



**Minutes of the meeting of the Pharmacy Practices Committee (PPC) held on Thursday 29<sup>th</sup> February 2024 at 0930 hrs via MS Teams**

The composition of the PPC at this hearing was:

**Chair:** Martin Connor

**Present:** **Lay Members Appointed by NHS Lothian**

Brian McGregor  
Eleanor Blair  
John Niven

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

Vinny Bilon

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

Hazel Gaven

**Observer:** Aleisha Hunter, NHS Lothian  
Barry Chapman  
Peter Knight

**Secretariat:** Tracy Bone, NHS National Service Scotland

<b>1.</b>	<b>APPLICATION BY Logan Gray Ltd</b>
<b>1.1</b>	There was an application submitted and supporting documents from Logan Gray Ltd received on 28 <sup>th</sup> October 2022, for inclusion in the pharmaceutical list of a new pharmacy at 203 Greenwell Wynd, Edinburgh EH17 8WQ. This hearing is being reheard as new. In effect no evidence from the original hearing will be taken into account today and decision made solely and only from today's evidence and hearing today. It was noted that the Consultation Analysis Report (CAR) remains the same and some changes in the situation of the area but will not be referring back to any notes or evidence from previous hearings.
<b>1.2</b>	<b>Submission of Interested Parties</b>

<b>1.3</b>	<p>The following documents were received:</p> <ul style="list-style-type: none"> <li>i. Letter dated 30 January 2024 from Lothian Area Pharmaceutical Committee</li> <li>ii. Letter dated 26 January 2024 from Fleming Pharmacy (Gemini Medical Care Ltd t/a)</li> <li>iii. Letter dated 26 January 2024 from Gordons Chemists (D. Shannon Stewart Ltd t/a)</li> <li>iv. Letter dated 24 January 2024 from Gilmerton Healthcare Ltd (Gilmerton Pharmacy t/a)</li> </ul>
<b>1.4</b>	<b>Correspondence from the wider consultation process undertaken</b>
	<ul style="list-style-type: none"> <li>i. Consultation Analysis Report (CAR)</li> <li>ii. Consultation Document and completed questionnaires</li> </ul>
<b>2</b>	<b>Procedure</b>
<b>2.1</b>	<p>At 0930 hours on 29<sup>th</sup> February 2024, the Pharmacy Practices Committee (“the Committee”) convened to hear the application by Logan Gray Ltd (“the Applicant”). The hearing was convened under Paragraph 2 of Schedule 3 of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, (S.S.I. 2009 No.183) (“the Regulations”). In terms of paragraph 2(2) of Schedule 4 of the Regulations, the Committee, exercising the function on behalf of the Board, shall “determine any application in such manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the Committee was whether “the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List”.</p>
<b>2.2</b>	<p>The Chair welcomed all to the meeting and introductions were made. When asked by the Chair, members confirmed that the hearing papers had been received and considered. When committee members were asked by the Chair in turn to declare any interest in the application, none were declared.</p>
<b>2.3</b>	<p>Members of the Committee had undertaken independent site visits to 203 Greenwell Wynd, Edinburgh EH17 8WQ and the surrounding area. During which the location of the premises, pharmacies, general medical practices and other amenities in the area such as, but not limited to schools, sports facilities, community centres, supermarkets, post office, banks and churches had been noted.</p>
<b>2.4</b>	<p>The Chair advised that Tracy Bone was independent from the Health Board and was solely responsible for taking the minute of the meeting.</p>
<b>2.5</b>	<p>The Chair outlined the procedure for the hearing. All Members confirmed an understanding of these procedures.</p>

2.6	The Chair noted that Mr Stephen Waclawski at the Central Legal Office (CLO) was being retained as legal assessor and available should any legal advice or representation be required.
2.7	Having ascertained that all Members understood the procedures, that there were no conflicts of interest or questions from Committee Members the Chair confirmed that the Oral Hearing would be conducted in accordance with the guidance notes contained within the papers circulated. The Applicant was invited to enter the hearing.
2.8	<b>The open session convened at 0930 hrs</b>
3	<b>Attendance of Parties</b>
3.1	The Chair welcomed all and introductions were made. The Applicant, Logan Gray Ltd represented by Ms June Friel. From the Interested Parties eligible to attend the hearing, Mr Nikhil Goburdhun of Gordons Chemists accompanied by Ms Joanne Wright and Mr Simon Gemmell of Fleming Pharmacy accompanied by Mrs Gemmell accepted invitation.
3.2	The Chair advised all present that the meeting was convened solely to determine the application submitted by Logan Grey Ltd in respect of a proposed new pharmacy at 203 Greenwell Wynd, Edinburgh EH17 8WQ from 28 <sup>th</sup> October 2022. Previous decisions of the PPC or National Appeal Panel (NAP) would have no bearing on the outcome of this hearing. The Chair confirmed to all parties present that the decision of the Committee would be based entirely on the evidence submitted in writing as part of the application and consultation process, and the verbal evidence presented at the hearing itself, and according to the statutory test as set out in Regulations 5(10) of the 2009 regulations, as amended, which the Chair read out in part:
3.3	“5(10) an application shall be ... granted by the Board, ... only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located...”
3.4	The Chair confirmed that notice has been given to: Lothian Area Pharmaceutical Committee; Lothian General Practitioners Sub Committee of the Area Medical Committee and Gordons Chemist. No written representations had been received before the required timescale for consideration by the Committee.
3.5	The three components of the statutory test were emphasised. It was explained that the Committee, in making its decision, would consider these in reverse order, i.e. determine the neighbourhood first and then decide if the existing pharmaceutical services within and into that neighbourhood were adequate. Only if the Committee decided that existing services were inadequate would the Committee go on to consider whether the services to be provided by the applicant were necessary or desirable in order to secure adequate services. That approach was accepted by all present.

3.6	The Chair asked all parties for confirmation that these procedures had been understood. Having ascertained that all parties understood the procedures the Chair confirmed that the Oral Hearing would be conducted in accordance with the Procedure at Hearings document contained within the papers circulated.
3.7	The Chair confirmed that members of the Committee had independently conducted site visits in order to understand better the issues arising from this application. Assurance was given that no member of the Committee had any interest in the application.
3.8	The Chair asked for confirmation that all parties fully understood the procedures to be operated during the hearing as explained, had no questions or queries about those procedures and were content to proceed. All confirmed agreement.
3.9	The Chair noted a number of documents had been submitted by the Applicant at 0830 hrs on this date and due to the late submission would not be taken into account in the hearing today.
3.10	<b>The Chair invited Ms Friel to make her submission</b>
3.11	Good morning everyone and many thanks for taking the time to hear this application today. My name is June Friel and I am the Managing Director of Logan Grey Limited.
3.12	We are in a very unusual positions today as I have to say that I am extremely disappointed to be having this hearing again as it's been such a very long process and the contract was granted by a previous PPC and due to a very minor legal technicality, then we have to rehear it again today, albeit nothing has changed. I mean seriously, since the last successful PPC hearing granted the Contract, nothing has changed.
3.13	But before I begin, I would like to address the issue of the proposed pharmacy. As you will have noted, I intimated to the Board some time ago that the address of the proposed premises has now been amended from 203 Greenwell Wynd to 201.
3.14	The Chair interjected at this point in the Applicants presentation to note that no advice has been received by the Health Board unless it had been included with the late papers' submission. The Board had been trying to contact you, The Applicant on a number of occasions prior to the hearing which resulted in a holding letter being received from your solicitor, the week prior to this hearing date, but nothing since until a packet of information was received this morning which no one has had any time to review nor consider. The Chair disagreed therefore that additional information has been submitted prior to this hearing.
3.15	The Applicant noted an email was sent to the Board via her lawyer stating the change from 203 to 201 Greenwell Wynd on the 15 <sup>th</sup> February 2024.
3.16	The Chair conferred with the Board colleague present in the meeting whether such email had been received and confirmation of no contact was made / received.
3.17	The Chair noted that if such a document had been received then legal advice would have to be taken due to the change of address being a statutory issue and the

	hearing is based on the address noted in the original submission and which the CAR notes and reflects.
<b>3.18</b>	The Chair suspended the hearing at 0948 hrs whilst contact was made with the CLO regarding the information provided by the Applicant for the change of address.
<b>3.19</b>	The Chair provided an update at 0956 hrs to confirm that contact had been made with CLO representative who was going to view the information and review legislative points and called a break to enable this to be undertaken requesting those present to return at 1010 hrs.
<b>3.20</b>	The Open Session of the Hearing was reconvened at 1033 hrs with Mr Stephen Waclawski of the Central Legal Office present to enable CLO advice regarding the applicant's amended proposed premise address
<b>3.21</b>	Mr Waclawski re-iterated the question asked of him was "does the change of address and the application from 201 to 203 make today's hearing non-valid which is a very unusual question. It is not an issue which has come before to a PPC that he has been involved in. Following consultation with colleague the answer is not immediately obvious. The regulations as they stand have been reviewed and there is nothing permitting an amendment, but also there is nothing prohibiting an amendment. The unit is adjacent to that noted on the application. Going to respond to the board to seek external advocates advice resulting in a delay in coming to the committee. CLO recommendation would be that as the change that the unit is to the side of the one noted in the CAR, could be minimal since evident possibly remains relevant then consider continuing the hearing and adjourning once evidence had been heard. If the advice is that the amendment cannot be made, then the application cannot proceed. Mr Waclawski apologised for not having a more details outcome but was not able to provide a direct and absolute answer to this.
<b>3.22</b>	The Chair queried if the Panel were to proceed with the hearing and participants provide their evidence but delay the decision-making session to a future date once absolute legal decisions were made would everyone have to be recalled.
<b>3.23</b>	Mr Waclawski responded that the Applicant and Interested Parties take the opportunity to make the evidence as to what this amendment would make to the interpretation of the evidence to enable the commit to interrogate the information. CLO representation departed the meeting at 1039 hrs.
<b>3.24</b>	The Chair noted having taken into account CLO advice to interested parties, then if this change is significant means showing the evidence or Questions. The Chair again reiterated that for all purposes, the last hearing did not happen and therefore there was no point in refereeing to what came before and all evidence would be taken as heard this morning and will be reviewing the CAR as was.
<b>3.25</b>	The meeting resumed at 1039 hrs and the Chair invited the Applicant to make her submission.
<b>4.</b>	<b>Submissions</b>
<b>4.1</b>	The Chair invited Ms June Friel, to speak first in support of the application.

