



PRIMARY CARE CONTRACTOR ORGANISATION

PHARMACY PRACTICES COMMITTEE

Meeting held on
Tuesday 17 October 2017 at 12 pm at
Bathgate Primary Care Centre, Whitburn Road, Bathgate, EH48 2SS

Application by David Stevenson for inclusion in the pharmaceutical list in respect of the address, 25 Main Street, Mid Calder, West Lothian, EH53 0AW.

The Pharmacy Practices Committee met at 12 pm on Tuesday 17 October to consider the above application in accordance with the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended.

Decision of the Pharmacy Practices Committee

The decision of the Committee was that the provision of pharmaceutical services at the premises was desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the pharmaceutical list and that accordingly the application **should be** granted.

Pharmacy Practices Committee

Derek Milligan	(Chair)
Julie Blythe	(Non-contractor Pharmacist)
Mike Embrey	(Contractor Pharmacist)
Margaret Tait	(Lay Member)
Ian Melville	(Lay member)

In Attendance

David Stevenson	(Applicant)
Dara O'Malley	(Omnicare Pharmacy, Applicant Support)
Malcolm Clubb	(Lindsay & Gilmour Pharmacy, Interested Party)
Kaye Greig	(Lindsay & Gilmour Pharmacy, Interested Party Support)
Kathleen Cowle	(Boots UK Ltd, Interested Party)
Emma Kean	(Boots UK Ltd, Interested Party Support)
Eleanor Blair	(Mid Calder Community Council)

Administrator to the Pharmacy Practices Committee

David Hill	(Contractor Support Officer)	Accompanied by
Susan Summers	(Contractor Support Officer)	

Application for Inclusion in Board's Pharmaceutical List

1. The Committee convened to consider an application for inclusion in the pharmaceutical list submitted by David Stevenson to provide general pharmaceutical services from premises situated at 25 Main Street, Mid Calder, West Lothian under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended. A copy of the application had been circulated in advance to the Committee and the parties.
2. The Committee had to consider 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.
3. Written representations had been received from Lothian General Practitioners Sub-Committee of the Area Medical Committee; Lindsay & Gilmour Pharmacy; Boots UK Ltd; Ladywell Pharmacy; Lloyds Pharmacy and Mid Calder Community Council. The applicant and the interested parties were entitled to comment on the representations received. Copies of the written representations had been circulated in advance to the Committee and the parties.
4. The Committee had before them maps of the area surrounding the proposed premises detailing the location of the nearest pharmacies and GP surgeries, deprivation categories and population density. They had details of the numbers of prescriptions dispensed during the months January – June 2017 by the pharmacies nearest to the proposed premises and the number of prescriptions they dispensed that were issued from the GP surgeries closest to the premises during the months January – June 2017. The Committee were also provided with "Pharmacy Profiles" of the nearest pharmacies detailing opening hours, premises facilities and services offered.
5. The hearing was convened under paragraph 3(2) of Schedule 3 to the National Health Services (Pharmaceutical Services) (Scotland) Regulations 2009 as amended ("the Regulations"). In terms of this paragraph, the PPC "shall determine an application in such a manner as it thinks fit". In terms of paragraph 5(10) of the Regulations, the question for the PPC is 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."
6. Prior to the meeting the Committee undertook a site visit. The Committee noted the location of the proposed premises, the pharmacies nearest to the proposed premises, the nearest GP surgeries and the neighbourhood as defined by the Applicant.
7. It had been confirmed prior to the meeting that the members present did not have an interest to declare.
8. The Committee agreed to invite the Applicant and those who were present who had made written representations (Interested Parties) to attend before them. The Applicant was represented in person by David Stevenson, assisted by Dara O'Malley. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the hearing were Malcolm Clubb (assisted by Kaye Greig) of Lindsay & Gilmour Pharmacy; Kathleen Cowle (assisted by Emma Kean) of Boots UK Ltd; and Eleanor Blair of Mid Calder Community Council.
9. The Chairman explained the procedure that would be followed and no person present objected.

10. The procedure adopted by the Committee was that the applicant made an opening submission to the Committee, which was followed by an opportunity for the Interested Parties and the Committee to ask questions. The Interested Parties then made their oral representations and the applicant and the Committee then asked the Interested Parties questions. The parties were then given an opportunity to sum up. Before the parties left the meeting the Chair asked all parties if they felt that they had had a fair and full hearing. They confirmed that they had.
11. The Committee was required to and did take account of all relevant factors concerning the issues of neighbourhood, adequacy of existing pharmaceutical services in the neighbourhood and whether the provision of pharmaceutical services at the premises named in the application was necessary or desirable to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located.

The Applicant's Case

12. The Applicant thanked members of the Committee for the opportunity to put forward his application for inclusion of the pharmaceutical list.
13. The Applicant declared that he had been a qualified pharmacist for ten years, working as a pharmacy manager for an Omnicare Pharmacy in Edinburgh for the last six years. The Applicant had grown up in West Lothian so knew the area well. This was the Applicant's application, but for sake of transparency, was accompanied today by his current employer Dara O'Malley who had a financial interest in this application.
14. The Applicant stated that he would be providing core NHS pharmacy services, as contractually required and would also provide locally negotiated services. The Applicant was enthusiastic about delivering pharmaceutical care in line with the new Scottish Government "*Achieving Excellence in Pharmaceutical Care*". The aim of this strategy is to increase access to community pharmacy and be the first port of call for managing self-limiting illnesses and supporting self management of stable long term conditions. The Applicant also aimed to use independent prescribing once qualified to offer clinics within the proposed pharmacy for long term conditions and further enhance the chronic medication service.
15. In addition, the Applicant intended to offer a twice daily prescription collection service from the East Calder surgery and a daily prescription collection service from the other local surgeries. The Applicant will also provide a six days per week delivery service for patients who have difficulty visiting the pharmacy, for example, the housebound or parents with sick children.
16. The Applicant intended not to go into great detail regarding the layout of the proposed pharmacy, other than to say it will focus on healthcare as opposed to retail, and will have a fully appointed consultation room. The Applicant provided some plans on pages one and two of the supplementary documents circulated before the meeting. The pharmacy will also have disabled access, with an automatic door and parking outside the pharmacy. Additional parking of twenty spaces has been approved by the community council and is due for completion in February 2018.
17. Before defining the Neighbourhood, the Applicant made points relating to the concept of 'neighbourhood' in the Legal Test. In the Applicant's view, PPC 'case law' was to the effect that if the Committee agreed with the applicant's definition of a neighbourhood, and no pharmacy was contained within this area, then the application was granted. The argument would have been that a neighbourhood without a pharmacy would have an inadequate service. The Applicant stated that, in effect, applicants would draw lines on a map to exclude other pharmacies, and attempt to persuade

the Committee that their defined neighbourhood was reasonable – a hearing was therefore often an argument about neighbourhood boundaries.

