

REPORT OF THE PHARMACY PRACTICES COMMITTEE HEARING HELD ON MONDAY 30TH MAY, 2022 AT 09.30 AM VIA MICROSOFT TEAMS

Present:

Appointed by NHS Fife

Mr Martin Black (Chair)
Mr Arthur Andrews, Lay Member
Ms Sandra Auld, Lay Member

Nominated by Fife Area Pharmaceutical Committee

Mr Raymond Kelly, Contractor Pharmacist nominated by the APC
Mrs Cara MacKenzie, Non-Contractor Pharmacist nominated by the APC

In Attendance:

Mrs Joyce Kelly, Primary Care Manager, Primary and Preventative Care, FHSCP, Note Taker
Mrs Karen Brewster, Note Taker
Miss Dianne Watson, Note Taker

INTRODUCTION/BACKGROUND

APPLICATION FOR INCLUSION IN NHS FIFE'S PHARMACEUTICAL LIST

The hearing was called to consider an application submitted by Mr Mohammed Ameen to provide General Pharmaceutical Services from premises situated within 94 High Street, Burntisland, Fife, KY3 9AS

Under Regulation 5(10) of the NHS (Pharmaceutical Services) (Scotland) Regulations 2009, as amended ("The Regulations") the Pharmacy Practices Committee (PPC) were required to determine whether the granting of the application was necessary or desirable to secure the adequate provision of Pharmaceutical Services in the neighbourhood in which the Applicant's proposed premises were located.

- a) The Regulations require that the Committee shall have regard to:-
- the Pharmaceutical Services already provided in the neighbourhood of the premises named in the application by persons whose names are included in NHS Fife's Pharmaceutical List;
 - any representations received by the Board under paragraph 1 of the aforementioned Regulations;
 - any information available to the Committee which, in its opinion, is relevant to the consideration of the application;

- the Consultation Analysis Report submitted in accordance with regulation 5A;
 - the Pharmaceutical Care Services Report; and
 - the likely long term sustainability of the Pharmaceutical Services to be provided by the Applicant.
- b) It was noted that copies of the following had been supplied to the members of the Committee, the Applicant and those who submitted a representation and had accepted the invitation to attend the hearing.
- Application Form A (1),
 - Letter from Councillor Gordon Langlands
 - Letter from Councillor Lesley Backhouse
 - Letter from Councillor Kathleen Leslie
 - Burntisland Community Action Plan
 - Proposed Layout of Pharmacy
 - Newspaper Article – Why Burntisland High Street is booming
 - Newspaper Article – This NHS Fife Town is thriving while others struggle – here's why
- Representations received from :-
- I. Royal Burgh of Burntisland Community Council
 - II. Lloyds Pharmacy
 - III. Omnicare Pharmacy
 - IV. NHS Fife's Area Pharmaceutical Committee
- Consultation Analysis Report (CAR)
 - A map of the area indicating the location of the proposed Pharmacy, existing Pharmacies and GP Surgeries and distances from these to the proposed site.
 - An extract from the Fife Local Development Plan
 - PPC Rules of Procedure
 - Pharmaceutical Services Report 2019/20
- c) The Chair determined that the hearing should take the form of an oral hearing and the Applicant and those who submitted a representation were given the opportunity to attend the hearing. Those who accepted the invitation are listed below:-
- i. Mr Mohammed Ameen, Applicant
 - ii. Mr Tony O'Reilly, Lloyds Pharmacy
 - iii. Mr Chris Freeland, Omnicare Pharmacy
 - iv. Mrs Carol Rogers, Community Council Representative
- d) The Committee noted that written notification of the application from Mr Ameen was issued to the under-noted within 10 working days of the application being received in accordance with paragraph 1 of schedule 3 of the Regulations:-

- i. NHS Fife's Area Pharmaceutical Committee
- ii. NHS Fife's GP Sub Committee
- iii. Pharmacies in Burntisland, Aberdour and Kinghorn
- iv. Local Community Council

It was also noted that the Application had been provided to NHS Fife's Director of Pharmacy.

e) The Committee noted that written representations were received from the under noted within the required 30 days of written notice being sent to them:-

- i. Lloyds Pharmacy
- ii. Omnicare Pharmacy
- iii. Royal Burgh of Burntisland, Community Council Representative
- iv. NHS Fife's Area Pharmaceutical Committee

No.

01/22 CHAIR'S WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the hearing, and round the table introductions were made.

02/22 DECLARATION OF MEMBERS INTERESTS

Prior to the commencement of the hearing, the Chair asked the members whether any of them had an interest to declare or were associated with a person who has any personal interest. The Chair then asked the Applicant and interested parties whether any person assisting them at the hearing was appearing in the capacity of Counsel, Solicitor or paid Advocate.

The Chair asked those present if they had any objections to the meeting being recorded for the purpose of the Minutes. All those present agreed they had no objections to the meeting being recorded.

There were no other declarations of interest, nor were any persons making representation attending in the capacity of Counsel, Solicitor or paid Advocate.

03/22 FORMAT OF HEARING

The Chair briefed those in attendance of the intended format of the hearing.

The Chair advised that the Applicant would be asked to make his submissions, followed by questions from the interested parties, then from members of the Committee.

The interested parties would then be asked, in turn, to make their submission, followed by questions from the Applicant, the other interested parties and then the Committee.

The interested parties would then be given the opportunity to sum up, followed by the Applicant.

04/22 APPLICANT'S ORAL SUBMISSION

Mr Ameen thanked everyone for attending to discuss and consider his application to open a

new Pharmacy from premises situated within 94 High Street, Burntisland, Fife, KY3 9AS.

Mr Ameen (MA) spoke to his Presentation (Attached as Appendix 1)

05/22 INTERESTED PARTIES QUESTION THE APPLICANT

05/22.1 Mr Christopher Freeman questioned Mr Ameen (MA)

CF asked why MA felt it was important to have two pharmacists within a pharmacy that dispenses less items.

MA believed this went back to 2008 then followed on in 2016 when Lloyds Pharmacy themselves proposed employing an additional pharmacist to alleviate the pressures. Lloyds put this specific solution in place then removed the pharmacists twice.

CF asked MA if he felt the situation had changed recently in terms of there being less pharmacists available now in Scotland than there was in 2016.

MA did not believe this was the case and had no knowledge of this.

CF did not agree as Omnicare branch in Leven has had a shortage of pharmacists for under a year and has had no applicants. He believed pharmacists have had to adapt due to the lack of pharmacists and felt the use of ACTs has been important and asked MA if he would agree that a pharmacy could run with a pharmacist and one or two ACTs.

MA was confident that there was not a deficit of pharmacists within the community pharmacy sector, he went on to say that he knew of a huge exodus of pharmacists that are leaving pharmacy manager positions and becoming locums, which he believed has been the case over the last few years. He felt the Covid pandemic had exacerbated the situation and believed this is the reason for the lack of pharmacists in the Omnicare branch.

CF asked MA if he was of the opinion that the opening hours of the existing pharmacy are adequate.

