacy in the current Service Provision
- 6.5.10. The Applicant in support of his application has carried out a consultation exercise and I think we've all seen the response rate 1.3%. One of the lowest I've ever seen.
- 6.5.11. In response to the question around gaps and efficiencies 0.8% said there were any gaps or deficiencies.
- 6.5.12. This really surprised me because Mr Ameen has a reputation for having extremely high responses to his CAR.
- 6.5.13. If it was part of the new regulations that the Applicant "must establish the level of Public Support of the residents in the neighbourhood to which the application related then it could not be said that Mr Ameen had not tried, he had however failed.
- 6.5.14. This despite placing adverts in the Kilmarnock Standard, using the NHS Ayrshire and Arran website, using the Health Board's Twitter and Facebook Pages as well as copies of the questionnaire being placed at:
- The Surgery, 31 Portland Road
 - Portland Medical Practice
 - London Road Medical Practice
 - Old Irvine Road Surgery
 - The Wards Medical Practice
 - North West Kilmarnock Area Centre
 - Premier Stores, 7 - 9 Tourhill Road
 - Keystore, 19 Kilmaurs Road
 - Quicksave, v20/2 Auchencar Drive
 - SPAR, 44 Morven Avenue
 - SPAR, 1 Meiklewood Road
- 6.5.15. The Applicant had said that response rate was low because that's what generally happens in deprived neighbourhoods. I think with all that in place, handy for people, there should have been a bigger response.

- 6.5.16. I was also amazed at the number of negative responses throughout the CAR. It is also noted the Area Pharmaceutical Professional Committee do not support the application as they state it is inappropriate and also have concerns about the suitability of the premises. A view I wholly concur with. The premises do not appear large enough to allow for a modern day pharmacy and the ability to comply with the Disability Discrimination Act.
- 6.5.17. Scottish Index of Multiple Deprivation figures show that only 11% of the residents of Altonhill are aged over 65. This is much less than the Scottish average of 18%.
- 6.5.18. There is at this time a critical shortage of community pharmacists and pharmacy staff. Pharmacists are now on the Government's list of professions where there are shortages and recruitment issues. Recently Community Pharmacy Scotland requested that Health Boards stop recruiting pharmacists and technicians from Community Pharmacy. Over the past 3 or 4 years almost 600 whole time equivalent pharmacists and 300 pharmacy technicians have been recruited into General Practice. The granting of this unnecessary contract would only exacerbate this shortage.
- 6.5.19. The following is taken from the NHS (Pharmaceutical Services) (Scotland) Regulations as amended "Should the panel deem the existing service inadequate but also consider the Applicant's business not likely to be viable and therefore not securing adequate provision of pharmaceutical services, the Application should be refused".
- 6.5.20. The following is also taken from the NHS (Pharmaceutical Services) (Scotland) Regulations as amended "The viability of existing service providers is also relevant in this context. If granting the application would affect viability of those who currently provide a service in the neighbourhood, then it may be that granting the application would have a negative effect upon services in the neighbourhood as a whole. Such an application may be refused. Similarly, if the granting of an application would have a detrimental effect upon the provision of services in the neighbourhood for some other reason, then refusal may be justifiable".
- 6.5.21. I am unaware of any complaints to the Health Board regarding the current provision of pharmaceutical services to the neighbourhood.
- 6.5.22. Having examined the NHS Ayrshire & Arran Pharmaceutical Care Services Plan I can see no reference to there being a need for a Pharmacy in the Applicant's proposed neighbourhood and indeed there have been no complaints to the Health Board regarding existing service provision and accessibility.
- 6.5.23. I would therefore ask the Panel to refuse this application as it is neither necessary nor desirable in order to secure the adequate provision of Pharmaceutical Services in the neighbourhood in which the premises are located."
- 6.5.24. **Questions from Mr Ameen (the Applicant) to Mr Arnott (Lloyds Pharmacy)**

- 6.5.24.1. Mr Ameen had no questions for Mr Arnott.
- 6.5.25. **Questions from Mr Jamieson (Boots UK Ltd) to Mr Arnott (Lloyds Pharmacy)**
- 6.5.26. Mr Jamieson had no questions.
- 6.5.27. **Questions from Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy) to Mr Arnott (Lloyds Pharmacy)**
- 6.5.27.1. Mr Connolly had no questions.
- 6.5.28. **Questions from Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy) to Mr Arnott (Lloyds Pharmacy)**
- 6.5.28.1. Mr Green asked whether Lloyds Pharmacy was currently at capacity to which Mr Arnott replied “absolutely not”.
- 6.5.28.2. Mr Green then enquired whether there were restrictions to patients accessing any of Lloyds services. Mr Arnott said there were no limitations adding that a Lloyds pharmacist was about to start the independent prescriber course.
- 6.5.29. **Questions from Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy) to Mr Arnott (Lloyds Pharmacy)**
- 6.5.29.1. Mr Mahmood had no questions.
- 6.5.30. **Questions from Ms Templeton (E J Templeton Ltd) to Mr Arnott (Lloyds Pharmacy)**
- 6.5.30.1. Ms Templeton had no questions.
- 6.5.31. **Questions from Mr Frame (Morrisons Pharmacy) to Mr Arnott (Lloyds Pharmacy)**
- 6.5.31.1. Mr Frame had no questions.
- 6.5.32. This completed questioning by the other Interested Parties so the Chair invited the Panel to question Mr Arnott but no questions were asked.
- 6.6. **Submission from Mr Frame (Morrisons Pharmacy)**
- 6.6.1. Mr Frame read the Morrisons statement aloud making necessary amendments to avoid duplication.
- 6.6.2. “Thank you for allowing us to present today.