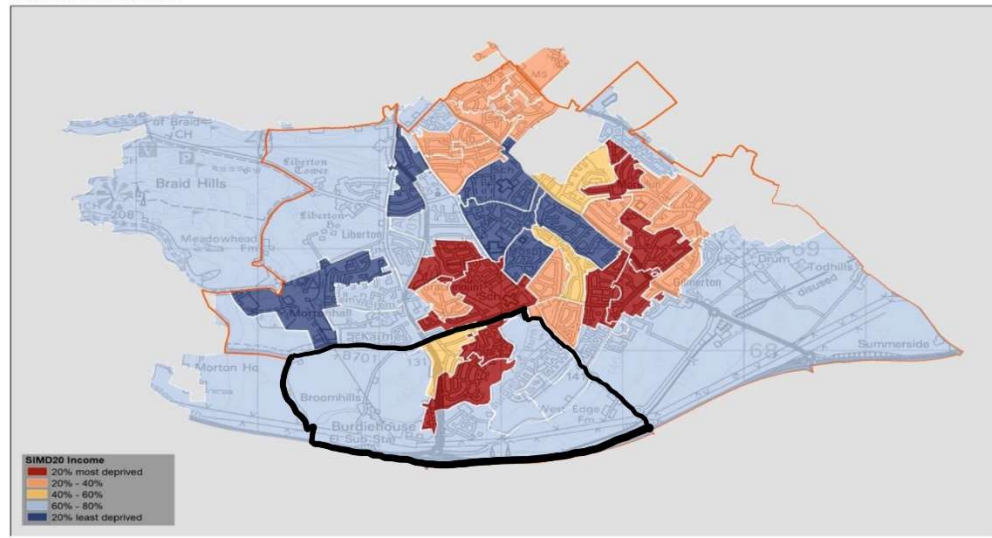
<b>4.2</b>	Ms Friel read aloud the following pre-prepared statement making alterations as necessary:
<b>4.3</b>	Good morning, and many thanks for taking the time to hear this application. My name is June Friel and I am the Managing Director of Logan Gray Ltd.
<b>4.4</b>	As you will have noted, I intimated to the Board some time ago that the address of the proposed premises has now been amended from 203 Greenwell Wynd, Edinburgh, EH17 8WQ to the adjacent property next door at 201 Greenwell Wynd.
<b>4.5</b>	<p>I have been forced to make this change as a direct result of the delay caused by the legal errors made by the Board. If I may quote the letter from my lawyers to NHS Lothian:</p> <p>"The premises at 201 Greenwell Wynd is adjacent to and contained within the same building as those at 203 Greenwell Wynd. The change of premises has no material effect on the pharmaceutical services provided by our client, nor on the neighbourhood population in respect of which pharmaceutical services are provided.</p> <p>Section 5(4)(b) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 provides, as you are aware, for the approval by the board of applications for the relocation of existing premises where any proposed relocation is minor. This amendment to our client's application is consistent with a purposive approach to the legislation and it seems to us, an entirely reasonable request, given that the change is only required as a consequence of the application requiring to be reconsidered due to the board's original decision being vitiated by an error of law and set aside by the Court of Session."</p>
<b>4.6</b>	It may also be of interest to the Committee that an almost identical situation arose at a PPC hearing in NHS Forth Valley (at Kinnaird Village) and the opinion of the CLO in that case was that the application remained valid and was, in that case, granted by the PPC.
<b>4.7</b>	I would also assume that since the Board have proceeded with this hearing subsequent to my email then they are satisfied that the application is valid.
<b>4.8</b>	So, without further ado, I will go through the Legal Test and provide you with the information I believe demonstrates that the granting of this application is both necessary and desirable in order to secure an adequate pharmaceutical service in the neighbourhood in which the proposed premises are located.
<b>4.9</b>	Fundamentally, this application rests on a combination of two important factors: the inadequacy of access to existing pharmacies and the inadequacy caused by an increasing lack of capacity at the existing pharmacies.
<b>4.10</b>	As evidence of the aforementioned, I will rely on the results of the CAR and on other evidence.
<b>4.11</b>	<p>The neighbourhood, which is called 'Burdiehouse', is bounded to the:</p> <ul style="list-style-type: none"> <li>• West by open fields. Woodlands West to Frogston East Road down to the City Bypass</li> </ul>

	<ul style="list-style-type: none"> <li>• South is the A720 Edinburgh Bypass.</li> <li>• North is the B701 (Frogston Road / Captain's Road)</li> <li>• East by Lasswade Road, which divides Burdiehouse from Gilmerton.</li> </ul> <p>This is a neighbourhood 'for all purposes', it comprises of existing homes but critically (for the purposes of this application) includes a huge number of new homes and this is a matter of fact.</p>
4.12	There are no pharmacies in the neighbourhood. Existing services are provided to the neighbourhood by pharmacies in adjacent neighbourhoods. The closest is the Gordon's Chemist on Captain's Road. This is just outside the northern boundary of the neighbourhood, and it is in the neighbourhood commonly known as Rosemount.
4.13	There is also a Dears Pharmacy at Straiton Mains, and also a pharmacy in Gilmerton which was previously a Lloyds Pharmacy all of which are out with the neighbourhood. And there are other pharmacies but much further afield.
4.14	<p>Are these services Adequate?</p> <p>This is, of course, is the crux of the Legal Test.</p> <p>I'm going to approach this question in two ways.</p> <ol style="list-style-type: none"> <li>1. The first is to consider <b>where</b> these pharmacies are located with respect to the residents of the neighbourhood. In other words, '<i>how easy is it to access these pharmacies?</i>'</li> <li>2. The second question is around the adequacy of the <i>level of service</i> which these pharmacies can provide.</li> </ol>
4.15	<p>Before I do that, there are two important factors that affect how we answer these questions.</p> <ul style="list-style-type: none"> <li>• The first is "what is the size of the population".</li> <li>• The second, "What are the demographics of the population".</li> </ul>
4.16	<p>The reason we need to know this is simple:</p> <ul style="list-style-type: none"> <li>• The larger the population, the more people there will be that will require a comprehensive and accessible pharmaceutical service.</li> <li>• The more people there will be without access to a car, with long-term chronic conditions or families with young kids, with disabilities, etc...</li> </ul>
4.17	And the demographics are the second thing that influences this. The more deprived a population, the more there will be of all of the a aforementioned pharmaceutical services.
4.18	Ultimately these are the key factors which determine 'how much does a neighbourhood need a pharmacy'. It's an interplay between the size of the population and the SIMD rating of the population.
4.19	Currently there is no way of getting an accurate number for the population of the proposed neighbourhood. And I've tried! Perhaps the PPC have been given this data?

<p><b>4.20</b></p>	<p>But, here's the good news: It really doesn't matter. Because here's what I do know. There are approximately 3,400 new homes which are already constructed or soon to be constructed. Whatever the population of Burdiehouse was ten years ago - 2000? 3000? You can add around 10,000 people to that.</p> <p>This is an enormous number and constantly increasing.</p>
<p><b>4.21</b></p>	<p>It's such a huge number that I'm not going to waste time discussing and detailing all the numbers as they are all evidenced in the Edinburgh Council Planning.</p>
<p><b>4.22</b></p>	<p>What matters is the current situation plus predictable future housing developments which is the case here- these are not speculative but guaranteed.</p>
<p><b>4.23</b></p>	<p>The simple fact is this: The population of this part of Edinburgh has rocketed over the past couple of years. So much so, that, as I'm sure you are aware, Primary Medical Services at local surgeries are in complete crisis. This is evidenced by</p> <ul style="list-style-type: none"> <li>• Gracemount Medical Practice– closed to new patients and have been for some time</li> <li>• Liberton Medical Group - closed to new patients and have been for some time</li> <li>• Ferniehill Surgery - closed</li> </ul> <p>I could go on but if you check NHS inform and the individual websites then it's very clear they are in crisis and have closed their lists to new patients.</p>
<p><b>4.24</b></p>	<p>That takes me on to the demographics. What we're really interested in here is SIMD. Now we can't have the data for all of the new homes. We can take a reasonable guess that these will mainly be 'average' people living in 'average' new homes, with 'average' needs along with the affordable housing. But there's a huge number of them, so the needs of this population is still extremely important!</p>
<p><b>4.25</b></p>	<p>But the older part of Burdiehouse? That's a different story. In fact, much of the original part of the neighbourhood is quite deprived. As you can see from this map.</p>



## Liberton / Gilmerton



Data zones that fall over ward boundaries are only shown in the ward map where they have been allocated (based on where most of the housing lies).

and a large part of the original neighbourhood is in the most deprived 20% of the Scottish population. So within this relatively comfortable population is a significant cohort of very economically deprived residents.

**4.26** So, what we do know is, we have a very large population in this neighbourhood which is expanding and we have a pocket of deprivation. Put that together and you have a very significant population who need easy access to a comprehensive pharmaceutical service.