18. The Applicant stated that this was no longer the case. The definition of a 'neighbourhood' is merely a tool which gives a better understanding of the needs of a distinct population. It is also a useful tool in the Joint Consultation since it defines the area whose residents need to be consulted about their existing pharmaceutical services. PPCs now regularly refuse applications in neighbourhoods they define as having no existing pharmacy, and also grant applications in neighbourhoods where there is an existing pharmacy. The Applicant reiterated that the 'neighbourhood' is simply a tool which identifies a distinct population. The Applicant stated that the key decision within the legal test asks if there is a significant population in the vicinity of the proposed premises who have poor access to a pharmacy (i.e. and inadequate pharmaceutical service) and will the granting of the application remove this inadequacy. The Applicant stated that a neighbourhood may not have a pharmacy, but will have easy access to a pharmacy in an adjacent neighbourhood – this is not an inadequate service. There may also be neighbourhoods with, for example, a huge population and a single tiny pharmacy which is unable to cope with the needs of the population. In this example, the pharmaceutical service in the area could be considered 'inadequate'.
19. The Applicant defined the neighbourhood as the village of Mid Calder, specifically defined with the following boundaries:
 - Calder Park Road and the River Almond to the North
 - Murieston Water to the South
 - The Lizzie Bryce roundabout and Livingston Road (the A899) to the West
 - The B8046 Pumpherston Road to the East
20. The Applicant stated that this neighbourhood was the same as that defined by the NHS Lothian PPC in 2008, and the National Appeal Panel in 2009. It was also accepted by the representative of Lindsay & Gilmour Pharmacy at both hearings. Referring to the Consultation Analysis Report (CAR), the Applicant stated that 99% of local residents agree with that definition in Question 1. The Applicant added that they had excluded any 'Don't know' answers from their analysis of the CAR. The Applicant concluded that they felt there shouldn't be any dispute over the definition of the Neighbourhood.
21. The Applicant added that this neighbourhood community is served by a Primary School; a Church; retirement flats; Mid Calder Institute and community centre; a bowling club; a post office; a convenience store; a cash point; an estate agent; a gift shop; bookmakers; a podiatry and chiropody centre; takeaways; restaurants; several male and female hairdressers; several pubs; a funeral directors and an opticians. The Applicant stated that this was important, because the range of services within the neighbourhood is largely sufficient to fulfil the day-to-day needs of the community, with one glaring exception: there is no community pharmacy.
22. Returning to the Legal Test, the Applicant reminded the committee that there was no rule saying every neighbourhood needs a pharmacy. However, the PPC has to take into account how the people in a neighbourhood actually live their lives. If they need to visit an adjacent neighbourhood every day to shop, or take their children to school, then it would be fair to expect them to use the pharmacy in that adjacent neighbourhood while there as part of their day-to-day life. The Applicant added that in this case, the focus of the day-to-day life of the residents of Mid Calder is within the neighbourhood. If they wish to visit a pharmacy, then this requires a specific visit outwith the neighbourhood. The Applicant stated that this is critically important in this case and applied to almost everyone living in the neighbourhood.

23. Referring to the Interested Parties, the Applicant stated that someone on the far western side of Mid Calder is almost closer to Dedridge than the proposed premises, but that this would miss the point. In the Applicant's view, no matter where one lived in Mid Calder, the centre of the community is where one would shop, take children to school, or go to the Post Office. That is where one would want to visit a pharmacy – not need to take a separate journey into an adjacent neighbourhood for one thing. The Applicant stated that is why this application has received such overwhelming public support.
24. The Applicant stated that the question which needed to be answered today is about the adequacy of the services provided to Mid Calder by pharmacies in adjacent neighbourhoods. The Applicant summaries their argument as: there is a significant population in close vicinity to the proposed premises. A significant percentage of this population, in particular the elderly; disabled; mothers with young children; and the chronically ill have poor access to a local pharmacy – this is they have an inadequate pharmaceutical service; and the opening of a pharmacy at the proposed premises will, for the vast majority of local residents, remove this inadequacy.
25. The Applicant added that it is relatively unusual to have a neighbourhood without a pharmacy. One of the greatest strengths of the community pharmacy network is that pharmacies are distributed across the country so that patients have easy access to them. This had been reiterated in the new government strategy to improve access to community pharmacy. For this reason, the Applicant stated that the burden of proof did not necessarily fall on him. Because this neighbourhood has no existing pharmacy, the Applicant suggested the burden of proof fell on the Interested Parties to prove to the PPC that despite the lack of a pharmacy, the local residents still enjoy an adequate pharmaceutical service.
26. Moving on to describe the existing services provided to the neighbourhood by pharmacies outwith the neighbourhood, the Applicant stated that the most obvious existing provider is the Lindsay & Gilmour Pharmacy in East Calder, which is just under a mile from the proposed premises. The other nearest pharmacies are at Boots Craigshill (1.4 miles); Lloyds Dedridge (2.3 miles); and Boots Almondvale (2.4 miles). The Applicant asked what they felt was the most important question of the day: whether services in the neighbourhood in which the proposed premises are located are adequate. The Applicant's point was not whether services were inadequate for everyone. Some people living in the neighbourhood may find it very easy to access pharmaceutical services.
27. The Applicant added that the Committee needed to address whether there is a significant population in the neighbourhood who will, in effect, justify and support a new NHS pharmacy, who currently have difficulty accessing a NHS Pharmacy. This section of the community will be made up mainly of those people who most need to access a pharmacy: the elderly; disabled; chronically sick; and parents with young children.
28. It was the Applicant's assertion that there are a significant number of people in the neighbourhood who have difficulty in accessing a community pharmacy. The Applicant intended to support this assertion with the results of the Joint Consultation, but wanted to outline some general information about the population.
29. The Applicant noted that the following figures had been obtained by amalgamating data zones of the proposed neighbourhood from the Scottish Census website. The Applicant stated that this was not a wealthy population, but also nota particularly deprived population. The Applicant stated that it would be best described as average or typical. The Applicant added that demographic information will have been provided by the Board, so he would not spend time going over it. The Applicant explained that this information was of limited use in this case as the application is not based on Mid

Calder being a particularly deprived neighbourhood, or a neighbourhood with an unusually high elderly population.

30. The Applicant continued that the important point was the size of population. This had been calculated by the Applicant as 3,386 residents, based on the Scottish index of multiple deprivation SIMD figures from 2016. The Applicant stated that this is a large population and so relative comparisons with either Livingston or National statistics are not useful. For the purposes of this application, the Applicant was interested in the absolute numbers of, for example, the elderly, chronically ill or households without access to cars.
31. The Applicant stated that there are nearly 900 people with long term health conditions, 370 pensioners and just fewer than 200 households without access to a car living within the neighbourhood. The Applicant conceded that there would be some overlap with these figures, but felt these were sufficiently large numbers worth noting.
32. The Applicant compared this with the Kirknewton pharmacy application which was granted in 2014 which has 186 pensioners and 421 people living with long term health conditions. The Applicant asked why the people of Kirknewton would be entitled to a pharmacy in their town and the people of Mid Calder not.
33. The Applicant stated that the primary school within Mid Calder is central to the neighbourhood, schooling 280 pupils. All these children have parents who visit the school at least twice a day. The Applicant stated it was reasonable to assume that these parents would then use the many services within Mid Calder, unfortunately with the exception of a pharmacy. The Applicant added that all pharmacies collect repeat prescriptions from surgeries, something he was also intending for the proposed pharmacy. With this simple service, the Applicant felt many parents would not need to travel outwith their neighbourhood to access a pharmacy. The Applicant added that the percentage of households with dependent children is 33% in this neighbourhood, compared to 24.5% nationally.
34. Addressing the CAR analysis, the Applicant stated that the joint consultation is a useful addition to the PPC process, adding that it was only useful if enough people respond. The Applicant was pleased that the response in this application had been excellent. The Applicant understood it is far in excess of the responses received for almost any other application across the country, as demonstrated in the table on page 17 of the supporting documents. The Applicant stated that it was important to get a good response as the opinions expressed in the sample can be extrapolated with statistical significance to the entire neighbourhood population.
35. Researching this subject, the Applicant stated that for a population of 3,500, a sample size of 300 (as achieved in this consultation), gives accuracy with margin of error of +/- 10%. The applicant stated that any of the percentages used in his analysis could be between 10% too high or 10% too low.
36. As already stated, the Applicant reminded the committee that 99% of the sample agrees that the neighbourhood is Mid Calder, as defined by the applicant.
37. Addressing question two, relating to deficiencies in the existing service, the Applicant reported 90% expressed an opinion that they have a deficient existing service. He also added with the above margin of error, between 80% and 100% of the total population agreed with this. The applicant felt that this single statistic is the most compelling piece of evidence that existing services to the neighbourhood are inadequate.