- 6.6.3. We believe the two existing pharmacies within and the further 10 surrounding the neighbourhood meet the needs of the local population and the residents of this neighbourhood. We do not believe there is an inadequacy in any pharmaceutical services and we do not believe the Applicant can demonstrate or evidence any inadequacy.
- 6.6.4. We would agree with the neighbourhood as proposed by the Applicant in their application not the line drawn on the presentation.
- 6.6.5. The neighbourhood has good transport links and regular bus services to Kilmarnock e.g. no 9 on Kilmaurs Road, and the rest that Mr Connolly described. They run into the town centre and up to Kilmaurs every 30 minutes. Actually I was talking to a gentleman from Kilmaurs and how I had seen a resident from Kilmaurs jump on a bus, get off the bus, go into the pharmacy then get a bus back. It was very, very easy.
- 6.6.6. Services within the area are limited. Not everything required by the residents to carry out the fabric of their daily lives are there such as banks and GPs. As a result, residents will be used to travelling out with the neighbourhood to access these services, for shopping and for work. I think it would be fair to say that the residents would not struggle to reach one of the existing pharmacies in the neighbourhood or the numerous pharmacies adjoining the neighbourhood. These must be considered when deciding whether services to the neighbourhood are adequate.
- 6.6.7. The Applicant's premises themselves look small and would be concerned if these premises would be fully DDA compliant. I would also advise that there is no dedicated disabled or parent child parking outside the premises.
- 6.6.8. Coming back to the adequacy of the existing pharmacies that support the local population. The two pharmacies in the neighbourhood and ten surrounding provide an extensive range of both NHS and private services, into the evening and seven days a week. Obviously, our pharmacy in West Langlands we are open seven days a week with extended opening hours on a Saturday and also a Sunday. The Applicant doesn't offer any improvement on the current access to pharmacy services already provided by ourselves and the many pharmacies in the neighbourhood and surrounding.
- 6.6.9. Given that the Applicant isn't open on a Saturday afternoon or on a Sunday, the Committee must assume the Applicant would expect residents to access existing pharmacies out with his opening times and that the Pharmaceutical service provided at that time is adequate to meet the needs of the neighbourhood.
- 6.6.10. From our pharmacy in Kilmarnock we provide an extensive range of core and private services. Mr Jamieson mentioned those available at Boots, we do the same. We also have a very successful private flu service which we have been running for more than 14 years.
- 6.6.11. We have 450 parking spaces, 30 disabled and 20 parent and child spaces. We are only a 10 minute walk from the main bus depot. Furthermore, we benefit

from the Mybus service which one of the Interested Parties has already explained.

- 6.6.12. Our entrance straight to the pharmacy is all on one even level. As is our consultation room, all DDA compliant and again I would reference the concerns we have about the [proposed] premises.
- 6.6.13. All pharmacies operate prescription collection service from the GPs, and many provide a delivery service to those that need it. Those responding to the public consultation may find it more convenient to pick up a prescription in Auchencar Drive, but let's not confuse that with the current service being inadequate. Many of the CAR responses describe having a pharmacy as "easily accessible " This does not indicate a necessity. As alluded to before, residents will have to travel out with the neighbourhood to access the normal fabric of their daily life.
- 6.6.14. Driving around the neighbourhood, you could see multiple car ownership. Residents would be used to travelling out with it. I think it would be fair to say that residents would not struggle with either car ownership or the public access that is already there in terms of buses.
- 6.6.15. Looking again at the CAR, only 1% were in support. There is no evidence either in the CAR or the Applicant's presentation today to suggest the pharmaceutical services provided to the neighbourhood are inadequate. Ask anyone if they would wish a pharmacy on their doorstep, of course they will say yes. However, is there any evidence of an inadequacy? The candidate has not provided any. The answer is no.
- 6.6.16. There is no granular detail on any of the complaints that have been raised and again they are not statistically significant at 0.05%.
- 6.6.17. Therefore we believe that the application is neither necessary nor desirable and ask that it be refused."
- 6.6.18. This concluded the representation from Morrisons Pharmacy so the Chair invited the Applicant to question Mr Frame.
- 6.6.19. **Questions from Mr Ameen (the Applicant) to Mr Frame (Morrisons Pharmacy)**
 - 6.6.19.1. Mr Ameen had no questions.
- 6.6.20. **Questions from the other Interested Parties to Mr Frame (Morrisons Pharmacy)**
 - 6.6.20.1. The Chair invited questions from the other Interested Parties but no questions were asked.
- 6.6.21. **Questions from Ms Gallagher (Contractor Pharmacist Member) to Mr Frame (Morrisons Pharmacy)**