**4.27** So, how do they get to a pharmacy?  
Well, the simple answer is they either walk, or drive, or take a bus to a pharmacy out with their own neighbourhood. For many of them that's going to be quite a walk up a hill - especially for all the new residents in the new-build estates.

Will a percentage of the population find this difficult? Such as,

- Young mums with prams?
- Older people with limited mobility.

Undoubtedly. This is a walk uphill the whole way for the vast majority of residents. My proposed premises, on the other hand, do not involve a walk uphill and why deny the residents of the neighbourhood the right to their own pharmacy?

**4.28** This is where 'population' comes into play. Would I be applying for this contract had there been no significant housebuilding in the neighbourhood? Probably not. For a small population this difficulty in access would probably only apply to a small number of people. Not enough to justify the granting of a new pharmacy contract. But remember, we are now talking about a huge increase in population.

	<p>I'm not stating that every neighbourhood needs a pharmacy. What I'm arguing is that when the population of a neighbourhood reaches a certain size, then it is no longer reasonable to expect them to access a pharmacy out with their neighbourhood.</p> <p>Picture this, and I hope it doesn't happen but unfortunately my colleagues have had closures in their shop – so what happens if this happens again – a total inadequacy. The access is inadequate.</p>
<b>4.29</b>	<p>And again, it's about numbers. Once a population reaches a certain size - as in this case over 10,000 people (and the population of Burdiehouse neighbourhood now exceeds that of a town) - then a sufficient enough percentage of that population will find access to a pharmacy out with their neighbourhood difficult. Enough to call that access 'inadequate'.</p>
<b>4.30</b>	<p>I've focussed on the pharmacy at Captain's Road, but the same applies to all of the other pharmacies in adjacent neighbourhoods. The next closest - the pharmacy at Straiton and this is particularly difficult to walk to.</p>
<b>4.31</b>	<p>There's another very important consideration when considering access to a pharmacy. It's not just about 'how do you get to a pharmacy'. It's also about your normal daily life. People rarely go to a pharmacy in isolation - they do it whilst doing other things. The location of my proposed premises is where the shopping area is to serve all the new homes. So access to the pharmacy will slot into 'normal daily life'. Now consider the alternative - a visit to the shop and then a separate trip up to get to a pharmacy? This places an additional burden on patients. It's not 'adequate'.</p>
<b>4.32</b>	<p>I'm sure the PPC are aware of the situation with regards to the Lloyds Pharmacy which was previously located in the Sainsbury Supermarket. This has now moved some distance away to Straiton Mains. In the past residents of my proposed neighbourhood would undoubtedly have accessed the Lloyds whilst doing their 'supermarket shop' at Sainsbury but this is no longer the case, and I very much doubt they will travel on to the relocated pharmacy. This will undoubtedly increase the pressure on existing pharmacies out with the neighbourhood.</p>
<b>4.33</b>	<p>I'd now like to move on to the second major reason why I believe this application is justified and should be granted again. I know you will all have read the CAR report and will have seen the huge support the public have given to this application. I want to concentrate on why the public are so keen to see this application granted. Yes, they're interested in access. But it's not the main reason. The main reason is directly related to the massive increase in population over the past couple of years: and the existing service is inadequate.</p>
<b>4.34</b>	<p>Now, I don't say this to criticise my colleagues in pharmacies. The simple fact is this: when house builders get planning for large developments such as here, they are under no obligation to consider the effect on Primary Medical and Pharmaceutical Services. We have seen the effect on our medical colleagues, as I described earlier. The same applies to community pharmacy. Without planning and expansion, the</p>

	existing service - when suddenly faced with a massive increase in population - is unable to cope.
<b>4.35</b>	The situation is exacerbated because as medical practices become overwhelmed, even close their books for new patients then more and more patients are directed to pharmacy. And here in this area the same? It's also worse as the pharmacy located in the Sainsbury supermarket has closed permanently.
<b>4.36</b>	<p>Here are some comments in the CAR, for which we had an overwhelming support in excess of 90% positive response and fully supported it and not one objection opposing it. over 92% of the respondents agreed there are gaps and deficiencies in the existing provision of pharmaceutical services in the neighbourhood and 97% believed that a community pharmacy would have a positive impact in the neighbourhood. over 89% had to make multiple journeys to receive all the items from each prescription from the existing pharmacies out with the neighbourhood.</p> <p>“A number of new housing developments nearby put growing pressure on existing pharmacy provisions, namely Gordon's on Captains Road.”</p> <p>“I live in Gracemount Road and the queues and waiting times at Gordon's at Gracemount are far too long - they are basically unable to cope.”</p> <p>“Our nearest pharmacy is either on Ferniehill Road or at Gracemount both are completely overwhelmed by the amount of people using services. Wait times are long and multiple times my repeat prescription has gone missing meaning I need to collect a new one from my GP...”</p> <p>“Combination of distance to go to the pharmacy as well as it being closed unexpectedly means that despite allowing around 5 days before trying to collect a prescription I can still be left without and need to try and visit again”.</p> <p>“There is always a long line of people in the pharmacy and the wait for prescription is usually 30 min. That often means that the whole experience with waiting in the line and then for prescription can be 1 hour long.”</p> <p>“Given the lack of pharmacies in Burdiehouse are with all the new builds it would make access a lot easier on foot and also reduce the pressure on the GP surgeries who are currently on their knees”</p> <p>That is some of the comments from the CAR which I am sure you have already read.</p>
<b>4.37</b>	I could go on and on but we'd be here all day and I'm sure the PPC has taken the time to read the CAR. The responses in the CAR tell a story that cannot be ignored: the pharmacies currently servicing this hugely expanding population cannot cope. Services provided to the neighbourhood are clearly inadequate.
<b>4.38</b>	<p>So, to summarise. The neighbourhood is Burdiehouse, which is a matter of fact. Existing services are provided by pharmacies out with the neighbourhood, so why deny the residents of Burdiehouse their own Local pharmacy to correct the current inadequacy.</p> <p>Access to the closest pharmacy is a considerable walk for many, up a hill.</p> <p>The population has grown substantially in a very short period and now stands at over 10,000 based on over 3,000 new homes which will continue to increase.</p>

	<p>There is a cohort of the population is the most deprived SIMD 20%.</p> <p>Medical crisis in Primary care for GP's and people are being directed to their Pharmacy.</p> <p>Granting this application yet again is necessary as the core NHS services provided will address the inadequacy in the current provision.</p>
<b>4.39</b>	<p>But further, granting this application yet again is desirable because the range of services I propose to provide will go beyond that.</p> <ul style="list-style-type: none"> <li>• 24/7 365 prescription collection</li> <li>• Dispensing robot</li> <li>• an independent prescriber, extended hours</li> </ul> <p>all of this will be of huge benefit to the local population in the neighbourhood.</p>
<b>4.40</b>	<p>Granting this application yet again will <b>secure</b> NHS pharmaceutical services in the neighbourhood because it is inconceivable that my proposed pharmacy will be non-viable, and it is quite obvious that it will not affect the viability of any other pharmacy.</p>
<b>4.41</b>	<p>Finally, whilst the Committee are not bound by the decision of the previous PPC, I think it is important to take it into account. That PPC granted this application, and I think it is only fair to add this to the weight of evidence which supports the application. We are only here today due to a very minor legality because nothing has changed.</p>
<b>4.42</b>	<p>On that basis, and for all of these reasons, I would ask you to grant this application and I am happy to take any questions.</p> <p>Thank you for your time.</p>
<b>4.43</b>	<p>This concluded the presentation from Ms Friel</p>
<b>4.44</b>	<p>The Chair reiterated that the Committee would not be taking any nuisance of the previous hearing.</p>
<b>4.45</b>	<p>The Chair asked the Applicant why the Neighbourhood boundary lines to the East and West differ from those on the Application Form during her presentation. This being required for clarity due to Members and Interested Parties awareness.</p>
<b>4.46</b>	<p>The Applicant suggested the slight amendment was following advice sought but largely remains as to the West of the open fields, South to the A720, North to the B701 and East of Lasswade Road.</p>
<b>4.47</b>	<p>The Chair thanked the Applicant for the information and noted that it was ultimately up to the Committee to decide on the Neighbourhood Boundaries.</p>
<b>5.</b>	<p><b>The Chair invited questions from the Interested Parties</b></p>
<b>5.1</b>	<p><b>Mr Nikhil Goburdhun (Gordons Chemists) to Ms June Friel</b></p>
<b>5.1.1</b>	<p>Mr Goburdhun enquired if the Applicant owned or leased the proposed property at 201 Greenwell Wynd following the Applicant noting that the Unit change was due to the delay caused by judicial review following the previous hearing. Ms Friel</p>

	responded that she does not own or currently lease the proposed property but has a Letter of Comfort from the Owner which had been forwarded to the Board.
<b>5.1.2</b>	Mr Goburdhun enquired as to what size unit 201 was. Ms Friel responded that it was 501 square feet.
<b>5.1.3</b>	Mr Goburdhun enquired what the size of Unit 203 was. Ms Friel responded that it was 1300 square feet.
<b>5.1.4</b>	Mr Goburdhun noted the Applicants mention of a dispensing robot and enquired as to what size it would be. Ms Friel responded that they come in several different sizes and was still to be decided.
<b>5.1.5</b>	Mr Goburdhun noted that the proposed premise's unit was considerably smaller than the one noted on the application and enquired how the Applicant planned to operate a pharmacy from the reduced space. Ms Friel responded to confirm that there would be no retail space and would be dispensing and pharmaceutical services.
<b>5.1.6</b>	Mr Goburdhun referenced parking and enquired where the Applicant envisaged disabled patients being able to park. Ms Friel responded to state that there was parking at the rear of the proposed premise or across the road outside the front where there is a pedestrian crossing.
<b>5.1.7</b>	Mr Goburdhun enquired if the Applicant felt that the CAR was still relevant. Ms Friel responded to say that it was and that it provides a snapshot of what the neighbourhood feels and therefore responded.
<b>5.1.8</b>	Mr Goburdhun had no further questions for the Applicant.
<b>5.2.</b>	<b>Mr Simon Gemmell (Fleming Pharmacy) to Ms June Friel</b>
<b>5.2.1</b>	Mr Gemmell enquired how the Applicant came to their conclusion of Burdiehouse lacking in pharmacy services. Ms Friel responded that it was due to the huge development of new housing.
<b>5.2.2</b>	Mr Gemmell enquired if the Applicant believed that lots of development dictated a lack of pharmaceutical services. Ms Friel responses that yes it was part of it along with other factors addressed in her presentation.
<b>5.2.3</b>	Mr Gemmell enquired as to whether a research study was carried out to reflect this and what evidence was there to corroborate this. Ms Friel responded that the evidence from her findings were included in her presentation as well as primarily the CAR.
<b>5.2.4</b>	Mr Gemmell enquired as to which core services the Applicant believed were not currently provided by existing contractors. Ms Friel confirmed that all core services are being provided and her intention is to do the same and enhance the services as well as participate in locally negotiated contracts and basically help residents of the neighbourhood.