MA believed Lloyds Pharmacy in Burntisland cover the model hours and even go a step further, which is reflective of the hours the proposed pharmacy also wish to cover.

CF asked if he would be offering the same hours with no increase in hours.

MA confirmed that the new pharmacy would not cover hours over and above the proposed hours. He reported that in the CAR, the vast number of people had said the hours were satisfactory with a few who had mentioned extended opening times. He would be happy to look into this once the core provision and the proposed opening hours have been provided.

CF asked MA if he agreed that many of the population of Burntisland work outwith the area and would access pharmaceutical services where they work.

MA agreed a small percentage would, but reported that the Pharmaceutical Care Plan states that almost 90% of the population would access pharmaceutical services within their home town and believed that Burntisland community would follow that same protocol.

CF asked if there is a secondary school in Burntisland.

MA was unsure but did not believe so.

CF presumed that residents would then need to travel outwith Burntisland to attend the secondary school.

MA agreed but also reported that there is a vast amount of amenities within the Burntisland neighbourhood and that most people would access pharmacy services within their own neighbourhood.

CF stated that in the applicant's documentation he had read that people have been loitering outside the existing pharmacy and asked, in terms of the proposed pharmacy, how that would alleviate the pressure on Lloyds Pharmacy if it was smaller.

MA reported that the proposed pharmacy will be approximately 84 square metres which is a substantial size.

CF asked if MA will be offering supervised Methadone or Buprenorphine to drug misuse patients.

MA confirmed he would not.

CF stated that according to the CAR this was a service the proposed pharmacy was going to be providing and asked MA to confirm.

MA did not believe this was the case and stated that Methadone seems to be a problem, particularly around the area in which Lloyds Pharmacy is situated. MA's proposal is not to get involved in this service and he confirmed that the proposal is designed to alleviate the pressure on core services that Lloyds Pharmacy provides, which will allow Lloyds to focus on the additional services so they can provide a better service and help with social mismanagement. The fact that the pharmacy will be in the west end and further away from the existing pharmacy, will potentially spread the traffic flow and make the west end busier. He believed the biggest concerns raised in the CAR was lack of core service provision. In his opinion, indirectly the new pharmacy will alleviate the pressure on the Methadone Service.

CF asked if MA was aware of any complaints to the Health Board regarding pharmacy services in Burntisland.

MA believed that the CAR was an ode of complaints. Long waiting times being mentioned 327 times, which he felt was more or less complaints and indicated that this document is managed by the Health Board.

CF asked, looking at other applications that the applicant had submitted elsewhere, what the percentage of the response rate had been to the CAR compared to this application.

MA believed that the response rate for Burntisland CAR had been phenomenal, and compared to Pumpherston and Townhill, about the same response.

CF reported that he was at the Pumpherston Hearing and believed it was about a 20% response, where Burntisland is only about 7% which is significantly lower, which shows the residents of Burntisland have no issues with the existing pharmacy services and asked MA if

he agreed this is the case.

MA referred CF to a slide which showed the Sample Size per Margin of Error in a questionnaire, to which there were 450 responses. This showed that people said there was a lack of pharmacy provision.

CF still felt this was a low response compared to other applications.

MA pointed out that the areas were different sizes of populations.

CF stated that Aberdour Pharmacy had doubled the number of prescriptions due to their Care Homes and asked MA if he thought people from Burntisland were using Aberdour Pharmacy.

MA did not believe they were as it was 3.2 miles away and no one would be able to walk to it, which he felt was reflected in the CAR.

CF asked if MA agreed that people are not accessing services in Aberdour Pharmacy as they feel that the pharmacy services in Burntisland are adequate.

MA referred back to the CAR which showed that the current provision of pharmaceutical services is inadequate due to long waiting times accessing medicines due to the restrictions from suppliers.

CF asked if MA agreed the pandemic has emphasized the issue with waiting times all over.

MA reported that the vast number of respondents to the CAR and the Community Council are referring to a timeline which is pre Covid, although there may have been extended waiting times before Covid but it refers specifically to this long standing set of issues.

05/22.2 Mr Tony O'Reilly (TO) questioned Mr Ameen (MA)

TO asked MA, if his application was to be successful how many pharmacists he would have in the premises.

MA confirmed there would be one full time pharmacist.

TO asked why MA considered that other pharmacies should have two pharmacists.

MA confirmed that he does not consider this, and stated that this is due to the proposals and solutions that Lloyds Pharmacy have put forward over the last 15 years to the various PPCs.

TO was concerned that MA was a little out of touch, in terms of the workforce situation in Community Pharmacy at the moment having a shortage of pharmacists. He asked MA if he was aware that Community Pharmacists are on the short occupation list.

MA was not aware of this. He believed there was a movement of pharmacists going to GP Practices and hospitals and believed that in his experience the biggest factor was that pharmacy managers were making the move from manager positions to locums.

TO asked MA if he was aware of how many pharmacists have left community pharmacy to go to Primary Care in terms of GP Practice based pharmacists.

MA did not know.

TO asked MA if he was also aware, around the number of vacancies for pharmacists being at an all time high.

MA believed that there was a restructuring of pharmacists not necessarily a deficit.

TO asked if MA could tell him the number of staff Lloyds Pharmacy has now as MA had eluded to the fact their numbers had decreased.

MA stated that the commitment that Lloyds Pharmacy had put forward at each PPC Hearing was that they would add in an extra pharmacist, who would cover three days per week, and once the second pharmacist had become unsuccessful that second pharmacist was removed. Also in the 2008 application there had been a proposal to increase staff levels by 38 hours, which happened for a brief period but was then removed and most recently there has been a restructuring of Lloyds to cut back on non-pharmacist staff, which he believed was in the region of 40 hours per week.

TO asked how many hours of staffing Lloyds have in the current pharmacy compared to back then.

MA believed that there was no doubt that TO would elevate his numbers due to the current application.

TO denied this and believed that MA was second guessing. He confirmed that they had invested in Lloyds Pharmacy in Burntisland and also brought in an ACT who can check prescriptions to alleviate the pressure on the pharmacist and the hours have increased.

MA pointed out that it was clearly stated in the statement of the elected Community Council that there were long waiting times.

In terms of waiting times TO asked if MA believed that Covid had an impact on pharmaceutical services in every town and Community Pharmacy in Scotland.

MA reiterated that comments made by residents and the community council regarding long waiting times were pre Covid.

TO asked MA what he felt was inadequate in terms of Lloyds Pharmacy in Burntisland.

MA believed the lack of core services being provided consistently by Lloyds Pharmacy was inadequate.

TO asked MA what services Lloyds Pharmacy do not provide.

MA was of the opinion that Lloyds Pharmacy do not provide the core services at an adequate level.

TO confirmed that Lloyds Pharmacy provide all core services and additional services to an adequate level. This includes Pharmacy First, Dossett Boxes, free delivery. He asked what was MA's reasoning for thinking Lloyds Pharmacy were providing an inadequate service.

MA stated that the evidence was in the CAR.

TO stated that less than 6% of the population of Burntisland were in support of his application.