6.6.21.1. Ms Gallagher had no questions.

6.6.22. **Questions from Ms Church (Non-Contractor Pharmacist Member) to Mr Frame (Morrisons Pharmacy)**

6.6.22.1. Ms Church had no questions.

6.6.23. **Questions from Canon McManus (Lay Member) to Questions Mr Frame (Morrisons Pharmacy)**

6.6.23.1. Canon McManus noted that Mr Frame had emphasised the supply of pharmacy items rather than advice. Mr Frame disagreed with this perception of the presentation. Canon McManus asked whether there was any inadequacy of pharmaceutical advice or patient consultations within the neighbourhood. Mr Frame said there was not. Morrisons Pharmacy was ideally placed to give people health and lifestyle advice stressing that a pharmaceutical service isn't just about dispensing items but about providing advice. This was done by all interested parties represented today.

6.6.24. **Questions from Ms Clark (Lay Member) to Questions Mr Frame (Morrisons Pharmacy)**

6.6.24.1. Ms Clark had no questions.

6.7. **Submission from Ms Templeton (E J Templeton Ltd)**

6.7.1. Ms Templeton made the following representation:

6.7.2. "If you look at the Ordnance Survey Landranger no.70 map of Ayr Kilmarnock & Troon, it shows that the defined neighbourhood, as described, covers a quarter of the inhabited area of Kilmarnock. It is a huge area.

6.7.3. Now the three other inhabited areas with a high density of housing, Shortlees, Bellfield and New Farm Loch, each have a pharmacy situated in the centre of the area.

6.7.4. The defined neighbourhood described in the application is extensive and includes two existing pharmacies within it, my own and Lloyds at the top of the town. Close by there is also Kilmaurs Pharmacy which is not so very far away from it and Morrisons Pharmacy in West Langlands Street.

6.7.5. The remaining five pharmacies are in Kilmarnock town centre.

6.7.6. At E J Templeton's we provide core services and other services and we deliver extensively in the defined neighbourhood and other areas for example, Bonnyton and we collect prescriptions from surgeries from Monday to Friday except on Monday holidays.

- 6.7.7. As I believe the proposed situation of the new application is actually quite isolated and possibly inaccessible to many potential clients
- 6.7.8. The results of the Consultation Document seem to emphasise the advantage of a new pharmacy in Auchencar Drive. In any district, for any necessary community service, it is a fact that not everyone has the advantage of being close to the service. So therefore, I think the defined neighbourhood has two accessible pharmacies within it and two close by, I believe the provision of pharmaceutical services for this neighbourhood is quite satisfactory.”
- 6.7.9. This concluded the representation from E J Templeton Ltd so the Chair invited the Applicant to question Ms Templeton.
- 6.7.10. **Questions from Mr Ameen (the Applicant) to Ms Templeton (E J Templeton Ltd)**
- 6.7.10.1. Mr Ameen had no questions.
- 6.7.11. **Questions from Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy) to Ms Templeton (E J Templeton Ltd)**
- 6.7.11.1. Mr Mahmood had no questions.
- 6.7.12. **Questions from Mr Frame (Morrisons Pharmacy) to Ms Templeton (E J Templeton Ltd)**
- 6.7.12.1. Mr Frame had no questions.
- 6.7.13. **Questions from Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy) to Ms Templeton (E J Templeton Ltd)**
- 6.7.13.1. Mr Green was interested to know whether Ms Templeton would describe the pharmacy as busy Ms Templeton said it was as it had a high footfall.
- 6.7.13.2. Mr Green referred to the data showing number of items dispensed by E J Templeton’s and quoted 5000-6000 items per month and sought confirmation that this was the case. Ms Templeton did not know offhand.
- 6.7.13.3. Mr Green asked whether there was a risk to the viability of Ms Templeton’s pharmacy if another pharmacy opened. Ms Templeton stated that there was a possible risk.
- 6.7.14. **Questions from Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy) to Ms Templeton (E J Templeton Ltd)**
- 6.7.14.1. Mr Connolly had no questions.
- 6.7.15. **Questions from Mr Arnott (Lloyds Pharmacy) to Ms Templeton (E J Templeton Ltd)**

6.7.15.1. Mr Arnott had no questions.

6.7.16. Questions from Mr Jamieson (Boots UK Ltd) to Ms Templeton (E J Templeton Ltd)

6.7.16.1. Mr Jamieson asked whether the E J Templeton pharmacy had capacity for growth. Ms Templeton said that it did.

6.7.16.2. This concluded questioning of Ms Templeton by the other Interested Parties.

6.7.17. Questions from Committee Members to Ms Templeton (E J Templeton Ltd)

6.7.17.1. The Chair invited questions from the Committee but no questions were asked.

7. Summing Up

7.1. The Chair asked all parties to provide a succinct summary of the points made during the submissions. However, it was suggested parties pass if enough had already been said.