<b>5.2.5</b>	Mr Gemmell sought confirmation from the Applicant that all patients in the area do have access to all core NHS services. Ms Friel responded that her application is not based on core services but on all the formations of access as evidenced today.
<b>5.2.6</b>	Mr Gemmell referred the number of pharmacy contract applications that the Applicant had submitted in the last few years as being around five. He then enquired if the Applicant considered themselves a serial applicant. Ms Friel responded that she did not understand the relevance of the question for this application.
<b>5.2.7</b>	Mr Gemmell referenced that this was the second application submitted for this location and noted the late submission of change of address for the proposed premise and enquired why the Applicant also then submitted late papers this morning in relation to the application. Ms Friel responded that the papers had been submitted on the 15 February via her lawyers but noted that her declaration of interest has been going on since 2018, over six years ago and that it was not something that has just transpired. An agreement was in place but due to premises owners choosing a different route which resulted in the change to proposed premise address.
<b>5.2.8</b>	Mr Gemmell enquired how long the Applicant envisaged it would take for their plans for the proposed premise to be fully operational. Ms Friel responded that it would be within the timeframe given by the Health Board of six months if the application is granted.
<b>5.2.9</b>	Mr Gemmell sought clarification of the timescale given that that on the application noted within three months of the contract being granted. Ms Friel responded that it was irrelevant, she would like to do it within three months but allowing six months to get it organised.
<b>5.2.10</b>	Mr Gemmell noted that the CAR was taken over a larger neighbourhood due to change in parameters as highlighted by the Chair and suggested that this could change the outcome. Ms Friel responded that the catchment area would still include Flemings Pharmacy and did not feel that it was of any relevance for the application as it was to be what the Committee decides the neighbourhood and all the services provided into to it.
<b>5.2.11</b>	Mr Gemmell in referencing the size of the new premises and the Applicants plan to install two robots / automated systems enquired what space would be left for normal dispensing patients to wait for prescription or for staff's rest / comfort areas. Ms Friel responded that the layout was still to be decided upon discussion with the shopfitters, but the dispensing robot would enable staff extra time and freedom to spend time with patients for whatever needs may be required (referrals, consultations, etc).
<b>5.2.12</b>	Mr Gemmell had no further questions for the Applicant.
<b>5.3</b>	<b>The Chair invited questions from the Committee Members</b>
<b>5.4</b>	<b>Mr Brian McGregor (Lay Member) to Ms June Friel</b>
<b>5.4.1</b>	Mr McGregor reflected on the situation at the start of the meeting today with the change of proposed premise from 203 to 201 Greenwell Wynd which was not looked at during the Committee's site visit. Mr McGregor noted reference to the 201 address

	<p>as being approximately 500 square feet, he then enquired as to what information the Applicant held in relation to the new unit at 201 by way of lease / rent of the premise. Ms Friel responded to confirm she was in receipt of a letter from the Owner of the Unit at 201 Greenwell Wynd that if successful today with the application then they would sell the premise to the Applicant to enable a pharmacy to be located within this space.</p>
<b>5.4.2</b>	<p>Mr McGregor reflected on the premises as being approximately 500 square feet and from the Applicants earlier comments would be mostly dispensing space instead of retail. He went on to enquire whether a consulting room would be included in the layout. Ms Friel responded that the layout would be Equality Act 2010 compliant and that a consultation room would be included for privacy.</p>
<b>5.4.3</b>	<p>Mr McGregor reflected on comments made regarding parking at the rear of the proposed premise but noted that there was a sign indicating this was for “residents only” and enquired if those spaces were available to the users of the retail units. Mr Friel responded that if turning left when entering the parking to the rear of the units then this was for residents but to the right when entering the parking area was for the retail units.</p>
<b>5.4.4</b>	<p>Mr McGregor enquired as to where the Applicant came by the massively increased population numbers as per her presentation for the neighbourhood. Ms Friel responded that the last census conducted was 2010 which showed the population at 2983 which was dramatically increased due to new housing development and used the calculation of multiplying the number of houses by 3.2 as the average used to speculate the number.</p>
<b>5.4.5</b>	<p>Mr McGregor sought clarification from the Applicant of their estimated population as being 10,000 – 12,000. Ms Friel confirmed this and added that this information was backed up by the GP surgeries having reached their maximum capacity and closed their lists some time ago.</p>
<b>5.4.6</b>	<p>Mr McGregor enquired if there were plans for new buildings / developments in the area. Ms Friel responded to confirm that there were still 1403 houses still to be built and 1000 in the next few months towards the Frogston Road area by David Wilson Homes.</p>
<b>5.4.7</b>	<p>Mr McGregor commented that the Committee were used to seeing supporting information from the likes of Community Councils, local Councillors, etc but noted that none had been seen for this application. Ms Friel responded that she did not feel that a Pharmacy application was included in their area of expertise and went on to note that the CAR was conducted during Covid and was therefore unable to hold or attend meetings / forums to interact with members of the public regarding this application.</p>
<b>5.4.8</b>	<p>Mr McGregor noted that the CAR was conducted in the Spring / Summer of 2022 and now almost two years old. He enquired what changes would become apparent if the CAR was to be updated. Ms Friel responded that she believed it would increase her accuracy of the people requiring the need of a new pharmacy due to the</p>

	additional housing and noted with being unable to register with a local GP, residents must go to the pharmacy.
<b>5.4.9</b>	Mr McGregor had no further questions for the Applicant
<b>5.5</b>	<b>Ms Eleanor Blair (Lay Member) to Ms June Friel</b>
<b>5.5.1</b>	Ms Blair referenced the proposed premise and enquired as to when it was apparent that unit 203 was no longer available, whether the Applicant had tried to find a larger unit which was available before going with unit 201. Ms Friel responded that despite looking for available larger units, none were available.
<b>5.5.2</b>	Ms Blair referenced that the new proposed premise as being less than half the size of that noted in the Application and enquired how the Applicant would be able to provide all planned services. Ms Friel responded that size was irrelevant and that it was the core service and service provision to patients was important and noted that with automation in place it would allow staff and dispensaries to provide extra pharmaceutical services to the neighbourhood.
<b>5.5.3</b>	Ms Blair enquired if the proposed premise would have a consulting room. Ms Friel confirmed that it would.
<b>5.5.4</b>	Ms Blair noted parking was an issue during her site visit and had to walk quite a distance to the proposed premise. Ms Friel responded that a free delivery collection and delivery service would be available to all patients and would therefore be the patients' choice to visit the pharmacy or have prescriptions delivered free of charge to them.
<b>5.5.5</b>	Ms Blair enquired how long the lease was currently for or what was the plan longer term. Ms Friel responded that she planned to purchase the proposed premise.
<b>5.5.6</b>	Ms Blair had no further questions for the Applicant
<b>5.6</b>	<b>Mr John Niven (Lay Member) to Ms June Friel</b>
<b>5.6.1</b>	Mr Niven noted from the Application that Marie Patterson was the Applicants Superintendent Pharmacist and enquired if this was still the intention. Ms Friel confirmed that Marie Patterson was her Superintendent pharmacist for all her pharmacies and would continue to be.
<b>5.6.2</b>	Mr Niven noted to earlier points raised regarding parking and the limitations with this and highlighting the restriction regarding the "Resident's Only parking" sign. Ms Friel responded that if the Application was to be granted, she would have this amended when in situ of the premises.
<b>5.6.3</b>	Mr Niven noted that since the CAR was undertaken there had been significant changes in provision of pharmaceutical services within the proximity of the neighbourhood including that of Straiton Mains and Flemings Pharmacy's relocation. Mr Niven enquired how the Applicant thought this would impact her proposed business care due to the closer proximity of Flemings. Ms Friel responded that with Flemings only having moved 0.5 mile from its original location remaining on a busy