MA addressed the Chair and asked that TO asked questions only and not state facts. The Chair agreed.

TO believed there was more than one pharmacy in the High Street in Burntisland, the other being Dears Pharmacy next door, which furnished prescriptions and asked MA to confirm.

MA reported that there was only one pharmacy as Dears was not a pharmacy but a Health and Beauty store which caters for the wider network.

The Chair asked Joyce Kelly (JK) for clarification on this.

JK confirmed that Dears do not have a pharmaceutical contract in Burntisland, it is a Health and Beauty store. They have a locker box on the outside of their premises where people can drop their prescriptions, which are then taken to one of their pharmacies who do have a contract to be dispensed, then brought back to the locker box to be collected at people's own leisure.

MA wanted to add that pharmaceutical services are not offered from the Health and Beauty store, but he believed they provided this service as they have known that Burntisland suffers from critical issues, namely that it is difficult to access to a pharmacy timeously to have their prescriptions dispensed. He believed that this service is to help alleviate the issues in Burntisland.

TO asked how MA felt that a patient with a pharmaceutical need, as in Methadone, is going to be denied treatment from them.

MA confirmed that there was no denial but reiterated that his proposal was based on core provision for the vast majority of people. He stated that the Methadone service is an additional service and believes the new pharmacy could help alleviate pressures on the existing pharmacy, by providing the core services. He reported that, by opening a new pharmacy, he did not want to replicate the social disorder and felt that one methadone supplier was sufficient in Burntisland.

TO asked if there was any additional housing in Burntisland and if so how many.

MA confirmed there is additional housing but did not have the information to hand.

06/22 COMMITTEE MEMBERS QUESTION THE APPLICANT

06/22.1 Questions from Mr Arthur Andrews (AA) to the Applicant (MA)

AA had no questions for MA.

06/22.2 Questions from Mrs Carol Rogers (CR) to the Applicant (MA)

CR had no questions for MA.

06/22.3 Questions from Ms Sandra Auld (SA) to the Applicant (MA)

From a service user point of view, SA asked how likely it would be that the proposed pharmacy would open after 6pm, even one night per week.

MA confirmed that the new pharmacy will not initially, but they will be opening at 8.30am to capture GP appointments at that time. He is more than happy to look into an audit regarding extended opening hours if there is a need for people who are perhaps working beyond the specified hours if the application is granted.

06/22.4 Questions from Mr Ray Kelly (RK) to the Applicant (MA).

RK asked MA what the population of the neighbourhood in which the pharmacy will be servicing was.

MA confirmed that the population of Burntisland is 6,620.

RK asked if MA knew what the average population would be for one pharmacy in Scotland.

MA did not know.

RK asked if MA was aware of any other areas across Scotland that had a smaller population than 6,620 that have no pharmacy.

MA confirmed that Pitlochry has a population of about 2,800 and has two pharmacies.

RK asked if MA would accept that Pitlochry has a level of tourism population.

MA accepted this.

RK asked if a second pharmacist is a legal requirement for a pharmacy.

MA confirmed that it is not but stressed that this was raised by Lloyds Pharmacy in the 2008 application to the PPC.

RK asked if it is possible that if Lloyds Pharmacy was better managed, this would resolve their problems.

MA reiterated that Lloyds had made proposals and commitments in 2008 and again in 2016 which they had reneged upon a second time. He believed explicitly that they would still not be able to offer a consistent level of adequate service as the solutions they put forward are short term whereas the solutions MA are putting forward are long term solutions of providing a consistent adequate pharmacy service.

RK asked if he knew of any formal complaints that have been submitted to NHS Fife regarding Lloyds Pharmacy.

MA shared a slide which showed the catalogue of complaints submitted to NHS Fife regarding Lloyds Pharmacy from January 2019 to March 2022 which was included in the CAR.

RK asked MA to clarify his comment regarding the CAR being run by the Health Board.

MA clarified that the CAR was a joint process between the applicant and the Board, but confirmed that the Board takes the lead on this.

RK asked him to clarify that this was the standard process that is usually followed.

MA agreed.

RK asked if, according to the SIMD data, it is the two zones of Burntisland that fall into the red zone which are Burntisland Docks and Burntisland Links.

MA shared a slide "Burntisland Health Comparison" showing that Burntisland sits in the 15% most deprived for health compared to Aberdour and Kinghorn.

RK asked MA to confirm that Aberdour, Kinghorn and the surrounding areas did not fall into the proposed neighbourhood.

MA confirmed they did not. This was for information and comparison on the health challenges to other areas within the Burntisland neighbourhood.

RK was surprised that Methadone would not be provided if the new contract was granted. He was curious to know if Methadone patients would be in the top or the bottom 15%, where Methadone would be more relevant to these patients.

MA did not think this was about not providing Methadone but in fact this application was about offering the other core services that this population was devoid of. Methadone is an additional service that Lloyds Pharmacy is offering, and he felt it was crucial, within the community, that they should be able to address it single handed.

RK then asked MA if he agreed that the pharmaceutical service for Methadone in Burntisland is adequate, and this being the reason he did not feel the need to offer that service.

MA reiterated that his remit is about core services only and Methadone is not a core service.

RK asked if MA realised that although the new pharmacy would open from 8.30am to 5.30pm the Board could not enforce these hours or to open on a Sunday, therefore if the contract was awarded he could then reduce his hours to the core hours.

MA was aware of this.

The Chair asked Ms Sandra Auld (SA) if she had a question.

SA asked if the slide that MA shared was an amalgamation of complaints from different sources.

MA explained that this was part of a freedom of information request that he had submitted to NHS Fife regarding the official complaints that are submitted to them.

SA thanked MA for the clarification and reported that when she had gone to the site visit she had spoken to about 12 people and of those there were two people specifically who had changed where they obtained their prescriptions from which was Lloyds Pharmacy to Dears as they were unhappy with the provision.

06/22.5 Questions from Mrs Cara MacKenzie (CM) to the Applicant (MA)

CM asked MA how he would staff the new pharmacy.

MA confirmed there will be a full time pharmacist, two dispensers and a counter assistant in the first 12 month period then he will take stock of the situation thereafter.

CM asked MA to confirm that the new pharmacy would not be providing Methadone as Lloyds Pharmacy currently provides this service.

MA confirmed this is the case. He believed that the new pharmacy would alleviate the pressure on Lloyds Pharmacy so they can concentrate on the additional services like Methadone provision. He felt it was important to note that the social disorder that has been created by Lloyds has become so bad that it has been escalated to Holyrood.

The Chair intervened to say he felt uncomfortable with the statement MA had made regarding Lloyds Pharmacy creating social disorder as in his opinion a pharmacy did not create social disorder.

Tony O'Reilly agreed with the Chair's statement. He believed the social problem exists in the neighbourhood and the service Lloyds are providing is helping to cater for that social problem. He felt it was a rather harsh and incorrect statement to make.