7.2. Mr Jamieson (Boots UK Ltd)

7.2.1. Mr Jamieson highlighted the confusing information provided by the Applicant in relation to opening hours and services provided which differed in the application and the CAR. Mr Jamieson was still confused by the information presented by the Applicant concerning the defined neighbourhood and the selected part of the neighbourhood. However, said the Applicant had stated three main points.

7.2.2. The first being that there was significant deprivation. The neighbourhood as defined by the Applicant had the same level of deprivation as the national average for Scotland. The neighbourhood itself is not significantly deprived.

7.2.3. The second point raised by Mr Ameen was lack of access. In the event that this pharmacy was granted it would not significantly improve access to pharmaceutical service for the majority of residents of the neighbourhood for all the points discussed.

7.2.4. The third point the Applicant raised was a housing boom of 1271 homes. The Ayrshire & Arran average population per household was 2.12 would give an increased population of 2694 in that North West area of Kilmarnock. All Interested Parties confirmed capacity for growth to service that increase in demand.

7.2.5. The size of the proposed premises was questioned as being fit for purpose to deliver current pharmacy services and to meet planning requirements.

7.2.6. The viability of the proposed pharmacy was also questioned in terms of which patients would access Kilmarnock Pharmacy.

7.2.7. At least two Boots pharmacies in the town centre dispense fewer than 700 items per week. Depending on how the Applicant chose to run the business and how much that would affect the town centre pharmacies, that could affect the viability of those pharmacies.

7.2.8. Mr Jamieson respectfully asked that the application be refused.

7.3. Mr Mahmood (Central Pharmacies UK - Kilmaurs Pharmacy)

7.3.1. Mr Mahmood stated that the Applicant had made no case to show that existing pharmaceutical services were inadequate and believed the people in the defined neighbourhood were more than adequately served by existing community pharmacies in the neighbourhood. The application was more about convenience than necessity or desirability. Moreover, the application failed the legal test and strongly urged that the application be rejected.

7.4. Mr Connolly (Deans Healthcare Ltd - Deans Pharmacy)

7.4.1. Mr Connolly reiterated that people would not access Kilmarnock Pharmacy because nobody goes near that area.

7.4.2. The population growth that had been talked about were affluent people with access to cars and would not access pharmacy services in that area.

7.4.3. The Applicant had not provided a shred of evidence to support an argument of inadequacy.

7.4.4. Mr Connolly categorically stated that a fully functioning pharmacy could not be made at the proposed premises as it would not meet building regulations. The Panel was urged to consult Ms Gallagher in this regard.

7.4.5. The application also failed the legal test on several levels.

7.4.6. Mr Connolly respectfully asked the Committee to refuse the application.

7.5. Mr Green (M & D Green Dispensing Chemists - Bellfield Pharmacy)

7.5.1. Mr Green had no more to say about this application.

7.6. Mr Arnott (Lloyds Pharmacy)

7.6.1. Mr Arnott stated that

- Access [to Kilmarnock Pharmacy] was difficult for the majority of the neighbourhood which already lived closer to the existing pharmacies
- The Applicant provided no evidence of inadequacy
- There was little or no public support

- The premises were unsuitable
- The application was neither necessary nor desirable

7.7. **Mr Frame (Morrisons Pharmacy)**

7.7.1. Mr Frame had real concerns about the premises being small and DDA compliant. There was limited parking for the disabled or parent & child so could be challenging for access. Kilmarnock residents had adequate access to existing pharmacies including extended opening hours and pharmacies that opened on a weekend both in and outside the neighbourhood. The Applicant hasn't demonstrated any evidence of an inadequacy in accessing pharmaceutical services, a lack of a particular NHS service nor has there been evidence provided concerning the complaints therefore failing the legal test. Mr Frame asked that the application be refused.

7.8. **Ms Templeton (E J Templeton Ltd)**

7.8.1. Ms Templeton noted that in 2007 and 2011 there were two separate applications to open a new pharmacy at 38 and 48 Morven Avenue in Knockinlaw. These were unsuccessful. The situation with this address in the defined neighbourhood was similar to that at Auchencar Drive with respect to the already established pharmacies in and around it. If a new pharmacy was established in Auchencar Drive I would be concerned how it might affect the viability of the pharmacy, E J Templeton Ltd. Considering the distribution of established pharmacies in and around the neighbourhood area of the application and Kilmarnock town centre, Ms Templeton concluded there was adequate supply of pharmacies in this area and a new pharmacy within it was neither necessary nor desirable.

7.9. **Mr Ameen (the Applicant)**

7.9.1. Mr Ameen stated that this was a very large neighbourhood with a population of more than 15,000 people in seven settlements. Two pharmacies could not offer adequate provision to such a massive population. What was needed was to direct healthcare provision to the area of greatest need to two settlement areas of Altonhill and Onthank. These areas had a population of 6,300 people. A significant area which was most deprived.