	arterial road with parking restricted due to double yellow line she envisaged both pharmacies working synergistically for patient services to improve pharmaceutical experience within the area.
<b>5.6.4</b>	Mr Niven enquired what the Applicants prescription levels would be at the time of opening the pharmacy if successful to have a viable business. Ms Friel responded to state that to start off at a zero base is expected but quick growth as previously seen with other business, namely the takeover of Lloyds Pharmacies. Pharma data and ISD Scotland where pharmacies have taken over from a standstill within months have reached 2000-2800 and more very quickly so viability was not a question for her.
<b>5.6.5</b>	Mr Niven reflected that the Lloyds situation was not comparable to levels of service from a starting base of those who took over Lloyds' premises and enquired how this difference would affect the Applicant. Ms Friel responded that a new pharmacy in a population of over 10,000 would unlikely be an issue as people would gravitate to their local services and walk with their feet and if good service was provided then they would return.
<b>5.6.6</b>	Mr Niven had no further questions for the Applicant
<b>5.7</b>	<b>Ms Hazel Garven (Non-Pharmaceutical Contractor Member) to Ms June Friel</b>
<b>5.7.1</b>	Ms Garven asked for clarification regarding comment from the Applicant in relation to pharmacy at Straiton as having been moved and not closed. Ms Friel responded to note that Sainsbury's Supermarket had given Lloyds notification to vacate, in the interim Dears Pharmacy has purchased Lloyds and proceed with a relocation of the Pharmacy out with the neighbourhood.
<b>5.7.2</b>	Ms Garven enquired if the Applicant believe that this was Straiton and not the premises at Meadowbank. Ms Friel responded that she believed it was Straiton.
<b>5.7.3</b>	Ms Garven noted the Applicants Superintendent of pharmacy and enquired how many stores they oversee. Ms Friel responded it was five.
<b>5.7.4</b>	Ms Garven enquired given that the Superintendent would not be physically in all five stores how the Applicant intended to staff this on a daily basis with the pharmacist. Ms Friel responded that she had someone already identified who was near Edinburgh and an IP (independent prescriber) and envisage a pharmacist being in place with immediate effect of opening along with two or three dispensers.
<b>5.7.5</b>	Ms Garven noted the Applicant had a pharmacist identified and enquired whether this would jeopardize her existing stores. Ms Friel responded that it would not affect her other premises.
<b>5.7.6</b>	Ms Garven referenced the CAR and noted the change in Straiton and enquired if the change in timescale would impact the outcome. Ms Friel responded that she did not believe it would affect the outcome and noted it would likely improve the results due to people seeking additional pharmaceutical services within their neighbourhood.

<b>5.7.7</b>	Ms Garven referenced the relocation of Flemings Pharmacy and enquired whether the Applicant felt it would impact the responses of the CAR. Ms Friel responded that it would not, given that Flemings had just moved further along the road and again noted that parking was impossible due to it being a main road.
<b>5.7.8</b>	Ms Garven referenced the proposed premise and enquired how many consultation rooms would be provided in the space. Ms Friel responded that with the reduced space at this time it would be one consultation room.
<b>5.7.9</b>	Ms Garven had no further questions for the Applicant
<b>5.8</b>	<b>Mr Vinny Billon (Pharmaceutical Contractor Member) to Ms June Friel</b>
<b>5.8.1</b>	Mr Billon noted he had a conversation with the owner of Unit 203 as per the original application and enquired whether the Applicant ever have an agreement to take the property at 203 over. Ms Friel noted the background of the owners for 203 and confirmed she did have an agreement in place however given that it was now six years ago expects that the owners of 203 were weary of process. Ms Friel then went on to note that she had produced a Letter of Comfort from the owner of the property at 201 as backup in case required.
<b>5.8.2</b>	Mr Billon enquired if there was a Letter of agreement provided for the property at 203 as noted by the Applicant, she had for 201. Ms Friel responded that she did have an agreement for 203 but was unable to produce it at the time but was now irrelevant as she has now moved to 201 and this is what the Central Legal Office will be deciding.
<b>5.8.3</b>	Mr Billon had no further questions for the Applicant
<b>5.9</b>	<b>Mr Martin Connor (Chair) to Ms June Friel</b>
<b>5.9.1</b>	Mr Connor noted that in the Applicants presentation people would visit the pharmacy whilst undertaking other shopping requirements nearby. Reflecting on his own site visit, the Chair noted that there were no apparent supermarket type shops but more specialist type shops in the vicinity. Ms Friel responded that around the corner there was a local greengrocer and with the cost of living and people's health improving residents want to go local rather than big supermarket shops.
<b>5.9.2</b>	Mr Connor enquired if a greengrocer would be large enough for a daily shop if a supermarket with a larger range of produce were available. Ms Friel responded that people could dovetail by using local for the everyday essentials like bread, milk, etc and the supermarkets for the larger requirements. The Applicant noted also more elderly people liked to chat and browse whilst shopping locally.
<b>5.9.3</b>	Mr Connor noted the Applicants population (10,000+) and issues with pharmaceutical services in the area asking if they were disappointed that the CAR was very small in comparison with only 259 responses. Ms Friel responded that the CAR was very positive with 1% polling as a phenomenal response and positive responses for the need for another pharmacy in the neighbourhood.

5.9.4	Mr Connor noted information in the Applicants presentation of deprivation as per Edinburgh City and reflected that this area was over Burdiehouse Road rather than that of the proposed premise and enquired if the Applicant would agree that the people in the area highlighted were closer to the Captains Road Pharmacy. Ms Friel disagreed stating that the road was more that of a dual carriageway and therefore more dangerous to cross for pedestrians due to lack of crossings.
5.9.5	Mr Connor reflected that he did not find Burdiehouse Road any less of an obstruction that Captains Road as both were very busy but both had crossing places. Ms Friel responded that Captains Road is a main road, but Burdiehouse Road is off the main arterial road with more safe crossings and pavements.
5.9.6	Mr Connor enquired how many parking spaces are available for the retail units. Ms Friel responded that when entering the parking area at the rear of the proposed premise to the right there are five spaces available.
5.9.7	<b>The Chair had no further question for the Applicant but offered the Committee the opportunity to ask additional questions given the information provided. No additional queries were raised.</b>
5.9.8	A ten-minute comfort break was called, and the meeting resumed at 1140 hrs.
6.	<b>The Chair invited Mr Nikhil Goburdhun of Gordons Chemists, to speak.</b>
6.1	Mr Goburdhun read aloud the following pre-prepared statement making alterations as necessary:
6.2	I am Nikhil Goburdhun and am the Manager of Gordons Chemists.
6.3	We welcome the opportunity to present to the panel today. As those familiar with the history of this application will be aware, we did not attend the previous PPC meeting in relation to Greenwell Wynd, as the relevant people in the company were not made aware of the application. The absence of an objection and presentation at that time did not equate to our acceptance of this application. We have and will continue to object to it in the strongest possible terms. We implore the panel today to disregard the previous discussions and decision on this application due to the incomplete and unbalanced nature of the evidence presented. We will however include reference to the minutes of the previous PPC meeting in order to correct inaccuracies and put forward our position.
6.4	Firstly, as we did in our letter of objection, we would wish to raise the issue of premises. The application states that the premises at 203 Greenwell Wynd are already in the applicant's possession through lease. We would strongly dispute this. Richard Dunn, Head of Professional Services at Gordons Chemists has spoken directly to the owner of the premises who has confirmed the applicant holds no title for the premises, nor has he granted permission for pharmacy services to be provided from the unit. And he has no intention of doing so in the future. In evidence of this I shall read an email received from Mr Williamson by way of written confirmation of the conversation.

	<p>“Thank you for contacting me to inform me of the situation regarding my property and the pharmacy application. I would like to confirm that I am Ian Williamson and the owner of the property at 203 Greenwell Wynd. This property is solely used for my business Go Osteo Osteopathic Health. I was approached by June Friel...</p>
<b>6.5</b>	<p>Ms Friel interrupted proceedings at this point to highlight earlier points made by the Chair that reference to the previous hearing and the premise at 203 were not to be considered due to awaiting information from the Central Legal office regarding the change to the property at 201.</p> <p>The Chair responded to confirm that Mr Goburdhun could continue as the Applicant herself also referenced some things in her presentation. The Chair re-iterated to the hearing his earlier statement.</p>
<b>6.6</b>	<p>Mr Goburdhun continue to read from the correspondence received from the owner of 203 Greenwell Wynd</p> <p>“.. I was approached by June Friel on several occasion and I categorically refused her offer to buy sole lease of my property. I have not now, however, had any intention to lease my property to June Friel, nor use the property s a pharmacy in any way. Any application regarding my property made by June Friel has been done, in my opinion, fraudulently by her.</p> <p>She has no right to apply for any license using my property and is certainly not had any permission granted from me to do so. Kind regards Ian Williamson.”</p>
<b>6.7</b>	<p>Richard Dunn, head of professional services has also just spoken to Richard and Diana Williamson, in the company of Ian Williamson, to confirm June Friel never had any agreement.</p>
<b>6.8</b>	<p>We would like to now raise the matter of the CAR. When we submitted our letter of objection, we made reference to the CAR. At that time, we only had visibility of references made to the report in the PPC minutes. We have now received the CAR in the PPC papers. This report was completed almost two years ago. It is our assertion that this CAR cannot be relied upon to be an accurate reflection of patient opinions on pharmacy provision in the PPC defined neighbourhood in February 2024. I will describe the key changes in the past two years.</p>
<b>6.9</b>	<p>Firstly, Lloyds Pharmacy Gilmerton has been taken over by new owners and is now Gilmerton Pharmacy. A letter from the superintendent, Katie Stitt, has been submitted to the panel and has been/will be read. This letter speaks for itself. Under Lloyds ownership it was a low volume pharmacy with erratic opening hours. Under new ownership the pharmacy has rectified these issues and has capacity to increase dispensing volume. Gilmerton Pharmacy seeks to continue to improve their services with plans to refit the pharmacy and introduce the Pharmacy First Plus service. These progressive developments could be put at risk by the opening of a new pharmacy.</p>
<b>6.10</b>	<p>Secondly, Flemings Pharmacy have relocated from premises which were run as a pharmacy for nearly 100 years to custom designed larger premises which they have/will detail to you today.</p>