38. Addressing question 3, the Applicant reported 98% of those who expressed an opinion believe that a pharmacy in Mid Calder will have a positive impact.
39. Addressing question 4, the Applicant reported 92% of respondents had expressed positive comments relating to the proposed services being offered.
40. The Applicant stated that they would not be going through the entire CAR, but that a clear theme was emerging. He added that the message from the people of Mid Calder is that a new pharmacy is overwhelmingly supported because a large percentage of the local population are not happy with the current provision. Existing services to the neighbourhood are not adequate.
41. Explaining the above point, the Applicant reminded the Committee that there is no pharmacy in the place where residents live their day-to-day lives, especially true for residents who regularly need to use a pharmacy. These residents will need to leave their own neighbourhood and travel to an adjacent neighbourhood.
42. The Applicant outlined that residents may walk to get to a pharmacy. If a resident lives on the eastern side of the neighbourhood, they are likely to go to East Calder for their pharmaceutical services. This involves walking just under a mile along a stretch of main road in open countryside. With only one pavement, which in parts is very narrow, this commute is unsuitable for pushchairs or wheelchairs – as evident in the photos submitted as supplementary information. The Applicant felt this was not a reasonable commute.
43. For residents living in the western part of Mid Calder, the Applicant outlined that they may walk to Dedridge. This route is just under a mile but involves an isolated pathway to cross the motorway – again evident in the supplementary information. The Applicant again felt this was an unreasonable commute. The Applicant added that to walk to Craigshill was also not viable due to the long walk through the park, especially during dark winter months. In summation, the Applicant stated that it was reasonable to say that for the vast majority of residents, walking wasn't an option.
44. Addressing cars and other personal transport, the Applicant stated that there is average of 1.4 cars per household in the neighbourhood. For residents with access to a car during the day, they will be able to access any of the pharmacies in adjacent neighbourhoods. The Applicant stressed that this was not without problems however, stating that the closest pharmacy – Lindsay & Gilmour Pharmacy in East Calder, had notorious parking problems. He added that the only parking available is in the surgery car park which is often full. The Applicant continued, pointing out that recent development of the new Partnership Centre which is situated on the previous parking area will further exacerbate this issue. The Applicant cited a letter from the medical practice to the council during the planning application complaining about this:

“We have an extreme problem with car parking as things stand, and believe that this plan will present a significant problem for patients who wish to access our health centre. We have a current situation in which the single biggest patient complaint...is lack of car parking.”

45. The Applicant added that other pharmacies are all a fair distance away, and also present parking problems and parking costs. He added that while this application was not based solely on parking difficulty, it is a big factor. Additionally, the Applicant pointed out that the people who most need to use a pharmacy are those least likely to have access to a car during the day – including the elderly and parents with children. With a defined population of 3,386, there will also be people without access to a car.

46. The Applicant stated that 77.4% of the local working population use their cars for work, well above the national average of 62.4%. With an average household of 2.4 people, many people in the neighbourhood will have no car during the day. Furthermore, he pointed out that 60% of households have either one or no cars. Having examined walking and private transport, the Applicant moved on to outline the public transport options.
47. The Applicant reported that the 27 bus is the only bus which travels from Mid Calder to East Calder stopping directly on the Main Street. This bus leaves every 30 minutes from Mid Calder. Other buses, including the 28 or 40 travel into East Calder but further away from the surgery and pharmacy. The 28 bus is every 30 minutes, while t40 only operates twice a day during working hours. The Applicant also pointed out that tickets will cost £2.70 return for adults and £1.70 return for children. Furthermore, the Applicant reported that accessibility is an issue. Elderly people will have difficulty getting on and off buses, as do parents with prams. The Applicant felt travelling via bus to access a pharmacy was unfair.
48. The Applicant continued that a round trip for local residents could easily take an hour and a half when factoring in current waiting times at the pharmacy. In the Applicant's view, these waiting times will be exacerbated with the increase in population of East Calder. In the Applicant's experience, patients often need to return to the pharmacy if there are issues with stock availability, adding that he felt the same would be true of Lindsay & Gilmour.
49. In conclusion, the Applicant felt this illustrated that residents of the neighbourhood have difficulty in accessing a pharmacy, and this is why the proposed pharmacy is so enthusiastically supported.
50. The Applicant stated that one advantage of the prolonged application process is that he has spent a lot longer in the community than is normal during applications and has listened to concerns in the community. Long waiting times was cited as a recurring theme which was also evident in the 2009 application. This did not appear to have been addressed as it has been raised by the community council, by residents on the street and also in online reviews.
51. The Applicant highlighted the presence of Ms Blair from the Mid Calder Community Council. Ms Blair was present in her capacity as secretary to the Community Council to relay their views on the pharmaceutical care in their community. He added that the Council has no commercial interest and their remit is developing the community and protecting the interests of residents.
52. The Applicant continued, pointing out that an additional 49 homes being built within the neighbourhood, further increasing the local population. More significant is the Seven Wells and Calderwood development in East Calder – planning for 2300 new homes, with population of the area (including Mid Calder) growing to over 15,500 from the current population of 8,685. The Applicant stated that most of this additional population will use the pharmacy at the centre of this development area, i.e. the Lindsay & Gilmour Pharmacy in East Calder. The Applicant felt that this additional pressure will exacerbate the existing concerns with parking spaces and waiting times and will have a clear impact on the level of service they can provide.
53. Citing the Scottish Government's new strategy "*Achieving Excellence in Pharmaceutical Care: A Strategy for Scotland*", the Applicant made reference to Commitment 1: Increasing access to community pharmacy as the first port of call for managing self-limiting illnesses and supporting self-management of stable long term conditions, in-hours and out-of-hours. The Applicant pointed out that the Pharmacy First service is evidence of this shift in priorities, whereby patients can access treatments for UTI and Impetigo at the pharmacy rather than visit the GP. This will be developed further and in the coming year's pharmacy services will be very different to what they are today. Patients will access a vast array of services at their local pharmacy.

54. The Applicant pointed out another change of policy direction; the shift of high cost medication from secondary care to care to community pharmacy. Treatments for conditions such as oral chemotherapy and biologicals for arthritis will begin to be supplied by the community pharmacy. Accessibility for these very vulnerable patients is key to delivering long term healthcare goals.
55. The Applicant turned to viability. Citing the population of 3,386, the Applicant felt the pharmacy will be viable. He compared this against the population in Kirknewton (1933) which supports the local pharmacy. He also pointed out the imminent rise in population in East Calder, concluding that a new pharmacy in the general area will not affect the viability of any existing pharmacy.
56. To conclude, the Applicant reiterated that the neighbourhood is the village of Mid Calder. The population is of a relatively large size – over 3,300 and growing. While the demographics of the population are average, what matters is the absolute numbers of the elderly, people with long term health conditions, and residents without access to a car. The neighbourhood centre currently has all the amenities which people will use as part of their day-to-day lives, except a pharmacy. A significant proportion of the population have difficulty in accessing the existing pharmacies outwith the neighbourhood. The Applicant therefore stated that pharmaceutical service in the neighbourhood in which the proposed premises are located are inadequate. Evidence for this inadequacy is demonstrated by the CAR, the sample size of which is sufficient to give a 10% margin of error in interpreting the results.
57. The Applicant therefore felt that the application passes the Legal Test, and asked for the Committee to grant it.