7.9.2. The general rule used by the Scottish Government and Health Boards was to deploy healthcare to the areas of greatest need. Not in busy hubs or precinct areas with other amenities but for healthcare services to be successful, start engaging with the population and to thrive was to be at that heart of need. This was seen in great detail with the health SIMD and access to services SIMD. Huge amounts of deprivation much more than the rest of Kilmarnock and that was why this application proposed a pharmacy in the heart of the most deprived section of Kilmarnock and the most deprived section of this neighbourhood. Mr Ameen reminded the Committee that this area had the 5% most deprived people whose health was worsening. All existing contractors had stated that provision was adequate but that wasn't the case as health had actually worsened over the last 10 years. It was not just health but the access to services indicator, which

determined how existing pharmacies actually performed, had reduced 22.9%. Mr Ameen had not seen these kind of reductions in any other area. There was a high level of smoking as well.

- 7.9.3. Collectively the population of Altonhill and Onthank was immobile. Statistics showed there not to be a high level of car ownership, people were put off using buses because of the cost - paying £3-£4 on bus fares for a return journey was seriously debilitating for the majority of people, walking was really out of the question as one pharmacy was right to the North and the other right to the South making that 6,300 population devoid of local provision when that was what was really required, local pharmaceutical provision in the heart of greatest need - Altonhill and Townhill.
- 7.9.4. Mr Ameen had also talked about the increase in population size which was significant. This was predominantly happening in the North section of Kilmarnock where the proposed neighbourhood was situated. There had already been 17% increase in that population. Mr Ameen expected this to continue as there was an allocation of 800 new homes. Four hundred new homes had already been built in the neighbourhood and 131 were currently under construction. More people were moving into the area, looking for local provision but not getting any.
- 7.9.5. Much concern had been expressed about the size of the proposed premises. Mr Ameen thought this a moot point because eight pharmacies had been referenced with similar floor plans that were functioning very well as community pharmacies. These pharmacies were offering all core services so if these pharmacies were not struggling, Mr Ameen did not see why Kilmarnock Pharmacy would struggle. Critically, Mr Ameen believed that there were probably dozens of pharmacies which had a similar floor space to the proposed pharmacy. Fenwick Pharmacy was granted by this very Health Board and by this PPC which had the same operating space as the proposed pharmacy.
- 7.9.6. Mr Ameen concluded by thanking the Committee for hearing this application.

8. Retiral of Parties

- 8.1. The Chair then invited each of the parties present that had participated in the hearing to individually and separately confirm that a fair hearing had been received and that there was nothing further to be added. All parties were satisfied. The Chair confirmed that the Committee would seek clarification as to whether the proposed premises could comply with pharmacy building regulations as well as determining whether GPs operated a service from the Northwest Area Centre. It was further noted that it is not within the PPCs remit to look at building regulations and compliance of a proposed new pharmacy and that GP services were provided at Northwest Area Centre as detailed in the further information paper proved to the Committee. The Chair advised that the Committee would consider the application and representations prior to making a determination, and that a written decision with reasons would be prepared, and a copy issued to all parties as soon as possible. The letter would also contain details of how to make an appeal against the Committee's decision and the time limits involved.

- 8.2. The Chair advised the Applicant and Interested Party that it was in their interest to remain in the building until the Committee had completed its private deliberations. This was in case the open session was reconvened should the Committee require further factual or legal advice in which case, the hearing would be reconvened and the parties would be invited to come back to hear the advice and to question and comment on that advice. All parties present acknowledged an understanding of that possible situation.
- 8.3. During the course of Interested Party questioning by the Applicant, Mr Mahmood had offered to find out how many residents of the proposed neighbourhood used Kilmaurs Pharmacy. The Chair asked whether Mr Ameen was comfortable that this information did not form a significant part of the proceedings to enable a decision to be made by the Committee. Mr Ameen did not believe so.
- 8.4. This concluded the open session. The Applicant, Interested Parties and Legal representative left the room to allow the Committee to deliberate on the written and verbal submissions.

9. **Supplementary Information**

- 9.1. Following consideration of the oral evidence, the Committee noted:
- 9.1.1.
- i. That they had undertaken individual site visits of the proposed neighbourhood within Kilmarnock and the surrounding area noting the location of the proposed premises, the pharmacies, general medical practices and the facilities and amenities within.
 - ii. A link to a digital map showing the location of the proposed Pharmacy in relation to existing Pharmacies and GP surgeries within Kilmarnock and the surrounding area.
 - iii. Area profile summary for Kilmarnock Intermediate Zones
 - iv. Further information including details about the existing Provision of Pharmaceutical and Medical Services in/to the proposed neighbourhood as well as population figures as indicated by Scottish Neighbourhood Statistics and General Register Office Statistics.
 - v. Report on Pharmaceutical Services provided by existing pharmaceutical contractors in/to the neighbourhood
 - vi. NHS Ayrshire & Arran Pharmaceutical Care Services Plan 2022
 - vii. The application and supporting documentation including the Consultation Analysis Report, proposed pharmacy photographs and floor plan provided by the Applicant.
 - viii. Extracts from East Ayrshire Local Development Plan
 - a. Volume 1: Strategy & Policy February 2017
 - b. Plan 2 Housing Land Audit 2020, Volume 2 Settlements & Sites
 - ix. Local bus timetables
 - x. Letter of support from Carol Mochan MSP (South Scotland) dated 6 April 2022

10. **Summary of Consultation Analysis Report (CAR)**

10.1. Introduction

10.2. NHS Ayrshire & Arran undertook a joint consultation exercise with the Applicant Mr Ameen regarding the application for a new pharmacy at 20/4 Auchencar Drive, Kilmarnock, KA3 1QD (also known as OB Auchencar Drive).