MA asked if he could clarify his statement. He believed there is certainly a need for substance misuse services within the area, which has not been created by Lloyds, but what has been created by Lloyds is the mismanagement of the service, therefore mismanagement spills onto the streets daily, which makes Lloyds Pharmacy responsible for some of the social disorder.

RK asked MA to clarify what he meant by social disorder, which he felt was an uncomfortable term.

MA reported that the CAR acknowledged social disorder. A number of the Community Councils that MA has attended also echo this. This is mostly caused by the long queuing system and long waiting times whilst people are waiting to access the pharmacy for various services i.e. prescriptions, Methadone. He felt that when substance misusers are being forced to queue, this causes social disorder.

CM asked MA, regarding Methadone dispensing, if he believed it would be possible for Lloyds to serve the population of 6,000 or 7,000 along with their other prescriptions and the core services.

MA was of the opinion that Lloyds have proven over the last 15 years that they have not been able to do that.

CM asked if he thought this would be possible if this had been another pharmacy rather than Lloyds.

MA felt that Lloyds Pharmacy do not have the capacity to deal with this situation. He stressed that he had never seen a community that had to deal with these long standing issues, e.g. Applications submitted, solutions put in place then removed. He believed the only solution was to grant a new pharmacy, due to the fact that Lloyds have tried in the past, but it is never a long term solution.

CM asked MA if he felt it was reasonable to accept that one community pharmacy could

serve that amount of the population, taking Lloyds out of the equation.

MA believed one pharmacy could serve this amount of the population, if taking Lloyds out of the equation.

06/22.6 Questions from the Chair (Ch) to the Applicant (MA)

Ch asked MA if the letter of support from Councillor Gordon Langlands was contingent on the new pharmacy not providing Methadone and if this would be withdrawn if he did provide Methadone. The Councillor also refers to Dears Pharmacy not having a resident pharmacist even though Dears is not a pharmacy. Ch felt Mr Langlands would only be supportive of the application if MA agreed with him which did not sit well with the Ch. He also pointed out that MA had made a statement that the provision of the Methadone service in Burntisland was adequate but then said it was inadequate as it is causing issues. Ch had studied the CAR and found in most cases there was support for a new pharmacy but he believed it was about the inefficiency as opposed to the inadequacy of provision is what people are eluding. He felt Methadone was mentioned a great deal and he was not convinced this was about inadequacy or inefficiency. He asked MA how he would go about changing his perception.

MA believed that Councillor Langland's letter regarding Dears being a pharmacy was a source of confusion. He had attended a local council meeting and spoke to one of the Councillors, who's mother did not know how to use the locker box outside Dears Health and Beauty store and as there is no resident pharmacist there was no one to ask for help. He believed there is a level of confusion to whether this is a pharmacy or not. Regarding the inadequate Methadone provision and the inefficient provision, he believes it's the latter. He reiterated that the reason he applied for a contract was about core provision and services that the community is devoid of. He believed there is a small subset of people using Methadone provision and therefore he did not feel people should be focusing too much on this provision especially when it is not a core service. The solution he is putting forward is to allow a new pharmacy to alleviate the pressure on the existing pharmacy to enable it to improve its core services and better improve its additional services such as the Methadone programme.

07/22 INTERESTED PARTIES' ORAL SUBMISSIONS

07/22.1 Mr Chris Freeland (CF) spoke to his presentation. (Attached as Appendix 2)

08/22 INTERESTED PARTIES QUESTION MR FREELAND

08/22.1 Questions from the Applicant (MA)

MA had no questions for CF.

08/22.2 Questions from Mr Tony O'Reilly (TO) to Mr Chris Freeland (CF)

TO asked CF what the waiting times are for Lloyds Pharmacy.

CF confirmed the waiting times are 5 to 10 minutes depending on the prescription, it could be 15 minutes maximum.

TO asked if Lloyds Pharmacy has any staffing issues.

CR confirmed there are currently no staffing issues.

08/22.3 Questions from Mrs Carol Rogers (CR) to Mr Chris Freeland (CF)

CR had no questions for CF.

09/22 COMMITTEE MEMBERS QUESTION MR FREELAND

09/22.1 Questions from Mr Arthur Andrews (AA) to Mr Chris Freeland (CF)

AA asked CF what percentage of prescriptions his pharmacy served to the neighbourhood of Burntisland.

CF confirmed that Omnicare Pharmacy provided a service more to the housebound within Burntisland. Prescriptions are collected and delivered daily to people who cannot access pharmaceutical services. He felt it was a low number of perhaps 5% per month.

09/22.2 Questions from Ms Sandra Auld (SA) to Mr Chris Freeland (CF)

SA asked CF if he said he was creating a prescription pick up for Burntisland or he had already.

CF confirmed they have always picked up prescriptions from the GP Surgery then dispensed them at the pharmacy, then they are either delivered or picked up by the patient.

09/22.3 Questions from Mr Ray Kelly (RK) to Mr Chris Freeland (CF)

RK asked CF if Aberdour would be included in the data zone.

CF did not think it would.

To confirm RK asked if Omnicare Pharmacy was located outwith the neighbourhood as defined by the Applicant.

CF confirmed that Omnicare Pharmacy is situated outwith the neighbourhood.

The Chair asked MA to confirm.

MA confirmed that Aberdour was not covered in the data zone.

RK asked if Omnicare Pharmacy currently provide a Methadone Services.

CF confirmed they do.

RK asked if the Burntisland Surgeries cover the old style CMS.

CF was unsure as he did not visit the pharmacy too often.

RK asked if Omnicare Pharmacy currently suffer from stock shortage.

CF confirmed this was the case and believed most pharmacies do in terms of supply chains.

RK asked what the opening hours currently are in Omnicare Pharmacy in Aberdour.

CF confirmed the pharmacy are open from 9am to 5.30pm, Monday to Friday and 9am to 12.00pm Saturday.

RK asked if they are open over lunch.

CF confirmed they are open over lunch.

09/22.4 Questions from Mrs Cara Mackenzie (CM) to Mr Chris Freeland (CF)

CM asked CF if Omnicare Pharmacy charge for delivery of prescriptions.

CF confirmed they do not charge for delivery.

09/22.5 Questions from the Chair (CH) to Mr Chris Freeland (CF)

Ch asked how many prescriptions Omnicare Pharmacy collect from the Burntisland area. He also asked if CF was aware if the shortage of pharmacists in Fife and in Scotland was evidential or perception.

CF stated that Omnicare have a structure of retaining pharmacists whereas he was aware that other pharmacies across Scotland are struggling due to the movement into Primary Care and Hospitals, which is evidence based. As for the number of prescriptions Omnicare Pharmacy collect from Burntisland, CF confirmed it was in the region of 5% per month.

10/22.1 Mr O'Reilly (TO) spoke to his presentation (Attached as Appendix 3)

INTERESTED PARTIES QUESTION MR O'REILLY

10/22.2 Questions from the Applicant (MA) to Mr Tony O'Reilly (TO)

MA pointed out that TO had mentioned that the Community Council had not interfaced with Lloyds Pharmacy to communicate that there were issues and asked TO if this was correct.