<b>6.11</b>	These are two key differences which have dramatically enhanced the existing pharmaceutical services that can be provided to people in the area in conjunction with offering increased capacity for dispensing volume.
<b>6.12</b>	Thirdly, Lloyds Pharmacy Straiton has closed. Much was made of this at the previous PPC meeting in relation to this application. The applicant suggested that the closure of Lloyds Pharmacy Straiton would result in increased pressure on existing pharmacies but, in relation to the closure, Jenny Long, Director of Primary Care for NHS Lothian said, “We’ve consulted with pharmacies in the surrounding areas to ensure they have the capacity to accommodate patients being redirected to their services and the expected increase in demand d. Contacting patients who regularly receive repeat prescriptions, or need help with their prescriptions, has been prioritised to ensure they have ongoing and seamless access to medicines.” This would indicate that whilst the pharmacy at Straiton closed there were no concerns raised by NHS Lothian that services were under undue pressure and were, in fact, able to cope.
<b>6.13</b>	Finally, in relation to changes since the CAR was completed, we would like to highlight the backdrop to the provision of pharmacy services at the time. The consultation period fell at a time when Covid-19 continued to significantly impact ‘normal’ life. In early 2022, across the whole of the UK, pharmacies were subject to unprecedented pressures. At times, across the network, this led to increased wait times and indeed exceptional closures. Health Boards had recommendations to enable closure of pharmacies when it was not safe to open. To make judgments about the service in the neighbourhood based on a consultation which took place at a highly unusual and pressurised time is not appropriate or measured.
<b>6.14</b>	It should also be noted that the CAR was based on a consultation in which the neighbourhood was as originally described in the application. This was by our interpretation a much larger neighbourhood than that ultimately defined by the PPC. This may well have affected the outcome of the consultation.
<b>6.15</b>	Whilst we believe the CAR to lack relevance in 2024, we would like to address some of the comments made at the previous PPC meeting relating to it. The applicant referred to comments and the overall impression the CAR had given. The CAR had a total of 259 responses. The population of the neighbourhood was discussed at various levels during the meeting, mostly in and around 10,000. 259 is 2.6% of 10,000. So for the applicant to state that 90% of the residents in the neighbourhood fully supported this application is simply not correct.
<b>6.16</b>	We read that CAR respondents had to make additional journeys to receive medicines. The challenging stock situation at that time was the same across all pharmacies in the UK and is multifactorial. A point which the applicant acknowledged by noting that ‘everyone will be aware of shortages’. This is in addition to the queues and wait times mentioned. Again, this was at an unprecedented time.
<b>6.17</b>	Next we shall turn to look at the neighbourhood. What the applicant defined as her proposed neighbourhood on Form A, was unclear. A further description was given by the applicant at the PPC meeting and was broadly accepted, namely,

	<p>North: B701 (Frogston Road/Captain's Road),</p> <p>South: A720 Edinburgh Bypass,</p> <p>East: Lasswade Road, which divides Burdiehouse from Gilmerton,</p> <p>West: Woodland to the west of housing development (Frogston East Road) following the pylon line down to the A720 City Bypass</p> <p>NOTE: end of woodland has a Children's nursery boundary by the open fields.' For clarity, we will refer to this as the PPC defined neighbourhood. We would contend that in reality the neighbourhood is larger, extending further to the North. Those residing to the North of Captain's Road gravitate to the services around our pharmacy in the same way as those from the South of the road. These services include a GP surgery, Tesco and Scotmid, a leisure centre, schools and a church.</p>
<b>6.18</b>	<p>The applicant states that there are no pharmacies in the PPC defined neighbourhood, however our pharmacy sits directly on the Northern edge of the PPC defined neighbourhood and should be included in it. We are aware of several licence judgements in which premises along the edge of a defined neighbourhood were taken into account. In one case, applying the test put forward by a Lord Chief Justice, it was decided that to was too difficult, if not impossible, to say that premises on the other side of a road boundary were not in the same vicinity as premises in the neighbourhood and it would be considered absurdly artificial to make out different vicinities for them. This would mean that the location of our pharmacy should be given regard and indeed should be acknowledged as being within the PPC defined neighbourhood.</p>
<b>6.19</b>	<p>The caselaw mentioned is applicable if we accept that Captain's Road is in fact the northern boundary of the neighbourhood. However, as mentioned we contend that the Northern boundary of the neighbourhood in which our pharmacy is located, is further north still. And that all the essential services located close by, which residents from both the north and south of Captain's Road frequent, are clearly part of the same neighbourhood.</p>
<b>6.20</b>	<p>Strong evidence to support our assertion that the PPC's defined neighbourhood is part of our own neighbourhood can be drawn from analysis of our dispensing figures for the last 12 months. Within this period, 6925 individual patients residing in the neighbourhood as defined by the previous PPC visited our pharmacy on at least one occasion for the dispensing of a prescription or prescriptions.</p>
<b>6.21</b>	<p>In further analysis in January of this year we looked at the relative proportions of surgery collected items again walk-in items. We collect from 5 GP surgeries, these account for 66% of our dispensed items. We are going the extra mile for these patients, collecting their prescriptions and having them dispensed ready for collection.</p>
<b>6.22</b>	<p>In addition to our in-branch collection we also have a delivery service, which covers the PPC defined neighbourhood and beyond for those in need.</p>
<b>6.23</b>	<p>The neighbourhood as previously defined by the PPC does not include some key characteristics of a 'self-sufficient' neighbourhood. Rather one in which the residents would need to look outside of the neighbourhood for all key services. A</p>

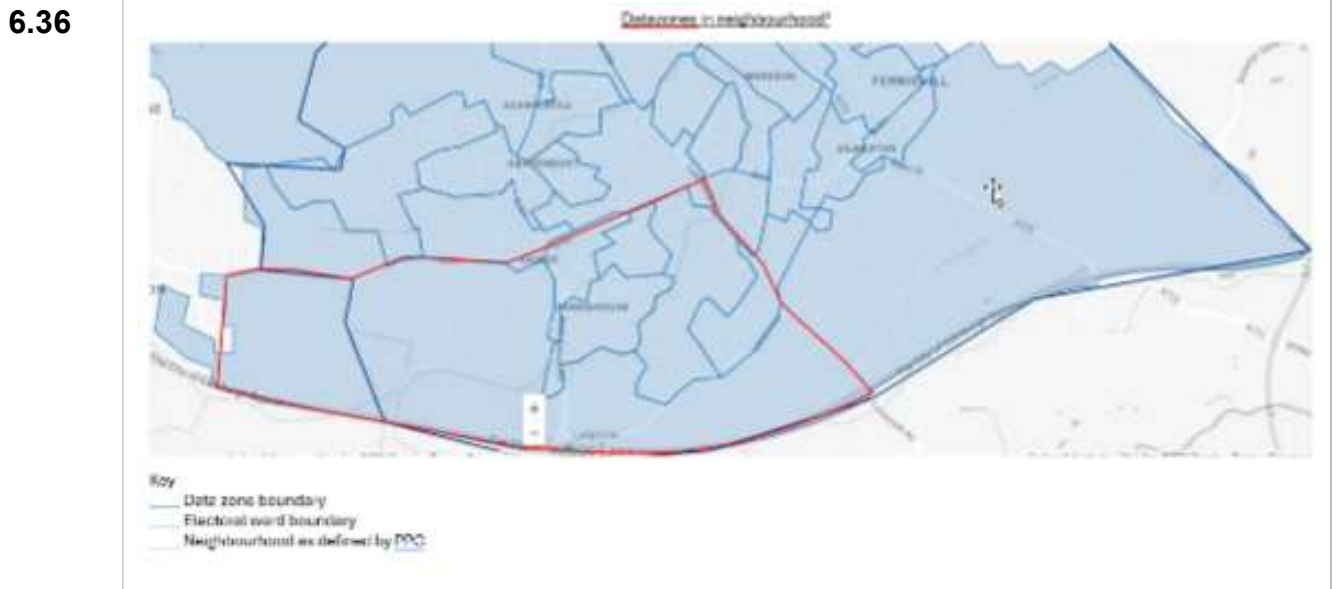
	<p>Post Office and Off License are to the north of the neighbourhood but they are a mere 170m walking distance from our pharmacy; less than 100m as the crow flies. In contrast these services are located 1km from the proposed site.</p>
<b>6.24</b>	<p>There are no GP surgeries in the neighbourhood as defined by the PPC, nowhere to complete a weekly shop and no places of worship.</p>
<b>6.25</b>	<p>At the application site there is a small convenience store, namely Greenwell Grocers. The type of shop which would be used for top up items rather than a weekly shop. There is also a travel agent, a fire and security firm and a dance company. In relation to accessing pharmacy, the applicant stated at the last PPC meeting that 'you rarely go to the pharmacy in isolation'. She suggested that the location of the proposed premises 'is where the shopping area is planned to serve all of these new homes'. In reality, we would contend that the other businesses in the immediate vicinity would not be frequented with any regularity by the vast majority of residents of the neighbourhood, if indeed visited at all. An interesting point is made by one respondent in relation to question 10 of the CAR. They simply state in relation to the proposed location 'we don't have any community shops at present, and this would be a nice addition'. This highlights two things. Firstly, the lack of facilities at the proposed location but also perhaps captures the feeling of at least some of the respondents to a consultation when offered a new service. Generally, a proposed new service gets a warm welcome as it 'would be a nice addition'.</p>
<b>6.26</b>	<p>Residents of the PPC defined neighbourhood must leave this area as part of their daily routine to avail of all essential services. Pharmacy services are available in our pharmacy, in the PPC defined neighbourhood, at Flemings Pharmacy and at Gilmerton Pharmacy outside of the PPC defined neighbourhood, whilst they are accessing other services. In contrast to the proposed site our pharmacy is situated in a thriving parade of shops and service providers, such as hairdressers and restaurants. Highly accessible parking is available within meters of the pharmacy door. Scotmid and Tesco Express are within 70 meters of our pharmacy. Gracemount Leisure Centre is also sited very close by. This area would be described as a neighbourhood centre containing multiple essential services.</p>
<b>6.27</b>	<p>We would now like to turn our thoughts to accessibility of the site within the neighbourhood. The Burdiehouse Road, which bisects the PPC defined neighbourhood, is a dual carriageway from a point approximately 160m North of the application site all the way to the Southern boundary of the PPC defined neighbourhood. Movement on foot across the dual carriageway is very difficult and dangerous apart from two traffic light-controlled crossings. Dual carriageways are more regularly seen as boundaries to neighbourhoods as they are often barriers to movement across them either by foot or by car. By contrast, the Northern boundary along Captain's Road and Frogston Road East is a 'B' road and has three traffic light-controlled crossings and two pedestrian refuge crossings. Residents of the area South of our premises gravitate North to avail of essential services located close to our pharmacy, and indeed those that our pharmacy provides.</p>
<b>6.28</b>	<p>The applicant noted that the Northern boundary, B701 Captain's Road was difficult to cross, which we refute, yet she appears to give no regard as to how difficult a dual</p>