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

10.4. Method of Engagement to Undertake Consultation

10.5. The consultation was conducted by placing an advertisement in the Kilmarnock Standard; notifications being placed on the Health Board Twitter and Facebook pages; a link to the consultation document on NHS Ayrshire & Arran website (www.nhsaaa.net); hard copies of the questionnaire were available and could be requested by telephone or at the following locations:

- a. The Surgery, 31 Portland Road, Kilmarnock
- b. Portland Medical Practice, 34 Portland Road, Kilmarnock
- c. London Road Medical Practice, 12 London Road, Kilmarnock
- d. Old Irvine Road Surgery, 4/6 Old Irvine Road, Kilmarnock
- e. The Wards Medical Practice, 25 Dundonald Road, Kilmarnock
- f. North West Kilmarnock Area Centre, Western Road, Kilmarnock
- g. Premier Stores, 7-9 Tourhill Road, Kilmarnock
- h. Keystore, 19 Kilmaurs Road, Kilmarnock
- i. Quicksave, 20/2 Auchencar Drive, Kilmarnock
- j. SPAR, 44 Morven Avenue, Kilmarnock
- k. SPAR, 1 Meiklewood Road, Kilmarnock

Respondents could reply electronically via SurveyMonkey or by returning the hardcopy questionnaire using a Freepost address.

10.6. The Consultation Period lasted for 90 working days and ran from 24 May 2019 to 30 September 2019.

10.7. Summary of Questions and Analysis of Responses

10.8. Questions covered: the neighbourhood; location of the proposed pharmacy; opening times; services to be provided; perceived gaps/deficiencies in existing services; wider impact; impact on other NHS services, support for the new pharmacy, individual or organisation responses and optional questions on respondents' postcode and number of occupants in the household.

Question	Response Percent			Response Count			
	Yes	No	Don't know	Yes	No	Don't know	Skipped
1. Do you agree this describes the neighbourhood to be served?	84.92	12.56	2.51	169	25	5	0
2. Do you think the proposed location is appropriate?	79.80	16.16	4.04	158	32	8	1
3. Do you live within the neighbourhood?	92.93	7.07	0	184	14	0	1
5. Do you think that the services listed are appropriate for the proposed new location?	83.16	11.22	5.10	163	22	10	3
6. Do you believe there are any gaps/deficiencies in the existing provision of pharmacy services provided to the neighbourhood?	62.81	24.12	12.56	125	48	25	0
7. Wider Impact – Kilmarnock Pharmacy believes it will significantly improve access of pharmacy services in the neighbourhood. Services such as dispensing of prescriptions, minor ailments and stop smoking will be available in the heart of the community. It will work closely with other NHS providers such as GP practices to improve communications between doctors and their patients. Do you agree with this statement?	82.91	12.06	4.52	165	24	9	0
9. Do you support the opening of a new proposed pharmacy at 20/4 Auchencar Drive, Kilmarnock, KA3 1QD (aka 0B Auchencar Drive)	80.81	15.15	4.04	160	30	8	1
10. Please indicate whether you are responding as an individual or organisation	Individual 98.98%		Organisation 1.02%	Individual 194	Organisation 2		Skipped 3
11. It would be helpful if you could complete the following optional questions, please note that all responses are confidential	Postcode of Home Address 95.83%		Number of Occupants in Household (including children) 98.44%	Postcode of Home Address 184	Number of Occupants in Household (including children) 189		Skipped 7

Question	Response Percent				Response Count				
	Just Right	Too Short	Too Long	Don't Know	Just Right	Too Short	Too Long	Don't Know	Skipped
4. Do you think that the proposed hours are appropriate?	71.21	8.59	7.07	11.62	141	17	14	23	1
	Positive	Negative	No impact	Don't know	Positive	Negative	No Impact	Don't know	Skipped
8. Do you believe this proposal would have any impact on other NHS services?	73.10	10.15	7.11	9.14	144	20	14	18	2

10.9. In total 199 responses were received. All submissions were made and received within the required timescale, thus all were included in the Consultation Analysis Report.

10.10. From the responses 194 were identified as individual responses and two responded on behalf of a group/organisation. Three respondents did not provide an indication as to whether the response was individual or on behalf of an organisation.

10.11. From the response to Question 11, replies were from the following postcode sectors

KA10 = 1 reply

KA13 = 1 reply

KA1 = 5 replies

KA3 = 175 replies

8 respondents out of 192 replies did not enter postcode of home address and 2 responses were blank.

The total number of occupants in the household ranged from 1 to 8 people. A total of 3 responses out of 192 replies did not enter number of occupants in the household. The average number of occupants per household, taking into account only those who had responded, was noted to be 2.98 people.

No additional comments were received.