Questions from Mr Malcolm Clubb to the Applicant

58. Mr Clubb questioned the variously quoted population size and predicted growth. These included 3,300, 3,386 (quoted today) and 3,336 residents quoted in the CAR. Would the applicant not agree that this was evidence in itself of a relatively stagnant population?
59. The Applicant disagreed with this statement and pointed out that new homes have been built in Mid Calder. Furthermore, there is a relatively large population increase predicted for East Calder in line with the property developments in the area. This will place more pressure on the Lindsay & Gilmour Pharmacy in East Calder.
60. Mr Clubb asked what evidence the Applicant had for the citing concerns with waiting times at the Lindsay & Gilmour Pharmacy in East Calder.
61. The Applicant stated that this evidence had been formed from discussions with people on the street, on-line reviews and through discussions with the Community Council.
62. Mr Clubb pointed out that the on-line reviews submitted as supplementary information before the meeting had been sorted by low-high, not most recently. Mr Clubb asked what hard facts the Applicant had to reinforce his evidence of concerns with waiting times.
63. The Applicant replied that they had been speaking to local people regarding these concerns.
64. Mr Clubb asked what input the Applicant had with the production of the CAR.
65. The Applicant replied that this was the result of the standard process as discussed with NHS Lothian.

66. Mr Clubb asked about the methodology, and lack of detail therein the CAR regarding whether results were only gathered from local residents, quoting from the pertinent regulations; namely:

“Following the completion of the joint consultation, the Board and applicant must agree upon and produce a consultation analysis report which details –

(a) The methods of engagement used to undertake the consultation activity;”

67. The Applicant replied the CAR is agreed with the Board and while this process had been followed as laid out in the most recent amended regulations, would look into further.

68. Mr Clubb pointed out that patients may leave the neighbourhood to access services other than a community pharmacy, including to access medical services such as the local GP.

69. The Applicant conceded that this was true, but reiterated that the shifting governmental focus is for community pharmacy to be the first port of call for patients to alleviate pressures on GPs, for example with the Pharmacy First service for the treatment of UTI and Impetigo.

70. Mr Clubb asked whether the Pharmacy First service was live and operational.

71. The Applicant replied that a pilot project was currently live among extended hours pharmacies and training was underway for the national roll-out of the service, citing Commitment 1 from the *“Achieving Excellence in Pharmaceutical Care: A Strategy for Scotland”* strategy.

72. Mr Clubb noted that the Applicant had stated in their case that they would be utilising independent prescribing in the proposed pharmacy, yet noted they were not listed as such on the GPhC website.

73. The Applicant replied that he was not yet qualified as an independent prescriber, but was undergoing training to do so.

Questions from Ms Kathleen Cowle to the Applicant

74. Ms Cowle pointed out that the applicant had quoted 99% of residents as supporting one of the questions in the CAR, but could he confirm how he had identified the submitted responses as having come from local Mid Calder residents.

75. The Applicant replied that 134 responses had been filled in online. While there were no postcodes listed in the CAR, the Applicant confirmed that many paper copies had been completed and handed in to local services, for example the local cafe, citing this as evidence that the responses were from local residents.

76. Ms Cowle asked whether Mid Calder had been identified as an area of inadequacy. The Applicant replied that it had not.

77. Ms Cowle noted that the Applicant had referenced the Kirknewton pharmacy application in his case, despite the acknowledged lower population. Was the applicant aware of what services were on offer in surrounding pharmacies, and therefore could one assume the level of services were different between the two sites.

78. The Applicant replied that the successful Kirknewton pharmacy had been cited just as an example.

79. Ms Cowle asked whether respondents to the CAR had replied on the basis that a pharmacy in Mid Calder would be easier for access, but not strictly necessary; and therefore whether this was a question of local inadequacy of pharmaceutical services.
80. The Applicant replied that the large number of supportive local response invalidated this point and that question 2 of the CAR specifically asked whether there were any gaps or deficiencies in the current service provision.
81. Ms Cowle pointed out that while the Pharmacy First service will be aiming to reduce the pressure on GPs, meaning far fewer patients will be taking up parking spaces at the East Calder surgery. This would alleviate the problem with parking the Applicant stated earlier.
82. The Applicant pointed out that patients would still be using the car park to access the Pharmacy First service in the Lindsay & Gilmour Pharmacy in East Calder, nullifying any change in car parking. Ms Cowle replied that the Applicant did not know that this would be the case, pointing out that patients may instead use a pharmacy that was closer to them to access the service.
83. Ms Cowle pointed out that 77% of residents would use a car to go to work and would therefore routinely travel outside the neighbourhood. Did this not suggest to the Applicant that residents were able to access pharmaceutical services and routinely did so?
84. The Applicant replied that the key issue is families with young children and those households with only one car. With the family car absent, people at home would be unable to access pharmaceutical services during the day.
85. Ms Cowle asked how the Applicant was intending to support out-of-hours services considering his proposed opening hours only supported in-hours services.
86. The Applicant replied that the hours in his application could be changed relatively easily if needed once the contract was awarded, but that these hours were based on perceived existing demand.

Questions from Ms Eleanor Blair to the Applicant

87. Ms Blair expressed a concern from the community for independence. The population has expressed a desire to access local services but can't access pharmaceutical care at present. Mr Milligan pointed out that this stage in the meeting was for questions to be put to the applicant, but that Ms Blair can raise her points later. This was accepted.

Questions from the Committee to the Applicant

88. Mr Embrey asked the Applicant to clarify the neighbourhood boundary on the committee's map. This was done and the neighbourhood clarified. Mr Embrey pointed out that the neighbourhood could be divided into two broad "pockets". Mr Embrey asked whether the South-West pocket would access services in the proposed pharmacy area.
89. The Applicant pointed out this would be the case as residents would be accessing the area where other amenities are located, i.e. in proximity to the proposed pharmacy.
90. The Applicant agreed with Mr Embrey's point that the majority of people in the defined neighbourhood lived in the South-West pocket. Mr Embrey pointed out that if these people are already commuting to access pharmaceutical service, they will also have to travel to access the new

pharmacy. The Applicant replied that these residents will already be visiting the area to access local amenities and will not have to make an additional trip to also access pharmaceutical services.

91. Mr Embrey enquired as to the regularity of buses, pointing out that a bus had been observed during the site visit which advertised that the service ran regularly every 15 minutes. The applicant replied that this bus did go to East Calder, but sufficiently far enough away from the East Calder pharmacy to necessitate another bus or a significant walk.
92. Mr Embrey asked whether the applicant was aware of any complaints submitted to the Health Board regarding the perceived inadequacy of pharmaceutical services in the area. The Applicant replied that he had submitted a FOI request but the Board had replied it did not store this information.
93. Ms Tait asked about the proposed extension to local parking, pointing out that the Committee had identified a problem with parking during the site visit. Ms Blair clarified that the additional parking would be about 50 metres from the proposed pharmacy.
94. Ms Tait stated that it was clear the medical service in Mid Calder was limited with no GP surgery, pharmacy or obvious out-of-hours support. She asked the Applicant why they had not submitted extended hours with their application to support out of hours services, given that they were now apparently willing to do so if required.
95. The Applicant replied that they would be willing to extend the pharmacy's opening hours if required to do so.
96. Ms Tait asked the applicant about disabled access to the proposed pharmacy. The applicant replied that the unit will be fully compliant for disabled access. Disabled parking needs to be approved by the council but this will be sought.
97. In response to Mr Melville's question as to what area the community council covered, Ms Blair replied that it was the same area as defined by the Applicant. The Applicant also clarified that one pharmacist would be on duty at a time with support staff.
98. For clarification, Mr Milligan asked the Applicant to clarify the costs for using public transport. Specifically, the Applicant had used the example of a parent with two small children costing over £6 to purchase return tickets to the existing East Calder pharmacy. Mr Milligan was aware that other bus companies had a cut off point, below which children travelled for free. The Applicant clarified that children under four years old were able to travel for free.

The Interested Parties Case – Mr Malcolm Clubb of Lindsay & Gilmour Pharmacy

99. Mr Clubb stated Lindsay & Gilmour Pharmacy's objection to the application on the following grounds.
100. Mr Clubb noted a procedural deficiency in the timeline of the consultation and application. Citing the NHS Lothian website, he noted that the Joint Consultation ran for the period of 13th August 2015 to 17th December 2015. The consultation period therefore ended on 17th December 2015. Referring to the NHS (Pharmaceutical Services) (Scotland) (Miscellaneous Amendments) Regulations 2014, he added that the joint consultation must be completed within the period of 90 days immediately prior to the making of the application; also evidenced in PCA (P)(2014)15 where it states that any application must be submitted to the Health Board no later than 90 days following the completion of the joint consultation.