	carriageway, with fewer crossings is to navigate. This dual carriageway in effect, cuts the neighbourhood in two.
<b>6.29</b>	We read in the minutes of the panel's decision-making process (point 10.13), how they noted that "Captain's Road was very busy and difficult to cross as there were only a couple of crossing points and lack of pavements due to dual carriage way nature of the road". As previously mentioned, we note that there are three traffic light-controlled crossings and two pedestrian refuge crossings. We would further add that there is no lack of pavement whatsoever and the road is not dual carriageway in nature. In contrast the panel note that "Burdiehouse Road was also a busy road but did have crossing points." Two traffic light-controlled crossings along a one kilometre stretch of Burdiehouse Road, a four-lane dual carriageway is, we would respectfully submit, much more difficult to cross than Captain's Road.
<b>6.30</b>	We shall turn our attention now to look at parking. We have already mentioned the accessible parking at our pharmacy. In terms of parking at the application site, the panel will have noted that the premises are situated on the ground floor of a residential block. There are double yellow lines immediately outside the premises. There is no designated disabled parking and only 3 on-street spaces opposite to cater for the existing businesses in the development. All other parking in the area also appears to be designated for residents rather than for customers visiting local businesses. There is a small yard to the rear of the premises at the entrance to which is a sign stating, 'Residents Parking Only'. In response to question 10 of the CAR no-one making a positive response has made any reference to parking yet the negative responses reference lack of parking. The lack of parking also confirms the assertion that Greenwell Grocers could only be used for a few top up items rather than a weekly shop.
<b>6.31</b>	For others public transport is the option for accessing pharmacy and in the area, this is provided by bus. Two bus routes bisect the neighbourhood along the Burdiehouse Road. Buses 37 and 47 stop at 4 bus stops long the 1.1km length of the Burdiehouse road within the neighbourhood. Service 37 runs as 62 buses from 5am to midnight (with four during the night) and service 47 runs as 39 buses from 9.30 to midnight. Both these services pass within a short walk of Gordons Chemists and there is a bus stop at the door of Flemings Pharmacy.
<b>6.32</b>	The North of the neighbourhood as defined by the PPC is also very well served by buses. Route 7, 11 and 400 travel along Captain's Road. Route 7 every 20 minutes, route 11 every 12 minutes and route 400 every 30 minutes. Effectively 10 buses an hour. On this route there is a bus stop directly outside our premises.
<b>6.33</b>	In summary the two closest pharmacies serving this neighbourhood are very well served by public transport.
<b>6.34</b>	We will now look at the population of the neighbourhood. At the last meeting the applicant stated that the population of the neighbourhood had grown by 10000+ on top of a preexisting population of 2000 or 3000, to give a total of 12,000 or 13,000. At another point in the meeting the applicant stated the population as 10,000 to 12,000. And then at yet another point as over 10,000. In their summation the panel decided upon a population of 10,000. The lack of evidence, consistency or rationale



in deciding this figure would indicate that there is a lack of confidence in the figures quoted.

**6.35** In our analysis of the neighbourhood, we looked at the data zones as described on the Scottish government’s statistics website - [statistics.gov.scot](https://statistics.gov.scot). These data zones are used to establish population and deprivation. Some of the data zones are only partially contained in the neighbourhood as defined by the PPC with, in some cases large portions of the datazone falling outside the neighbourhood. This is evident on the map on page 5 of our objection letter (as below).



**6.37** For example only 50% of Gilmerton South and the Murrays – 03 is included in the proposed neighbourhood. Of the 7 data zones shown in the table included in our letter only 3 are fully enclosed within the neighbourhood. Without extremely detailed analysis it is difficult to ascertain the correct proportion of each datazone falling into the neighbourhood. To that end we totalled each of the entire datazones that fall in the neighbourhood. As such this represents a significant overestimate. Using 2021 population estimate figures we arrived at a figure of 8953, to reiterate this is an overestimate. The breakdown of population statistics is listed on the table on page 6 of our objection letter (as below)

**6.38** Table showing data zones located in full or part in the PPC defined neighbourhood, their resident population in 2011 (census), 2021 (estimate) and 2020 SMID rank

2011 Data zone code	2011 Data zone name	2011 <sup>4</sup>	2021 <sup>3</sup>	SMID rank 2020 <sup>5</sup>
S01008547	Gilmerton South and the Murrays - 01	1010	1010	5112
S01008548	Gilmerton South and the Murrays - 02	835	1255	4792
S01008549	Gilmerton South and the Murrays - 03	952	3177	4517
S01008553	Gracemount, Southhouse and Burdiehouse - 01	528	714	3024
S01008554	Gracemount, Southhouse and Burdiehouse - 02	1090	1052	867
S01008555	Gracemount, Southhouse and Burdiehouse - 03	1036	1034	880
S01008560	Hylvots and Gilmerton - 02	852	711	1680
<b>Total</b>		<b>6303</b>	<b>8953</b>	*

\* 6976 data zones in total (1 being most deprived)

<b>6.39</b>	Unusually the applicant did not present these estimated figures for 2021, but rather choose to rely on house building figures and an average of 3.2 residents per property. This is referenced in the PPC minutes, point 5.38.
<b>6.40</b>	In our analysis of population, we also looked at 2020 Scottish Multiple Index of Deprivation (SMID) rank.
<b>6.41</b>	None of the data zones are in the top 10% most deprived by SMID. The two data zones ranking highest in terms of SMID are Gracemount, Southhouse and Burdiehouse 2 and 3, both rank in the top 20% of those most deprived in Scotland. All of Gracemount, Southhouse and Burdiehouse 3 and approximately 1/3 of Gracemount, Southhouse and Burdiehouse 2 are closer to our premises and would naturally receive pharmaceutical services from our premises even if there were a pharmacy in Greenwell Wynd. As of 2021, only 19% of the 8953 fall in the top 20% most deprived neighbourhoods and are for the most part sited closer to existing pharmacy services. The remaining 81% are outside of the top 40% most deprived with Gilmerton South and the Murrays – 01 ranking 73% in terms of deprivation ie in the top 30% least deprived data zones in Scotland.
<b>6.42</b>	The population of the two most deprived neighbourhoods has not grown in 10 years. The population that is growing, is in the least deprived, most affluent data zones.
<b>6.43</b>	A search for residential properties for sale on Rightmove, in the neighbourhood as defined by the PPC lists 29 homes for sale currently, ranging from a 2-bed terrace at £176K to a 4-bed detached home at £445K: indicative of affluent housing. A panel member referred to the cost of the new housing at the last meeting, noting properties ‘in the range of £500,000.’
<b>6.44</b>	At the previous PPC meeting the applicant stated that it is ‘quite a walk’ for residents of new build estates to existing pharmacies. The residents who live furthest away from the services in the new build housing, live in this more affluent housing, with, we would suggest at least one car.
<b>6.45</b>	When viewed on <a href="https://statistics.gov.scot">statistics.gov.scot</a> both the proposed premises and Gordons Chemists, Gracemount Drive are actually located in the same datazone Gracemount, Southhouse and Burdiehouse – 01. In 2021 this data zone had a resident population of 714. The majority of Gracemount, Southhouse and Burdiehouse – 01 is located south of Captain’s Road but crucially all the residential properties on the Northern side of Captain’s Road and Gordons Chemists are included in this data zone.
<b>6.46</b>	<a href="https://spatialdata.gov.scot">SpatialData.gov.scot</a> notes that “Data zones are the key geography for the dissemination of small area statistics in Scotland and are widely used across the public and private sector. ...data zones are large enough that statistics can be presented accurately without fear of disclosure and yet small enough that they can be used to represent communities. They are designed to have roughly standard populations of 500 to 1,000 household residents, nest within Local Authorities (at the time of the Census), have compact shapes that respect physical boundaries where possible, and to contain households with similar social characteristics”.
<b>6.47</b>	Whilst deciding to have Captain’s Road as the Northern boundary of the neighbourhood the applicant has cut through a datazone conveniently hoping to place our pharmacy outside the neighbourhood. The straight-line distance between the two sites is 700m. To introduce a pharmacy so close in the same area where