10.12. Consultation Outcome and Conclusion

10.13. The use of SurveyMonkey allowed views to be recorded and displayed within the full Consultation Analysis Report in a clear and logical manner for interpretation.

11. **Discussion**

11.1. The Committee in considering the evidence submitted during the period of consultation, presented during the hearing and recalling observations from individual site visits, first had to decide the question of the neighbourhood in which the premises, to which the application related, were located.

11.2. **Neighbourhood**

11.3. The Committee noted the neighbourhood as defined in the application which had been supported by 84% respondents to the CAR and all of the Interested Parties that had attended the hearing. A number of factors were taken into account when defining the neighbourhood, including those resident in it, natural and physical boundaries, general amenities such as schools/shopping areas, the mixture of public and private housing, the provision of parks and other recreational facilities, the distances residents had to travel to obtain pharmaceutical and other services and also the availability of public transport.

- 11.4. The Committee agreed that the neighbourhood should be defined as follows:
- North - from foot of unnamed road, along Glasgow Road to meet Fenwick Water
 - East - from railway line cutting across countryside to junction A735 and unnamed road, then cutting across countryside to foot of unnamed road
 - South - railway line
 - West - Fenwick water to Dean Castle Country Park following down to Kilmarnock Water to meet B7082, then to A735 to meet railway line
- 11.5. Dean Castle Country Park, Fenwick Water, Kilmarnock Water and areas of countryside provided natural boundaries whilst the railway line and A735 provided physical boundaries. There were a number of amenities in this area
- 11.6. This definition had been agreed as the Committee considered that this was logical in terms of housing, roads etc. albeit the applicant continually focussed on a smaller area of deprivation. It was noted that it was a collection of adjoining smaller areas making up 2 community council areas and this includes various new housing estates built in last decade or so. The Committee also noted that no interested parties had disagreed with the proposed neighbourhood area and furthermore responses to the Consultation Analysis Report had largely supported proposed area.
- 11.7. **Adequacy of existing provision of pharmaceutical services and necessity or desirability**
- 11.8. Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of pharmaceutical services to that neighbourhood and, if the committee deemed them inadequate, whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.
- 11.9. The Committee noted that for the purposes of the legal test, adequacy of services to the whole neighbourhood as defined above needed to be considered rather than a small area within it. There were two pharmacies within the neighbourhood and another twelve existing pharmacies located within 2.5 miles from central Kilmarnock including those in Crosshouse and Hurlford.
- 11.10. The information provided by the Health Board on the twelve existing pharmacies deemed Interested Parties was consulted. This showed that these twelve pharmacies offered all core services and a range of additional services. There were no services being offered by Kilmarnock Pharmacy that were not already offered at the existing pharmacies. There was also a range of existing pharmacy opening hours. On weekdays, four of the existing pharmacies opened earlier than Kilmarnock Pharmacy and two closed later. On Saturdays two of the existing pharmacies opened earlier and four closed later whilst two were open on a Sunday when Kilmarnock Pharmacy was closed.
- 11.11. The Applicant had emphasised that residents of Altonhill and Onthank had difficulty accessing any of the existing pharmacies because it was too far to walk,

the cost of bus fares were prohibitive and residents had no access to a car. This conflicted with a statement made during the Applicant's oral presentation and noted in paragraph 4.15. that "They are coming in to use the services and amenities of this larger neighbourhood". This being the case then one of the two existing pharmacies in the neighbourhood could be accessed.

- 11.12. Evidence had been heard that the time taken to walk from the Altonhill/Onthank area of the neighbourhood to an existing pharmacy was 30-35 minutes. This walking distance was deemed reasonable by the Committee given the fact that the population had a lower percentage aged over 65 years at 11.9% than the national average at 18.9%.
- 11.13. Bus services were frequent and free for those under 22 or over 60 years of age as well as those in receipt of disability benefits and attendance allowance. There was a 50% discount for those on Job Seekers Allowance, Employment Support Allowance, Income Support and Universal Credit.
- 11.14. Car ownership in the whole neighbourhood was also in line with the national average.
- 11.15. Whether travelling by car, bus or on foot, many of the Interested Parties had pointed out that for the vast majority of residents of Altonhill and Onthank it was easier to access pharmaceutical services from one of the two existing pharmacies in the neighbourhood rather than the proposed pharmacy in Auchencar Drive.
- 11.16. This was certainly the case for the new housing developments in the neighbourhood as there was no footpath directly linking these new houses to Altonhill and the road was convoluted.
- 11.17. Siting a pharmacy in Auchencar Drive may be more convenient to a proportion of the Altonhill community but that was not a valid reason to grant the application.
- 11.18. Irrespective of whether people were able to travel to one of the existing pharmacies or not, pharmacy services could still be accessed through new ways of working which had advanced during the pandemic and become business as usual. Evidence had been heard during the representation from Central Pharmacies Ltd that many pharmacy services could now be accessed remotely. There was therefore not the same need as before to travel to a pharmacy to access services. Evidence had been provided that Deans Pharmacy were even able to offer patients home visits where necessary. These home visits were not limited to any geographical scope within Kilmarnock.
- 11.19. The majority of patients requiring an acute prescription would receive it from a medical practice especially for any condition not covered by Pharmacy First or Pharmacy First Plus. Pre-covid this would have necessitated a visit to one of the medical practices in the surrounding area where pharmacies were also located. However, the way in which GPs engaged with patients had also changed during the pandemic and the majority of consultations were now carried out remotely.