101. Referring to the papers provided for this hearing, Mr Clubb pointed out that the application was not dated until 31st of March 2016. By Mr Clubb's calculations, 90 days after the end of the consultation would be 16th of March 2016. Mr Clubb stated that as the application fell out with this timeline the Joint Consultation was not valid and therefore the application should fall on procedural grounds.
102. Mr Clubb stated that he had contacted the Health Board on 26th September for a view on why the application had been taken forward to the hearing stage. David Hill had responded on the same day to state that the initial application had been received on 15th March, within the timescales Mr Clubb had identified. On the basis of this initial application, the Health Board had asked the Applicant to provide additional details, giving them 5 working days of receipt of the Health Board's letter to submit the requested information, citing Regulation 5, paragraph (2E):
"(2E) If, in the opinion of the Board, the applicant's assessment submitted with the application does not comply with the requirements of paragraph (2C), the Board is not bound to refuse the application if the applicant within 5 working days of being asked by the Board provides further information that in the opinion of the Board meets the requirements set out in paragraph (2C)."
The Health Board confirmed that the applicant had returned the requested information within this timescale, and the applicant therefore adhered to the regulatory timescales.
103. Mr Clubb had stated that he had subsequently requested to see a copy of the correspondence between the Health Board and the applicant along with the original application form. Mr Clubb had received a response from David Hill that the Health Board was not at liberty to discuss the application further.
104. Mr Clubb stated that they were here today despite requesting information to prove the candidate submitted the application within the appropriate timescales and that the Health Board had refused to supply evidence that the application was made in a timely fashion. On that basis, Mr Clubb believed that the application should fall as the Health Board had failed to provide evidence they had followed the procedure laid out in the regulations.
105. Secondly, Mr Clubb referred to the National Health Service (Pharmaceutical Services) (Scotland) (Miscellaneous Amendments) Regulations 2014 whereby, following the completion of the joint consultation, the Board and applicant must agree upon and provide a consultation analysis report which details – (d) the level of support of residents in the neighbourhood to which the application relates for the issues consulted upon.
106. Mr Clubb pointed out that after reviewing the CAR submitted in the pack, that the report did not allow for analysis of the residents location. The only reference to this is in the summary where the Applicant states that he believed it was clear from the CAR that significant numbers of Mid Calder residents believe a pharmacy within their neighbourhood is both necessary and desirable to improve access to pharmacy services. Having reviewed that CAR, Mr Clubb did not agree that a significant number of residents are at all displayed in the report. On that basis, Mr Clubb felt the CAR did not satisfy the regulations which therefore make the CAR invalid.
107. Thirdly, Mr Clubb felt that the consultation of interested parties was flawed. Mr Clubb pointed out that a new contract had been granted in Kirknewton around the time the consultation was undertaken. The owner of this pharmacy asked the Board to be involved in this process but was rejected. The new contract is providing significant levels of dispensing and services and is a significant change to the locality since its opening. Mr Clubb stated that the Kirknewton pharmacy also clearly provided services to the proposed neighbourhood of Mid Calder.

108. Mr Clubb noted from a recent Area Pharmaceutical Committee meeting that “rural areas of NHS Lothian” will be consulted in a 5 mile radius. This would mean the owner of the pharmacy in Kirknewton would have been here today if this had been applied. Mr Clubb stated that the Committee needed to consider whether viability of this previously granted contract would be put at risk by the granting of the contract in Mid Calder.
109. Fourthly, Mr Clubb believed that the application did not meet the criteria for being necessary or desirable to secure adequate provision of pharmaceutical services to the population. Mr Clubb agreed that the proposed neighbourhood has no pharmaceutical services resident within the neighbourhood. However, Mr Clubb stated that the Committee needed to consider the service provided to the neighbourhood from pharmacies outside the neighbourhood. At present, there are eight pharmacies within a two-mile radius of the premises according to NHS Inform. At least two of these pharmacies offer extend hour’s provision beyond 6pm on a Monday to Friday basis. One of these pharmacies is even open to 8pm. Seven of the eight pharmacies had objected to the application.
110. Addressing the current pharmaceutical service within the neighbourhood, Mr Clubb pointed out that within the Lindsay & Gilmour pharmacy in East Calder, a full range of contracted services are provided, including Chronic Medication Service (CMS); Acute Medication Service; Public Health Service incorporating EHC, Smoking Cessation, Meningitis B Paracetamol treatment; Minor Ailment; Minor Ailment Service (MAS) incorporating care for minor ailments; Urgent Supply of Repeat Medicines; Supervised self administration of Methadone and Buprenorphine along with dispensing of these products; and supply of incontinence products.
111. Lindsay & Gilmour East Calder also provides a twice daily acute and repeat prescription collection service from the East Calder medical practice, which is one of the practices serving Mid Calder residents. Lindsay & Gilmour East Calder also provides a free (on demand) delivery service to patients in the neighbourhood, many of which are delivered on the same day. Mr Clubb added that this service had been in operation for some years and the driver is familiar around the area.
112. Addressing the transport links to the Lindsay & Gilmour East Calder branch, Mr Clubb pointed out that the 27/28 bus service to East Calder from Mid Calder operates on a 15 minute service – at around the hour, at eight minutes past and at thirty-eight minutes past the hour (according to the timetable from First Buses). In between this service, a bus also proceeds to East Calder which means a short walk is required to access the Pharmacy on Main Street. Mr Clubb believed this service was extremely helpful to patients needing to access pharmaceutical services and quite different to the case put forward by the Applicant.

113. Mr Clubb also stated that Mid Calder residents have a much higher than Scottish average car/van ownership rate from census date recorded in 2011:

Car Status	Mid Calder	Scotland
No car or van	9.7%	30.5%
One car or van	47.8%	42.2%
Two cars or van	33.3%	21.6%
Three cars or van	9.2%	5.6%

Mr Clubb noted that the Applicant had expressed concern regarding parking at the Pharmacy. Parking in East Calder is available in front of and behind the doctor’s surgery as well as along the street and behind the pharmacy. Mr Clubb was also aware that in the Local Development Plan for West Lothian, a public car park has been sanctioned for East Calder which will further improve parking.