TO stated that from the previous PPC Hearing in 2016, Lloyds asked to either meet with the Community Council or for any feedback and at no time have they had such dialogue from the Community Council.

MA reported that he had attended a number of Community Council meetings over the last 4 or 5 years and on more than one occasion it had been mentioned that Lloyds pharmacy have not engaged with the Community Council. MA had also heard this from the executive members of the Community Council Leadership.

TO reiterated that he had no representation from the Community Council or direct dialogue or feedback from them on any of their service provision.

10/22.3 Questions from Mr Chris Freeland (CF) to Mr Tony O'Reilly (TO)

CF asked TO if Lloyds Pharmacy provide all the core services.

TO confirmed that they do offer all core services.

CF asked if TO was aware of the waiting times for a one to two item prescription.

TO confirmed that waiting times were generally around 10 minutes, unless there is a backlog of prescriptions from the GP Practices, which could have a slight impact on waiting times.

CF asked if the waiting times would be longer if there were more items.

TO confirmed it would be longer, but they try and prioritise on patient need and collect the prescriptions from the practice in advance to decrease waiting times.

CF asked if Lloyds Pharmacy offer a delivery service.

TO confirmed they do provide a delivery service.

CF asked if, during the pandemic, the waiting times were longer reflecting most pharmacies in Scotland.

TO confirmed that this was the case.

CF asked if Lloyds Pharmacy had been closed anytime during the pandemic.

TO confirmed that when the Covid pandemic first came about they closed over lunch for one hour, they also reduced their hours at the start and end of the day in agreement with the Health Board, which was removed over a year ago.

CF asked, if the application was granted, did TO think it would affect the viability of Lloyds Pharmacy.

TO was absolutely sure it would and would also affect their investment in the pharmacy and have a huge impact.

CF asked TO, with a population of this size, if he believed that one pharmacist was enough to provide all the core services and additional services that they provide to the community of Burntisland.

TO believed one pharmacist is adequate for the number of services they provide, which is growing through Pharmacy First, particularly through Methadone and CDS needs and reviewing staffing levels to suit.

In terms of social disorder, which CF believed was a bit extreme, he asked TO if this was a common issue across all pharmacies who provide Methadone.

TO believed it was an issue all over as he had worked in a lot of places and felt this was a social economic issue that pharmacies are faced with but felt that pharmacists have a duty of care to look after that population without discriminating against them. TO believed that it is up to Lloyds Pharmacy to work with the local authorities to look after that population.

10/22.4 Questions from Mrs Carol Roger (CR) to Mr Tony O'Reilly (TO)

CR had no question for TO.

COMMITTEE MEMBERS QUESTION MR O'REILLY

10/22.5 Questions from Mr Arthur Andrews (AA) to Mr Tony O'Reilly (TO)

AA said it was implied earlier that TO was going to open a second pharmacy in Burntisland which has not happened and asked if that is correct.

TO confirmed that was incorrect and added that there is another pharmacy next door.

The Chair interrupted as he was unhappy with Dears Health and Beauty premises being referred to as a pharmacy. He stressed a locker box is not a pharmacy.

The applicant agreed and felt it should be noted that there is only one pharmacy currently serving the population of Burntisland.

AA asked if it was correct that TO had said that if there was a second pharmacy application granted in Burntisland, it would affect the viability of Lloyds Pharmacy.

TO confirmed that this is correct.

AA asked if the difficulty in the chain of suppliers is true for every pharmacy.

TO agreed it would be. He advised that Lloyds Pharmacy have three wholesalers but they are having problems due to Brexit, supplies from Asia and shipping, therefore creating difficulties obtaining drugs into the UK and into pharmacies.

AA asked if the issues around Methadone are a management problem and if the pharmacy is dealing with them.

TO believed this had been blown out of proportion as there had not been any social disorder when he had visited Lloyds Pharmacy in Burntisland. The manager has been there for a number of years and knows the clients well. He did not believe there is a social problem.

10/22.6 Question from Ms Sandra Auld (SA) to Mr Tony O'Reilly (TO)

In relation to some of the comments in the CAR around the level of service provided, there was a few comments around staff being rude and unprofessional. SA asked how TO had responded to those comments and if there had been staff training put in place.

TO confirmed that he receives copies of the complaints, then either himself or the regional manager will visit the pharmacy to have discussions with relevant member of the team alongside the pharmacy manager. They also have monthly meetings where customer service is included and training to upskill and educate staff and if there are customer service issues then the manager will address this in the normal process.

SA asked if those comments were normal or if TO was surprised around the feedback.

TO was surprised in the case of that particular pharmacy as he feels they have a good relationship with their providers, including GPs, Physio's and also the patients in the local community. He believes there is always frustration particularly if the waiting times are longer than normal or if an item is out of stock and they have to procure it from elsewhere which may lead to frustration, although that is not the case on a daily basis.

10/22.7 Questions from Mr Ray Kelly (RK) to Mr Tony O'Reilly (TO)

RK asked TO if he was in agreement with the neighbourhood of the applicant.

TO agreed with the applicant's neighbourhood.

RK asked if TO agreed that he could change his opening hours back to the core hours.

TO agreed he could do but he was trying to mirror the hours of the surgery by opening at 8.30am to look after those patients.

RK asked TO, if when people are unwell did he think they would travel to a pharmacy next to where they work or the one in their home town.

TO stated that people do not necessarily go to Burntisland High Street if they are travelling outwith the area to access other services or amenities.

RK asked how many people are working in Lloyds Pharmacy in Burntisland.

TO confirmed that there are 11 people altogether. One pharmacist, a manager, who is not a pharmacist, one ACT and the rest of the team are NVQ level. There are part time staff and just over 5 full time equivalents.

RK asked if the 20% response rate to the CAR that TO had referred to was for other applications in Fife or if it was this particular applicant in Townhill.

TO confirmed it was this particular applicant in Townhill.

RK asked if there are any core services that Lloyds Pharmacy do not provide.

TO confirmed Lloyds Pharmacy provide all core services and also Methadone with 20 to 25 service users, with the ability to expand if needed.

RK asked if Lloyds Pharmacy provide CMS.

TO stated that they do provide CMS but not many, maybe around 20 patients.

RK asked if TO agreed that 20 patients is a pretty low number of patients.

TO agreed, but stated that this service is driven by the practice rather than the pharmacy.

RK asked, in terms of closing at lunchtime and at the beginning and end of the day during the pandemic, was it specifically Lloyds Pharmacy in Burntisland or if the closures were a more general thing agreed with the Board.

TO confirmed this was every pharmacy in the UK not only Lloyds Pharmacy. This started in March 2020 but went back to normal in summer 2020, although the provision from the Health Board still exists. If there is a need to make lunchtime closures then it is acceptable to do so as long as the Health Board is notified.

RK asked if Lloyds Pharmacy had refitted and relocated twice.

TO stated that they had refitted the old premises once and relocated once in 2018 to purpose built premises.

10/22.8 Questions from Mrs Cara MacKenzie (CM) to Mr Tony O'Reilly (TO)

CM asked how TO had found recruitment of his support staff for the pharmacy in the local area.