Any prescription issued as a result could be collected by the patient's preferred pharmacy for collection by or delivery to the patient.

- 11.20. The Applicant had attributed a 17% increase in population within the neighbourhood since 2007 from new developments. Mr Ameen expected the neighbourhood population to continue to grow. From an allocation of 800 new homes, 400 new homes had already been built in the neighbourhood and 131 were currently under construction. The East Ayrshire Local Development Plan 2 Housing Land Audit 2020 Volume 2: Settlements and Sites indicated that the majority of new housing in Kilmarnock involved market units (68%) to be sold on the open market and a smaller proportion of affordable units (32%) i.e. units for social or mid market rent or affordable ownership. The demographics of the population boom anticipated by the Applicant was therefore likely to be mostly affluent with high car ownership.
- 11.21. Evidence had been heard during the hearing that all Interested Parties had capacity to absorb any increase in demand for pharmaceutical services from a growing population.
- 11.22. Despite being advertised extensively, the response rate for the public consultation was considered extremely low at 1.3%. The information contained within the CAR was taken into account by the Committee however it was noted that overall very mixed 'free format' comments from a very small response rate could not be heavily relied upon. It was further noted by the Committee that a reasonable number of respondents indicated that their needs were better met outwith the neighbourhood and there was noted to be a common thread of concerns re drug use and methadone uptake. It was considered by the Committee that supportive comments were generally related to convenience for the proposed pharmacy as opposed to a need for services or inadequacy in service. The Committee considered that the lack of response to the CAR was indicative that there was little support for the proposed pharmacy and could therefore not be used to draw any meaningful conclusions because it was not statistically representative.
- 11.23. The Committee assessed the information reported on complaints to assist in determining adequacy of the pharmaceutical services currently available in the neighbourhood. There had been much made by the Applicant over the 23 complaints reported by E J Templeton Ltd for three quarters of the year in 2022. When put into context, this equated to 0.05%. The Committee did not consider this level of complaints to be either high or significant. As there was no information available about the details of the complaints, these could not be used to attribute any inadequacy of service.
- 11.24. The Committee recognised the level of deprivation within Altonhill and Onthank, although there were varying degrees of deprivation in the neighbourhood in its entirety. The statistics indicated that this neighbourhood did not differ considerably from national averages. Deprivation was also not part of the legal test.
- 11.25. Many concerns had been raised during the Hearing about the size of the proposed premises. The Committee also had concerns as to whether the

premises would be DDA compliant but this had no bearing on determining the adequacy of existing services.

11.26. The Committee considered that there was no evidence to suggest any inadequacy in current provision with Interested Parties all indicating that they had capacity to cater for additional volume. It noted that although the level of complaints was cited by the Applicant as an indicator of inadequacy there is no evidence to back up the nature of these complaints and no indication of any known dispensing issues or material concerns within the Health Board. The Committee noted no additional services are to be provided by Applicant which would enhance the current position and that the viability of existing providers could be impacted and conversely there were some concerns over the viability of the Applicant's business if they only attracted custom from the smaller area of focus within the neighbourhood (thought to be c1200 homes). It was considered that the location of the proposed pharmacy premises were not readily accessible either on foot or car from many surrounding parts of the neighbourhood and therefore unlikely to change the behaviours of residents when accessing services and concerns were raised regarding the suitability of the proposed pharmacy premises. The Committee noted that residents appear to travel outside of the area for daily needs due to lack of amenities within the neighbourhood and due to the low response rate the CAR was not considered to be representative or reliable. It was noted that the Applicant placed considerable focus on catering for areas of deprivation which is very commendable and was taken into consideration by the Committee, however, it was noted that this is not part of the legal test. The Committee considered that there is no evidence to suggest that current pharmacy services are inadequate to the point that they are inaccessible with delivery services and alternative contact methods available for those unable to travel.

The Committee therefore concluded that there was no evidence provided to demonstrate any inadequacy of the existing pharmaceutical services to the defined neighbourhood.

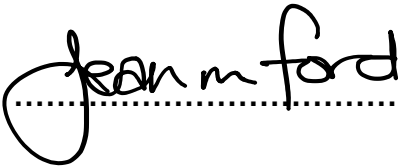
11.27. **The Decision**

11.28. Following the withdrawal of Ms Church and Ms Gallagher in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, the Committee, for the reasons set out above, considered that the pharmaceutical service into the neighbourhood to be adequate.

11.29. Accordingly, the decision of the Committee was unanimous that the provision of pharmaceutical services at the premises was neither necessary nor desirable in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the application was rejected. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.

11.30. Ms Church and Ms Gallagher returned to the meeting and were advised of the decision of the Committee.

11.31. The meeting closed at 14:10 hours.

Signed: 

Jean Ford
Chair – Pharmacy Practices Committee

Date: 1st March 2023