114. Mr Clubb also noted that the Applicant stated one mile is too far to walk along a well lit pavement, and whether the Applicant can estimate how many residents couldn't walk one mile. It was Mr Clubb's belief that residents of Mid Calder are able to and do access medical and pharmaceutical services out with the proposed neighbourhood.
115. Mr Clubb concluded that the CAR supplied is weak in its presentation as it can't demonstrate the split number of paper responses and electronic responses. Mr Clubb also noted that the Applicant stated, without any evidence, that the CAR demonstrates a clear number of Mid Calder residents indicate it would be necessary and desirable to improve access to pharmacy services. Mr Clubb did not understand how the Applicant came to this conclusion as the report does not demonstrate data on where the respondent is located despite the questionnaire asking where the respondent lives. Mr Clubb stated that responses to this consultation, due to its online response option, can come from anywhere in the world. Mr Clubb also couldn't calculate the number of spurious responses in favour of the applicant.
116. Mr Clubb noted from the application form that the Applicant proposes to offer lifestyle services such as weight management, blood pressure and cholesterol management. Referring to the regulations, Mr Clubb was unaware these were contracted pharmaceutical services and assumed the Applicant was aware these were irrelevant to the application.
117. Addressing the proposed site transport links, Mr Clubb pointed out that the site of the proposed pharmacy is poor for disabled access, no floor plan had been submitted indicating any shop fitting process and is not overwhelmed with available car parking facilities. Mr Clubb felt that parking is likely to be on Market Street and will require service users to cross the busy road to access the pharmacy.
118. Addressing the support from the Mid Calder Community Council for the application, Mr Clubb noted from the meeting paperwork that the council had indicated one report of a patient who was told they would have to wait forty minutes for their prescription. Mr Clubb noted that the patient is able to take a seat in the pharmacy while they wait. Mr Clubb also pointed out that the wait is not quantified as the patient may have had to wait while the prescription was clarified clinically or professionally with the GP. Due to the nature of a GP consulting practice, he or she may not accept disturbance until the end of surgery, hence the possible reason for the wait. Mr Clubb stated that Lindsay & Gilmour also prioritise waiters using coloured baskets as is normal practice in pharmacy.
119. Mr Clubb also noted his concern that the community council believed the local population is "rather mature". From the 2011 census, 8.9% of the population was over 65, versus 16.8% in Scotland. Mr Clubb noted that the local population also states when asked that it is above average for health.
120. To conclude, Mr Clubb believed the application should fall because the application was made after the deadline post the consultation. Mr Clubb stated it was clear in legislation that all applications must be made ninety days after completion of the consultation. He continued, stating that looking at timelines, the Applicant should have applied two weeks prior to the date on the application form contained in the meeting paperwork. On this basis, Mr Clubb believed the application is not competent.
121. Secondly, Mr Clubb believed that having eight pharmacies providing services to the neighbourhood, including two offering extended hours provision, is more than adequate and desirable for residents in Mid Calder. Following earlier questions, Mr Clubb also pointed out that while the Applicant was willing to open for extended hours, this was not clear in the application and should be disregarded for the purposes of this hearing.

122. Lastly, Mr Clubb noted that residents in Mid Calder have good access to both a bus and personal vehicle allowing them to access pharmaceutical services out with the neighbourhood.

Questions from the Applicant to Mr Clubb

123. The Applicant pointed out that this application process had lasted for two years. Had Lindsay & Gilmour contacted the local community council regarding access concerns? If they had not contacted the community council, how was Mr Clubb aware of these issues.

124. Mr Clubb responded that other methods had been engaged.

125. The Applicant addressed the data quoted in Mr Clubb's presentation from the 2011 census, pointing out that any quoted figure was incorrect as the census website did not match the Applicant definition of the Mid Calder neighbourhood. The Applicant stated that the figure for those with one or no car is 60%, not as previously quoted by Mr Clubb.

Questions from Ms Cowle to Mr Clubb

126. Ms Cowle asked whether the Lindsay & Gilmour was aware of any complaints regarding the East Calder branch being lodged with either the Health Board or the General Pharmaceutical Council (GPC).

127. Mr Clubb was not aware of any such complaints.

Questions from the Committee to Mr Clubb

128. Mr Melville asked where the additional parking in East Calder will be located relative to the Lindsay & Gilmour pharmacy.

129. Mr Clubb replied that the idea for additional parking had been identified in the Local development Plan, with funding paid by housing developers, which was the limiting factor at this stage.

130. Mr Melville asked how Mr Clubb can accommodate an increase in the local population/demand for services.

131. Mr Clubb replied while the developments were still in their early stages, they had not yet noticed any increases on pressure in the pharmacy. Mr Clubb continued that extra capacity was available if required and dispensing offsite was cited as a possible option.

132. Mr Embrey asked what hours the Lindsay & Gilmour East Calder branch was currently open.

133. Mr Clubb clarified that the pharmacy is currently open 9-6 Monday to Friday and 9-1 on Saturdays. Two additional pharmacies offer extended hours, but are a distance away.

134. Mr Embrey asked whether there were any capacity issues in the pharmacy or with the delivery service. Mr Clubb replied that there were no current issues.

135. Mr Milligan asked about the proposed car park identified in the Local Development Plan. Was this land council owned and was the community council involved in this development. Mr Clubb replied that he was unsure.

Questions from Ms Blair to Mr Clubb

136. Ms Blair had no questions.

The Interested Parties Case – Ms Kathleen Cowle of Boots UK Ltd

137. Ms Cowle stated Boots UK Ltd's case is that the existing pharmacy provision meets the needs of the local population and persons within the neighbourhood.

138. Firstly, Ms Cowle reinforced Mr Clubb's point regarding the closing date for comments on the Joint Consultation, which ended on Thursday 16th December 2015. The application before the Committee was dated 31st March 2016. The date of this application is outwith the 90 days following the end of the consultation as required by the Regulations. For this reason, Ms Cowle respectfully asked that members of the Committee satisfy themselves that a valid application has been submitted. Should members of the Committee be satisfied that a valid application was submitted within the time allowed, Ms Cowle asked that they take into consideration the following submissions before making their decision.

139. Ms Cowle did not disagree with the neighbourhood as defined by the applicant. However, Ms Cowle pointed out that the neighbourhood does not exist in isolation as it had good transport links to the wider area including Livingston and East Calder. The A71 and M8 also provide the area with direct road links to Edinburgh and Glasgow.

140. Mid Calder sits within the East Livingston and East Calder ward. The ward profile gives a population figure for Mid Calder of 3,389, while 2011 census data using area data zones indicated a figure of 3,370 residents. Ms Cowle pointed out that the ward profile shows that of the six data zones in the ward in the worst 20% in West Lothian for deprivation, none are within Mid Calder – five are within Craigshill and one in East Calder.

141. Ms Cowle stated that facilities within the neighbourhood are limited, particularly in the immediate area around the proposed pharmacy. She added that residents are likely to leave the neighbourhood on a frequent basis to access a wider range of amenities such as supermarkets.

142. Ms Cowle pointed out that should the Committee adopt the neighbourhood defined by the applicant which does not have a pharmacy located within it, the Committee should also have regard to pharmaceutical services provided to the neighbourhood from pharmacies located outwith.

143. Ms Cowle stated that a significant proportion of the neighbourhood, including the proposed as a conservation area. This may mean that planning permission is required for any building alterations or ramps and it is unclear whether this had been sought by the Applicant.

144. Ms Cowle pointed out that the premises are located to the East of the neighbourhood, with the majority of housing located to the West. Ms Cowle stated that it was conceivable that residents, particularly those living to the West, would choose to access the pharmacies in Livingston - possibly combining their visit with a trip to the shop rather than make a separate journey to the pharmacy.

145. Ms Cowle stated that the premises of the application appear to be quite small. She questioned whether they would be large enough for a dispensary and consultation room and to be able to achieve full DDA access. She also questioned whether a person in a wheelchair could access the pharmacy through the front door as it is currently, citing the width of the door and the current step into the pharmacy. While on road parking is available at the proposed site, many of the spaces

seem to be taken up leading to double parking, based on a recent site visit that there were no available spaces on this stretch of road.