TO believed that for Lloyds Pharmacy in Burntisland it has been good but generally it takes three times longer than it would have taken pre covid. The dispensing staff received a 7% wage increase this year to bring them above the national living wage to help support and retain them within the business.

10/22.9 Questions from the Chair (Ch) to Mr Tony O'Reilly (TO)

Ch asked why TO believes it is satisfactory to have a locker box next to Lloyds in Burntisland but it is not satisfactory for a new application to be granted.

TO stated that the locker box has not been obtained through a legitimate application process, it has been done underhand and is subject to the Legal Test. Dears cannot provide other pharmaceutical services but they are able to furnish prescriptions and any private pharmacy services.

The Ch referred to the CAR where the vast majority of responses indicated that the pharmaceutical services provided from Lloyds Pharmacy are inadequate and asked TO if there is an inadequacy of provision from Lloyds Pharmacy to the community of Burntisland.

TO did not agree, he believed this would depend on what someone deemed necessary or just nice to have. If you ask anyone in a community if they would like another pharmacy or GP Practice etc the answer would overwhelmingly be yes. That is not the Legal Test, the Test is, is it necessary to have another pharmacy, which it is not, and is it required, in terms of provision, in which case Lloyds believe they are providing an adequate service to the community.

10/22.10 Mrs Carol Rogers (CR) spoke to her presentation. (Attached Appendix 4)

INTERESTED PARTIES QUESTION MRS ROGERS

10/22.11 Questions from the Applicant (MA) to Mrs Carol Rogers (CR)

MA asked CR what makes Burntisland Community Council so different.

CR believes Burntisland Community Council is a proactive Council who are passionate about the community feeling and very engaging, passionate and focused on the needs of Burntisland.

MA asked what the Burntisland community has experienced regarding the shortage of supplies and the lack of a pharmacist pre covid.

CR believed that the general consensus was that Lloyds Pharmacy was too busy, causing long waiting times and queues for prescriptions.

CR reported that when Lloyds Pharmacy are providing their service the staff are very helpful and knowledgeable but constantly under pressure due to the shop being so busy and constantly having queues.

MA asked if these comments were over the 10 year period when Lloyds Pharmacy had one pharmacist, then two pharmacists, pre covid.

CR had not noticed a difference but she did not frequent the high street, but what she did know was that people had been asking for a second pharmacy for 15 years. She stated that through the covid pandemic things had been difficult but they had been difficult pre covid and continue to be post covid.

MA asked what CR's personal experience is with Lloyds Pharmacy.

CR reported that the staff in Lloyds are lovely and a credit to them, however she has never gone in and not had to wait a considerable amount of time.

10/22.12 Questions from Mr Chris Freeland (CF) to Mrs Carol Rogers (CR)

CF asked if CR was aware of the reason why the PPC had not granted the last two applications to open a pharmacy in Burntisland when the population had not particularly changed much and there has not been an extensive increase in the volume of prescriptions.

CR was not familiar of the working of the PPC, but felt quite perplexed why the applications for a pharmacy in Burntisland keep being rejected when there are clearly issues.

CF asked if she was aware, if in similar areas, the waiting times are the same as Lloyds Pharmacy in Burntisland.

CR was unsure as she used her local pharmacy but if a second pharmacy was to be granted she believed this would alleviate the pressures that Lloyds Pharmacy face as some of the waiting times, in her personal opinion, are not acceptable.

CF asked if she felt it would be more convenient to have a second pharmacy.

CR felt this was under playing it as she believed if a patient builds up a relationship with their pharmacy it is more important than convenience. She also believed that a pharmacy alleviates problems for GPs. She was of the opinion that if people are afraid to go into a pharmacy because of a Methadone problem, the word convenient becomes a bit flippant.

CF asked CR, if a second pharmacy opened and did not offer Methadone would the same problem not still be there with the current pharmacy.

CR believed that if there is one pharmacy who offers Methadone and one who does not, the people that find the Methadone programme intimidating have a choice.

10.22/13 Questions from Mr Tony O'Reilly (TO) to Mrs Carol Rogers (CR)

TO asked CR what she thought might be the case if Lloyds Pharmacy in Burntisland stopped servicing Methadone patients.

CR felt this would be a very serious issue as these people have an acute health need.

TO asked CR why she felt it would be satisfactory for a second pharmacy in Burntisland to discriminate against the Methadone population, who have a valid prescription and a medical need.

CR did not feel it was discrimination, and pointed out that she thought MA believed there was no need for a second pharmacy to dispense Methadone. She felt that it could be seen as discrimination, people not having a safe alternative to go where they do not have that intimidation. An alternative pharmacy could mean a better service all round.

TO believed that a patient should have the choice to go to any pharmacy and be able to get their prescription dispensed.

CR agreed but she believed they should also be able to go to a pharmacy and feel safe and discuss health issues and not have to go to a pharmacy who provides an Opiate programme and feel unsafe. She believed that having a pharmacy where they did not provide a Methadone programme would be the best service for everyone.

COMMITTEE MEMBERS QUESTION MRS ROGERS

10/22.14 Questions from Mr Arthur Andrews (AA) to Mrs Carol Rogers (CR)

AA asked CR if the figure quoted from TO of 400 and her own figure of 17% were the same.

CR stated that she was pulling the figures from the rate of growth in Burntisland compared to the average growth in Fife just to highlight that Burntisland is thriving, so she was unsure if they were the same figure.

AA asked CR if she or the Community Council had approached Lloyds Pharmacy about the deficiencies in Burntisland i.e. waiting times, queuing etc.

CR confirmed that she had not approached them but the information was in the CAR.

AA asked if CR had seen PPC Minutes indicating that any conversations between Lloyds and the Community Council had taken place.

CR was not aware of any.

MA asked the Chair if he could intervene.

MA stated that prior to CR joining the Community Council, Mr Gordon MacDonald had tried on several occasions to contact Lloyds Pharmacy but they had not engaged, which is highlighted in their presentation.

10/22.15 Question from Ms Sandra Auld (SA) to Mrs Carol Rogers (CR)

SA asked CR if she had sight of the SNP Community Council's 2015 survey that had been mentioned earlier and if it had corresponded with the CAR.

CR was not aware of the survey.

SA referred to the Action Plan, where it was mentioned local services being the main priority and to improve pharmacy services. There was a comment that the intention was to lobby NHS Fife to expand on pharmacy services. SA asked CR if she was aware whether NHS Fife had been contacted or not.

CR had a copy of a letter, dated 31 December 2020 sent from the Chair of the Burntisland Community Council, Mr Alex MacDonald, to Linda Neave at Primary Care, mapping out the

Community Council's position, showing support and giving the reasons why there was a need for a second pharmacy in Burntisland.

SA asked CR how she felt it would be received with people in the town if the locker box next door at Dears Health and Beauty store were to be stopped.

CR believed that, although the locker box was not a pharmacy, it dispenses prescriptions, and if it were to suddenly disappear, they would think of it as another blow to the town.