146. Addressing adequacy, Ms Cowle stated that the existing pharmacies provide access to an extensive range of pharmaceutical services as well as access to services in the evening and seven days a week. The Boots pharmacies in Craigshill and the Almondvale Centre in Livingston both provide services to residents of Mid Calder.
147. Ms Cowle cited Boots data that the Almondvale store dispenses a significant number of items for patients living to the West of Mid Calder. Only a small number of residents of Mid Calder access pharmaceutical services at the Craigshill pharmacy. Ms Cowle believed this demonstrates that a proportion of residents living in Mid Calder look to the Almondvale pharmacy for their pharmaceutical needs rather than Craigshill. This was not surprising to Ms Cowle given the number of amenities located close to the Boots pharmacy including the Asda supermarket. Ms Cowle stated that a pharmacy opening in Mid Calder would have an adverse effect on the number of items dispensed by the Almondvale pharmacy and while it wouldn't close if the contract was awarded, would affect staffing levels.
148. Addressing the Boots pharmacy in the Almondvale centre, Ms Cowle pointed out that the store is open seven days a week, opening until at least 6pm every day. Ms Cowle pointed out that the Applicant was not proposing to open for hours in excess of those already provided. Furthermore, as the Applicant was not proposing to open on Saturday afternoon's or Sundays, the Committee should assume that the applicant would expect residents to access the existing services during these times and that the existing pharmacies adequately meet the neighbourhood's needs outside of the opening hours.
149. The Almondvale pharmacy offers an extensive range of services including services including smoking cessation, EHC, flu immunisation, malaria consultation, minor ailments, and supervised administration (with room for more patients). In short, all national and contracted services. The pharmacy is also DDA compliant. The store is open out onto the Almondvale Centre with plenty of access; also with a hearing loop and consultation room which is big enough to accommodate a wheelchair. The pharmacy offers a delivery service to patients; is appropriately staffed with pharmacists and ACTs; and the site offers plenty of parking with over 4,000 spaces across four car parks with appropriate disabled parking access.
150. The Boots pharmacy in Craigshill provides services to fewer patients in Mid Calder than the pharmacy in Livingston, but as the pharmacy does serve residents of the neighbourhood in question, Ms Cowle would go into detail of the store for completeness. Ms Cowle also pointed out that both stores in question had been rated "Good" during recent GPC visits – the only higher rating being "Excellent".
151. The Craigshill pharmacy is open from 8.30-6 from Monday to Friday, and 9-1 on Saturday. There is free parking outside the shopping centre with ramped access. Entry to the store is via automatic doors and there are no steps to require access. The Pharmacy had a consultation room and a hearing loop. Services offered include minor ailments, FRPS, smoking cessation, methadone, EHC, and DDS. There are eight members of staff in the Craigshill store, including pharmacists and ACTs.
152. Ms Cowle therefore submitted that the existing pharmacies offer an adequate level and range of pharmaceutical services to residents of Mid Calder. Ms Cowle stated there was no evidence to suggest that the existing level of service provision is not adequate.

153. Addressing access, Ms Cowle pointed out that there are two pharmacies within a mile radius of the proposed pharmacy and at least a further six pharmacies within two miles, including the extended hours pharmacies at the Almondvale Centre and Morrisons Supermarket. Ms Cowle did not go into detail regarding the bus services in Mid Calder as these had already been previously discussed. Parking is available at the existing pharmacies with free parking at a number of sites including Morrisons Pharmacy.
154. Ms Cowle pointed out that a charity called HcL runs a dial-a-ride scheme which provides a door-to-door transport service for people with limited mobility that are unable to use ordinary buses. The website of the charity states that vehicles are specially adapted to carry combinations of wheelchair users and other passengers.
155. Ms Cowle stated that in the event that a patient cannot access a pharmacy using one of these methods, delivery services are available.
156. Ms Cowle stated that there is no evidence to indicate that patients are experiencing significant difficulties when wishing to access pharmaceutical services. Ms Cowle pointed out that complaints were required to be submitted to the Health Board at regular intervals throughout the year. No common trends had been identified by the Health Board as far as Ms Cowle was aware.
157. Addressing the CAR, Ms Cowle stated that the information contained therein is succinct and contains a mixture of positive and negative comments regarding the proposed pharmacy. Ms Cowle stated that there was no evidence within the CAR to suggest the existing pharmacies are not providing adequate services into the neighbourhood. Ms Cowle pointed out that the positive comments within the CAR possibly indicate this is an application of convenience rather than necessity, and reaffirmed the earlier point that it is difficult to determine whether the results are from local residents.
158. To conclude, Ms Cowle stated that there are a number of pharmacies that provide adequate services to the neighbourhood and that are reasonably accessible from the proposed site. Data shows that the existing Boots pharmacies provide pharmaceutical services to the residents of Mid Calder.
159. Ms Cowle stated that the applicant has not identified a need for a particular service that cannot be met by the existing contactors.
160. Ms Cowle submitted that the existing pharmacy provision was adequate and that the proposed pharmacy is neither necessary nor desirable to secure the provision of pharmaceutical services in the neighbourhood in question. Ms Cowle stated that the application should therefore be refused.

Questions from the Applicant to Ms Cowle

161. The Applicant pointed out that this application process had lasted for two years. Had Boots contacted the local community council regarding residents concerns.
162. Ms Cowle replied that Boots had a well established internal complaints process and constantly sought feedback from clients. From this they would address any problems raised.
163. The Applicant pointed out that the community council had concerns with pharmacy provision in the area.

164. Ms Cowle pointed out that no such concerns had been submitted to Boots. Any complaint received would be dealt with as per the established process.

Questions from Mr Clubb to Ms Cowle

165. Mr Clubb had no questions.

Questions from E Blair to Ms Cowle

166. Ms Blair had no questions.

Questions from the Committee to Ms Cowle

167. Ms Tait asked why the two Boots pharmacies discussed had not received an “Excellent” rating from the GPC following inspection.

168. Ms Cowle replied to her knowledge, only four pharmacies in Scotland had received such a rating.

The Interested Parties Case – Ms Eleanor Blair of Mid Calder Community Council

169. Ms Blair reported that this had been a huge consultation within the neighbourhood, and could confirm that the strongly supportive responses detailed in the CAR had come from local residents.

170. Ms Blair stated that car parking at the proposed site was sufficient, and that more would be made available shortly. These would all ensure the proposed pharmacy was easily accessible.

171. Addressing the Lindsay & Gilmour Pharmacy in East Calder, Ms Blair stated that residents have to rely on public transport and that many find the pathway to dangerous to walk, especially citing the width of the pavement as being difficult for buggies and prams. Ms Blair added that the public transport links were very good but the bus directly to the East Calder pharmacy was only every thirty minutes. Ms Blair also reported that it could take up to two hours for a round trip to East Calder.

172. Similarly, Ms Blair reported that walking to the Craigshill pharmacy was unsafe and residents would have to rely on public transport.

173. If the pharmacy contract was awarded for Mid Calder, residents could easily walk to the pharmacy. This would give independence to the local residence. Ms Blair stated that the community deserved a community pharmacy so as to access needed services on their doorstep.

Questions from the Applicant to Ms Blair

174. The Applicant asked what level of support for the proposed pharmacy was expressed by the local residents.

175. Ms Blair reported all residents would use the community pharmacy – “100%”.

Questions from Mr Clubb to Ms Blair

176. Mr Clubb asked if the community council had identified a need for a pharmacy in Mid Calder before this application had been received.

177. Ms Blair replied that the council had identified a need since the previous application to the area.
178. Mr Clubb asked whether the council had considered placing their own application with the Health Board.
179. Ms Blair reported that they hadn't.
180. Mr Clubb asked if any pavement improvements were planned.
181. Ms Blair replied that they were in touch with the council, as well as for the provision of disabled parking spaces.
182. Mr Clubb asked how Ms Blair knew that 100% of local residents would use the pharmacy if the contract was granted.
183. Ms Blair reported that this had been established from community council meetings – which regularly have attendance from twenty to thirty people, and from general feedback within the community.

Questions from Ms Cowle to Ms Blair

184. Ms Cowle asked how many complaints the community council had received relating to concerns with access to pharmaceutical services.
185. Ms Blair reported that over 100 had been received prior to this application, with around fifty to sixty complaints received after the application had been lodged.
186. Ms Cowle asked how the community council engages with the whole community of Mid Calder, given only twenty to thirty people are in attendance at the council meetings.
187. Ms Blair replied that the council regularly visits different groups within Mid Calder.
188. Ms Cowle asked whether the council would desire a GP service within the neighbourhood.
189. Ms Blair replied that they would love a GP surgery.