10/22.16 Questions from Mr Ray Kelly (RK) to Mrs Carol Rogers (CR)

RK asked CR if it would be fair to say that the number of responses to the CAR had increased due to the fact that Burntisland has a highly motivated Community Council and the residents of Burntisland have desired a second pharmacy for 15 years.

CR felt it was difficult to comment without knowing all the facts. She was unsure why some people did not respond to the CAR or how much access the residents had to the online Consultation.

RK asked CR if she would accept that providing a safe place is not a core service for a pharmacy as yet.

CR agreed but her understanding was that people should be able to feel comfortable chatting and asking for advice when visiting their pharmacy.

In terms of the Legal Test and adequacy, RK asked CR how many pharmacies there are currently in Burntisland.

CR confirmed there is one pharmacy.

RK referred to CR mentioning Lloyds Pharmacy's responses to the CAR being 20% versus 7% responses to this application and asked where she acquired her information as this was not in any of the papers.

CR confirmed this was from an appeal in response to an application for a new pharmacy at 91 High Street, Burntisland. She obtained this information to enquire how the PPC works.

RK asked what the benefit would be to the Board, if they granted a new pharmacy contract to a pharmacy who did not provide Methadone and picks only the services they wish to deliver.

CR did not agree this is the case. She believed that, if all the pharmacies are in agreement that Lloyds are providing an adequate service for Methadone and there is no requirement for an additional methadone service then this would be devised strategy planning.

RK asked if CR would be surprised to learn that he had never seen an application for a pharmacy where they did not offer every service they could potentially offer.

CR was not surprised as she had never been involved in this type of application before.

RK asked if the new housing at Greenmount is in the Fife Plan and zoned for housing only and if this is a place where they have broken ground and will be building in the next few months.

CR confirmed that Greenmount had been given planning permission to build 10 to 15 houses but have not broken ground so far. At the Grange Distillery they have broken ground and have planning permission however there have been problems with the contractor going into liquidation but she believed this is now going ahead with a different contractor and the Kirkton Lea development is currently being built.

In terms of the Methadone programme RK pointed out that CR had said there was a negative attitude to the programme from the Burntisland population and asked her to clarify.

CR implied that she would not go as far as saying there was a negative attitude, but perhaps a slight element of fear or mistrust around the programme as there is a perception that along with the Methadone programme there are other social issues. She accepted that this is not the responsibility of Lloyds Pharmacy but did believe people find it intimidating at certain times of the day to visit the pharmacy.

The Chair intervened as he felt that Methadone should not be brought into consideration.

The Applicant also agreed as this is not part of the core services and felt this was unfair questioning.

RK apologised and moved on to ask CR how necessary she felt there was a need for a second pharmacy on a percentage basis.

CR believed personally that the percentage was over 80-90 percent at the least.

10/22.17 Questions from Mrs Cara MacKenzie (CM) to Mrs Carol Roger (CR)

CM asked CR if it would be a fair assumption to make, that due to patients feeling intimidated, if another pharmacy were to open and many of the patients moved there, Lloyds pharmacy would become much less viable.

CR believed it was more elderly people that were intimidated and would be more comfortable using another pharmacy and not the vast majority that would boycott Lloyds Pharmacy.

10/22/18 Questions from The Chair (Ch) to Mrs Carol Rogers (CR)

Ch asked CR if she believed there was an inadequacy of pharmacy services in the existing pharmacy due to the fact that people are using the locker box next door.

CR believed this was the case.

11/22 INTERESTED PARTIES SUMMING UP

11/22.1 Mr Chris Freeland (CF)

CF felt that the Legal Test must be considered in granting an application. He believed Burntisland was a neighbourhood with adequate local core pharmacy services. The Applicant is not offering services over and above the current pharmacy services which means he is not offering to support the least deprived members of the community. Many complaints are over convenience, which is waiting times. One pharmacy can provide

services to a population of around 6,600 which are in general good health. CF believed the application fails the Legal Test and recommended it should be rejected on these grounds.

11/22.2 Mr Tony O'Reilly (TO)

TO asked the panel to refuse the Application on the grounds that it is not necessary to have another pharmacy in Burntisland. The number of responses, although positive in the CAR were not overwhelmingly reflective of the population of Burntisland. Lloyds have changed their structure in the pharmacy to provide adequate service to their patients. The pharmacy offers all the core services, additional services and they do not charge for a delivery service which is not part of the core NHS contract. He believed it is also a dangerous precedent for an applicant to choose the services they will not engage with, even though there is a patient need and requirement for a particular service. This may affect the long term viability in the existing pharmacy within Burntisland, where they have made significant improvement and investment in the premises in order to cater for the needs of the population. He did not feel another pharmacy within the town where it is not required would be an adequate use of NHS Fife's resources.

11/22.3 Mrs Carol Rogers (CR)

CR hoped that she had been able to portray the really strong feeling in Burntisland and she respectfully disagreed that the pharmacy service is adequate and that the anecdote of the people proves that it is inadequate. This is not a personal attack on Lloyds but felt the staff are under pressure and therefore people are not getting the service that they require. This is not just about convenience but about an essential service.

12/22 APPLICANT SUMMING UP

12/22.1 MA spoke to his paper. (Summary attached as Appendix 5)

13/22 NOTIFICATION OF OUTCOME

13/22.1 The Chair asked all those present whether or not they felt they had had a fair hearing, they all confirmed that they had.

13/21.2 The Chair thanked the Applicant and the interested parties for their attendance and before asking them to leave advised them that the decision would be notified to them in accordance with the timescales laid down in paragraph 1, Schedule 3 of the Regulations.

THE APPLICANT, INTERESTED PARTIES AND PRIMARY CARE MANAGER WITHDREW FROM THE HEARING.

14/22 In accordance with the Legal Test, the Committee considered whether existing provision of Pharmaceutical Services in the neighbourhood was adequate. If it decides that such a provision is adequate, that is the end of the matter and the Application must fail.

In considering the Application the Committee took account of all relevant factors concerning neighbourhood, the CAR, the PCSR, the written and oral evidence and adequacy of existing Pharmaceutical Services in the neighbourhood in which the proposed premises would be located, in terms of regulation 5(10).

It also took account of all information available to it which was relevant to the Application

14/22.1 **The PPC were required and did take into account all relevant factors concerning the issue of:-**

- a) Neighbourhood
- b) Adequacy of existing Pharmaceutical Services in the neighbourhood and, in particular, whether the provision of Pharmaceutical Services at the premises named in the Application were necessary or desirable in order to secure adequate provision of Pharmaceutical Services in the neighbourhood in which the premises were located.

Proposed premises

The location for the proposed pharmacy is within 94 High Street, Burntisland, Fife, KY3 9AS

14/22.2 **Neighbourhood**

Having considered the evidence presented to it by the Applicant, the interested parties, the Consultation Analysis Report and NHS Fife's Pharmaceutical Services Report the PPC had to decide firstly the question of the neighbourhood in which the premises to which the application related were located.

The Committee agreed with the neighbourhood as defined by the applicant which was the town of Burntisland but not any outlying areas. They noted that there had been no objections to this definition of neighbourhood by any of the objectors.

The neighbourhood was agreed as the whole of Burntisland as follows: North: The Binn, East: from The Binn to Dodhead Golf Course, then Linwell Court, then Forth Estuary, South: Forth Estuary, West: from Forth Estuary to Starley Hall School, then Bendameer Road, then Grange Farm, then The Binn.

14/22.3 **Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability**

Having reached a conclusion as to the defined neighbourhood, the Committee was then required to consider the adequacy of Pharmaceutical Services within or 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 defined neighbourhood.

In order to assist the Committee in reaching their decision, they took into account the following:-

14/22.4 **Consultation Analysis Report**

The Committee considered and noted the content of the CAR. In particular, the following point was taken into account:

Question 2 – Do you think there are gaps/deficiencies in the existing provision of pharmaceutical services in this neighbourhood. Although 382 out of 451 respondents had

said there were gaps/deficiencies, 52 had agreed the service was adequate which the Chair considered to be a very high number as usually this report favoured the applicant.

SA advised that she was having difficulty with accepting the service currently provided was adequate as the strength of feeling coming from the CAR was quite responding in how unhappy people were with the service being provided to them. She felt that patients were not looking for the convenience of a second pharmacy, it was about frustration with the level of service.

SA advised the Committee she had been shocked at the comments on how customers of Lloyds are treated by pharmacy staff.

14/22.5 **NHS Fife's Pharmaceutical Services Report 2019-20**

AA highlighted that that NHS Fife's Pharmaceutical Services Report 2019-20 stated that there were no gaps/unmet needs in the provision of Pharmaceutical services to the neighbourhood.

The Committee expressed their concern that they were being asked to make this decision with a report that was two years out of date.

AA enquired if there was an update on the report. He was advised that due to the COVID pandemic, this was the most up to date report.

CM stated that as the population of the neighbourhood had only gone up by 400 patients since 2011 there probably had not been any changes from the 2019-20 report.

14/22.6 **Pharmaceutical Services already provided in the neighbourhood of the premises named in the application by persons whose names are included in a pharmaceutical list**

Current Pharmaceutical Services provided in or to the neighbourhood were considered (evidenced by the CAR, contracted Pharmacy representatives and the Applicant).

AA stated that he thought the current service was adequate but that the mechanism for providing it was not.

RK advised that in terms of the legal test for adequacy, it was not if the service was poor and that adequacy was a question for the Board. They had to determine whether or not there was a sufficient service provided to the population that the Board is responsible for.

The Committee noted that the current pharmacy had passed an inspection by an Independent Inspector and were of the view that had the inspector deemed the service provided inadequate Lloyds would have been advised they were at risk of losing their NHS contract.

CM advised that she thought the service currently being provided was adequate as Lloyds were currently providing all the core services and some Enhanced Services but agreed they may not be providing the best service. She highlighted that although long waiting times had been mentioned, no-one had said they never received their prescription.

SA highlighted that the guidance given to the Committee did not provide a definition of adequate. She wondered if a pharmacy was passed by the Pharmacy regulator, did that

mean the Committee had to assume that all pharmacies unacted upon were adequate. She advised that she felt that as complaints regarding the current provider had been made this would suggest that the service was not adequate. She stated that in her opinion this was not an adequate service.

SA was advised that the Board relied on pharmacies providing the number of complaints they received and were not made aware of the nature of the complaints.

RK asked if the only solution, as suggested by the applicant, was to provide a second pharmacy. In this case, it would be a second pharmacy that was choosing which services it would or would not provide including not providing a methadone service because it would provide them with support from a section of the local community. He stated a pharmacy should be one for all purposes and that if the applicant used figures in his application saying that the neighbourhood is highly deprived, how can he then exclude a service to a proportion of the most highly deprived patients.

SA stated that she was uncomfortable with the applicant's decision not to provide a Methadone Service. However, she felt the ongoing wishes of the Community, over a long period of time, were not being addressed here.

RK reminded the Committee that they needed to look at what it was mandated to do in terms of the Regulations, by factoring in all the evidence, which is, is the service adequate in terms of what services Lloyds are providing, or is there anything they are not providing.

RK highlighted that Lloyds were currently providing every core service and as that the neighbourhood already had a pharmacy the size of population did not justify a second one. He advised that areas which already had multiple pharmacies tended to be historic businesses, not new contracts.

RK believed that the application did not meet the legal test in that the current provision, although not wonderful, is adequate. He advised it was not for this Committee to decide if the current service was poor.

CM stated that it was important to note that although the Committee thought the service provided by the current pharmacy was adequate it was not considered to be an excellent service.

RK reiterated that assessing the standard of service was the responsibility of the Inspectorate, who has the authority to close down a pharmacy should standards not be met. He stated that complaints were always highlighted more than good service.

14/22.7 Information available to the Board which, in its opinion, is relevant to consideration of the application

The Committee noted that the APC had highlighted that there had been little change in the population of the proposed neighbourhood since a previous application had been refused in 2016-17.

It was also noted that the APC considered that the current provider was providing all the required services and had recently upgraded their pharmacy premises.

14/22.8 Information provided by the Community Council

The Community Council had highlighted to the Committee that Methadone patients were moved up the queue in front of other patients. CM informed the Committee that when she had worked in a Community Pharmacy, they had also dealt with methadone patients first so that other customers would feel more comfortable and not afraid. She continued that she felt the contract awarded to Lloyds by the Board was adequate for the size of the population.

RK reminded the Committee that although the Community Council had provided several emotive anecdotal accounts of the service provided by Lloyds, the Committee had to base their decision on the requirements of the Legal Test of neighbourhood and adequacy.

14/22.9 The likely long-term sustainability of the Pharmaceutical Services to be provided by the Applicant

RK highlighted that having a pharmacy for just over 6,000 patients, as was the case with Lloyds in Burntisland, would mean it was very busy with potentially longer waiting times than patients were willing to accept, but that did not make it inadequate. He stated that the average number of patients per pharmacy in Scotland was around 6,500.

RK reminded the Committee that this application was for a second pharmacy in an area where the population size does not justify one.

15/22 IN ACCORDANCE WITH THE STATUTORY PROCEDURE THE PHARMACIST CONTRACTOR MEMBERS OF THE COMMITTEE AND THE NOTETAKERS WITHDREW FROM THE MEETING DURING THE DECISION MAKING PROCESS

16/22 COMMITTEE VOTE AND DECISION

The Committee vote was tied, therefore the Chair used his casting vote to decide that the service provided in the proposed neighbourhood was adequate.

The Chair asked that it be minuted that although the service provided was adequate under the legal test the Committee had reservations about the level of service currently being provided by Lloyds.

For the reasons set out above it was the view of the Committee that the provision of Pharmaceutical Service to the neighbourhood was adequate therefore the Application was rejected.

17/22 ATTENDEES RETURN TO HEARING FOR DECISION

The Committee agreed that the attendees would be notified of the decision by telephone.

Hearing Closed.