Questions from the Committee to Ms Blair

190. Mr Embrey asked whether the concerns and complaints regarding access to the Lindsay & Gilmour East Calder Branch had been raised with Lindsay & Gilmour.
191. Ms Blair replied that the chairperson had taken a report to Lindsay & Gilmour. No further response had been received.
192. Mr Embrey referenced the letter of support contained in the meeting paperwork. Ms Blair had reported unanimous support for the application.
193. Ms Blair replied that over one hundred people had been in attendance and the minutes could be made available if requested.
194. Ms Blythe asked what Ms Blair would consider an acceptable waiting time for patients to collect their prescription.

195. Ms Blair replied that this was unknown, to which Ms Blythe suggested the residents had perhaps unrealistic expectations of an acceptable time to wait.
196. Ms Tait stated that the Committee had heard evidence of frustration from the community regarding the current journey required to access a pharmacy. Ms Tait asked if a pharmacy in the neighbourhood would change this.
197. Ms Blair replied that residents would have much more access to pharmaceutical services.

Summing Up

198. The Applicant and Interested Parties were given the opportunity to sum up:
199. Malcolm Clubb of Lindsay & Gilmour Pharmacy thanked the Committee for listening to today's proceedings. Mr Clubb summed up by making the following points:
- That the application had been received after the deadline as should not be granted as it was outwith the timescales established in the regulations and should have been submitted two weeks before
 - The application should be considered on the opening hours detailed in the application form, not the willingness to open for extended hours as expressed by the Applicant today.
 - No evidence had been supplied to back up the claim of complaints relating to waiting times
 - Evidence had been presented that local residents had access to public transport and cars in instances which required a visit to one of the pharmacies outwith the neighbourhood, and indeed already did so to access medical services.
200. For these reasons, Mr Clubb considered that the application should be rejected.
201. Kathleen Cowle of Boots UK Ltd thanked the Committee for listening to today's proceedings. Ms Cowle summed up by making the following points:
- She accepted the Applicant's definition of the neighbourhood, but not that there was a necessity for a pharmacy within this neighbourhood.
 - That there was no evidence there was a lack of services or inadequacy in the neighbourhood
 - While a pharmacy on every street corner would be ideal, this does not fit the Legal Test.
 - The existing pharmaceutical services in the neighbourhood were adequate; therefore this application was neither necessary nor desirable.
202. For these reasons, Ms Cowle considered the application should be rejected.
203. Eleanor Blair from the Mid Calder Community Council reiterated the council's support for the application.
204. The Applicant summed up by making the following points:
- He would be working with the shop fitter to ensure full DDA compliance
 - The community council representative, Ms Blair, was here today offering support with no commercial interest in the contract being awarded, while the Interested Parties did have a commercial interest in the application not being granted.
 - The two-year application had been met with support from local residents, the community council and local councillors and all agreed the current service provision in the neighbourhood was inadequate.

205. For these reasons, the Applicant believed the neighbourhood was clear and the current inadequacy was obvious. The Applicant stated there was a need for a pharmacy in Mid Calder to provide adequate services.

206. At the conclusion of the summing up, the Chair asked the Applicant and the Interested Parties if they considered that they had had a fair and full hearing. Both the Applicant and the Interested Parties agreed that they had had a fair and full hearing and there was nothing further that they wished to add.

207. The Chair advised that the Committee would now consider the application and representation and make a determination. A written decision with reasons would be prepared and a copy sent to them as soon as possible. A letter would be included with the decision advising of the appeal process. The Chair then thanked the parties for attending.

The Applicant (Mr David Stevenson and Mr Dara O'Malley), and Interested Parties (Mr Malcolm Clubb, Ms Kaye Greig, Ms Kathleen Cowle, Ms Emma Kean, and Ms Eleanor Blair) then left the meeting.

208. At the behest of both the Lindsay & Gilmour and Boots UK Interested Parties, David Hill assured the Committee that the application was received within the regulatory timescales. The initial application had been hand delivered on 15th March 2016. Further information was requested in a letter of 23rd March 2016, giving the Applicant five working days to return an amended application form. This was permissible under Regulation 5, paragraph (2E) of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 (as amended). The Applicant did so, returning the final – circulated – application on 31st March 2016. The Committee was shown the paper copies of this correspondence and accepted it as a valid determination of events.

The Board Administrators (Mr David Hill and Mrs Susan Summers) then left the meeting.

Decision

209. The Committee was required to and did take account of all relevant factors concerning the issues of neighbourhood, adequacy of existing pharmaceutical services in the neighbourhood and whether the provision of pharmaceutical services at the premises named in the application was necessary or desirable to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located.

210. In addition to the oral submissions put before them, the Committee also took account of all written representations and supporting documents submitted by the Applicant and Interested Parties and those who were entitled to make representations. The written representations received and considered by the Committee were:

- i. Email from Julie Grigor of the Lothian General Practitioners Sub-Committee of the Area Medical Committee
- ii. Letter from Charles Tait of Boots UK Ltd
- iii. Email from John Connolly of Deans Healthcare Ltd
- iv. Letter from Eleanor M Blair of the Mid Calder Community Council
- v. Letter from Matthew Cox of Lloyds Pharmacy
- vi. Letter from Philip C Galt of Lindsay & Gilmour Pharmacy
- vii. Unsolicited observation from Fergal Coffey of Kirknewton Pharmacy

The Committee also considered:

- viii. The location of the nearest existing pharmaceutical services
- ix. The location of the nearest existing medical services
- x. The maps of the area surrounding the proposed premises detailing the location of the nearest pharmacies and GP surgeries, deprivation categories and population density
- xi. Information regarding the number of prescriptions dispensed by the pharmacies nearest to the proposed premises
- xii. Information regarding the number of prescriptions dispensed that were issued from the GP surgeries closest to the premises
- xiii. Pharmacy profiles of the nearest pharmacies detailing opening hours, premises facilities and services offered

Neighbourhood

211. Having considered the evidence presented to it, the Committee's observations from the maps before it and the site visit undertaken prior to the meeting, the Committee had to decide the question of the neighbourhood in which the premises, to which the application related, were located.
212. The Committee unanimously agreed with the Applicant's definition of the neighbourhood.
213. The Committee felt that the boundaries proposed were readily identifiable being major roads or bodies of water. As such they were not easily or safely crossed by pedestrians and in themselves formed natural boundaries.

Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability

214. Having reached that decision the Committee then required to consider the adequacy of existing pharmaceutical services in that neighbourhood, and whether the granting of the application was necessary or desirable in order to ensure adequate provision of pharmaceutical services in that neighbourhood.
215. The Committee in determining adequacy of existing provision of pharmaceutical services in the defined neighbourhood took account of the evidence provided by the Applicant, Interested Parties and made available from other sources.

In accordance with the statutory procedure the Pharmacist Members of the Committee (Mr Mike Embrey and Ms Julie Blythe) left the meeting and were excluded from the voting process

216. The Committee agreed in a majority vote from the information made available that the existing pharmaceutical services in the neighbourhood were not adequate. The Committee stated that the pharmaceutical services in Mid Calder at present were not adequate as presented by the applicant and reaffirmed by the community council representative.
217. The Committee agreed that given the changing priorities for primary care, validated by the Applicant and Interested Parties today, pharmacies were now highlighted as a potential first port of call for minor illnesses. The Committee felt that to achieve this in the neighbourhood of Mid Calder, a community pharmacy would need to be truly accessible and local.

218. Margaret Tait advised that she did support the granting of the application. Ms Tait advised that as the Committee had agreed on the defined neighbourhood, there were no pharmacies within this area. Furthermore, the pharmaceutical services located outwith the defined neighbourhood were a considerable distance away with limited pedestrian access.

219. This opinion was shared by Derek Milligan, who accordingly cast the deciding vote.

220. Accordingly, the Committee agreed that the provision of pharmaceutical services at the premises was desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the pharmaceutical list.

221. In these circumstances, it was the Committee's majority decision that the application should be granted.

The Board Administrators were then invited back into the room and the decision of the committee was recorded.

Signed



Date24 October 2017.....

Derek Milligan, Chair
Pharmacy Practices Committee