	there is already an established pharmacy would lead to issues in terms of viability of our pharmacy and would have a significant impact on our service provision to patients in the area.
<b>6.48</b>	In terms of distance, for a large proportion of the residents of the PPC defined neighbourhood, our premises will be closer both by foot and by car. To the North of the neighbourhood those living Northeast of Southhouse Road and Northwest of Southhouse Crescent are closer to our premises than the proposed premises via Southhouse Broadway. Those Northeast of the neighbourhood in Lasswade Bank will access our premises via Lasswade Grove. Those to the East of the neighbourhood in The Murrays live closer by car to our premises, as do those living in the Southeast of the neighbourhood in streets such as Goldeneye Drive. At a conservative estimate at least a 1/3 of the area of the PPC defined neighbourhood is closer to our premises.
<b>6.49</b>	Some other points we would like to highlight. The applicant suggests that she will provide 'extended opening,' yet the Form A application states 9 am to 6 pm Monday to Friday and 9 am to 5 pm on Saturdays, closed Sundays. It is our opinion that these represent core opening hours rather than extended hours. In terms of services, no additional core services are planned other than those we already provide from our pharmacy.
<b>6.50</b>	We read in the previous PPC minutes that despite being consulted, the Community Council did not make representation in support of the application and there was no evidence provided of other local representative support.
<b>6.51</b>	In the panel's decision-making process, we noted that reference was made to the fact that two local surgeries have closed their patient lists. The panel will be aware that the granting of a pharmacy license is not a substitute for inadequate GP provision and indeed the granting of a new license would only dilute existing provision. The dilution of existing provision will in turn impact patients in terms of the delivery of services, which could only serve to compound existing issues with healthcare provision.
<b>6.52</b>	Again in the previous PPC minutes we noted that "During site visits of (the) Panel there was no note of existing Pharmacy being under pressure in any way and there were no queues." Which would normally lead to the conclusion that existing services are adequate. But we subsequently read that the panel thought "a new pharmacy would alleviate the pressure, and also mean residents did not need to leave the Neighbourhood to access pharmaceutical services." Not having to leave your area is not the test of adequacy of pharmaceutical services provision.
<b>6.53</b>	In conclusion we would contend that there is no inadequacy of service in the PPC defined neighbourhood and we have provided evidence to show that this is the case.
<b>6.54</b>	The neighbourhood, as it was defined at the last PPC is not correct with people from a wider area gravitating to the service we and other pharmacies provide.

6.55	The panel themselves found that there was no existing pressure on services. We have provided evidence that the population is less than that submitted by the applicant and that they are served in a substantial part by our pharmacy.
6.56	In summary, we have demonstrated that granting the Application is neither necessary nor desirable. Doing so could potentially destabilise current established pharmaceutical service provision and by diluting the amount of income, seriously reduce the potential for reinvestment and development of future services.
6.57	It is concerning that the application bears little relevance to what has been presented. Different address, different neighbourhood, different opening time scales. We would question if the application is relevant and if the applicant is misled, the committee and objectors.
6.58	We therefore invite the board and the panel to refuse the Application.
6.59	This concluded the presentation from Mr Goburdhun.
6.60	The Chair re-iterated earlier comments that no evidence from the previous hearing will not be included in any decisions.
7.	<b>The Chair invited questions from Ms June Friel (Applicant) to Mr Nikhil Goburdhun</b>
7.1	Ms Friel before starting her questions wished to state her displeasure at being accused of misleading the panel noting she took this personally and consider it to be defamation of character.
7.1.1	Ms Friel noted during her presentation the evidence provided of inadequate service from the CAR and enquired as to what evidence Mr Goburdhun had produced to confirm his facts. Mr Goburdhun responded to state that the landscape had changed since the CAR was undertaken, noting operationally the network had settled with pharmacies coping well as evidenced with Flemings having moved and refitted their premises as well as Lloyds at Gilmerton having been taken over was all evidence of better service from then the CAR was undertaken.
7.1.2	Ms Friel noted populations stated in Mr Goburdhun's presentation and enquired if those were figures from 2021. Mr Goburdhun confirmed that they were.
7.1.3	Ms Friel enquired that if the Panel accepted Captains Road as a boundary, then the area to the north of this would be an adjacent neighbourhood. Mr Goburdhun responded that they (Gordons Chemists) should be included in the northern boundary as it was not a separate neighbourhood.
7.1.4	Ms Friel had no further questions for Mr Goburdhun.
7.2.	<b>The Chair invited Mr Simon Gemmell (Fleming Pharmacy) to questions Mr Goburdhun but this was declined.</b>
7.3	<b>The Chair invited questions from the Committee Members</b>

<b>7.4</b>	<b>Mr Brian McGregor (Lay Member) to Mr Nikhil Goburdhun</b>
<b>7.4.1</b>	Mr McGregor enquired what was the current staffing levels at Gordons Chemists. Mr Goburdhun responded stating two pharmacists five days a week, two ACTs, four dispensers, four retail assistant and one delivery driver.
<b>7.4.2</b>	Mr McGregor enquired what impact to services would the granting of this application mean to Gordons Chemists. Mr Goburdhun responded that it would significantly impact on the viability of the pharmacy.
<b>7.4.3</b>	Mr McGregor requested Mr Goburdhun to elaborate on his previous response. Mr Goburdhun responded that the Pharmacy was currently under financial strain and further dilution would mean we would be unable to maintain their business.
<b>7.4.4</b>	Mr McGregor enquired what prescription numbers at Gordons Chemist was live over the last 12 months. Mr Goburdhun responded to state that they were stable.
<b>7.4.5</b>	Mr McGregor had no further questions for Mr Goburdhun.
<b>7.5</b>	<b>Ms Eleanor Blair (Lay Member) to Mr Nikhil Goburdhun.</b>
<b>7.5.1</b>	Ms Blair enquired what size Gordons Chemists was in their current premise. Mr Goburdhun responded that he did not have to hand the square footage of the property but noted that it was large enough for retail space, supervision area, consultation room, waiting area for patients, seating area, staff room as well as office space housing three dispensing computers.
<b>7.5.2</b>	Ms Blair enquired if Gordons Chemists offered delivery free of charge for patients. Mr Goburdhun confirmed that they did.
<b>7.5.3</b>	Ms Blair had no further questions for Mr Goburdhun.
<b>7.6</b>	<b>Mr John Niven (Lay Member) to Mr Nikhil Goburdhun</b>
<b>7.6.1</b>	Mr Niven noted the information provided regarding the level of prescriptions and Gordons Chemists being reliant on the Gilmerton Practice for the volume of these. Mr Goburdhun responded to confirm it was Gracemount practice not Gilmerton.
<b>7.6.2</b>	Mr Niven noted that prescriptions received by Gordons Chemists from other practices in the area were relatively low and enquired if a license were to be granted for this application would these figures be affected. Mr Goburdhun confirmed that he believed that these would be affected.
<b>7.6.3</b>	Mr Niven enquired why this was the case. Mr Goburdhun responded that by granting another contract would affect the viability of their pharmacy.
<b>7.6.4</b>	Mr Niven had no further questions for Mr Goburdhun.
<b>7.7</b>	<b>Ms Hazel Garven (Non-Pharmaceutical Contractor Member) to Mr Nikhil Goburdhun</b>

7.7.1	Ms Garven referenced the population as per the 2021 Census as being 8953 and enquired if it would be fair to presume that this would have increased in three years. Mr Goburdhun responded that a slight increase would be expected.
7.7.2	Ms Garven reflected that the population as noted in the Application as referenced by Mr Goburdhun was not accurate for this neighbourhood and enquired if 10,000 would be too much of an increase or reasonable. Mr Goburdhun responded that he felt it would be too much and suggested it to be closer to 9,000.
7.7.3	Ms Garven noting the increase in population since the CAR was undertaken and enquired if Gordons Chemists has made any changed to the running of the pharmacy. Mr Goburdhun responded that there were more staff now.
7.7.4	Ms Garven enquired if this was due to an increase in workload or as an opportunity to expand. Mr Goburdhun responded that it was due to the opportunity to expand and constantly review all Gordons branches and how they operate, including staffing levels.
7.7.5	Ms Garven referenced information available to the panel on Pharmacy closures for 2022 and 2023 and enquired what the reasons were for the closures within Gordons Chemists. Mr Goburdhun responded that these were the result of temporary staffing issues which resulted in the branch closing between for lunch between 1300-1400 hrs and went on to note that there have been no recent closures.
7.7.6	Ms Garven had no further questions for Mr Goburdhun.
7.8	<b>Mr Vinny Billon (Pharmaceutical Contractor Member) to Mr Nikhil Goburdhun</b>
7.8.1	Mr Billon sought confirmation on staffing that Gordons Chemists have two pharmacists on site five days per week. Mr Goburdhun confirmed this.
7.8.2	Mr Billon referenced earlier notes of closures with the branch and enquired whether Gordons Chemists had sufficient cover and therefore no issues. Mr Goburdhun confirm that there were no issues with staffing or recent closures and operated at regular opening hours.
7.8.3	Mr Billon enquired if Gordons Pharmacy had capacity for more business. Mr Goburdhun responded to confirm that they do have capacity.
7.8.4	Mr Billon had no further questions for Mr Goburdhun.
7.9	<b>Mr Martin Connor (Chair) to Mr Nikhil Goburdhun</b>
7.9.1	Mr Connor referenced comments in the CAR around queuing at pharmacies and reflected on his site visit as levels of business being quiet. He enquired as to whether Gordons Chemists in the last six to twelve months whether any issues have been noted for customers. Mr Goburdhun responded that there had not been.
7.9.2	Mr Connor referenced comments in the CAR around stock issues and enquired whether this was down to Covid limitations or a remaining issue. Mr Goburdhun responded that stock across the network remains a challenge, but protocols learnt

	and implemented around shortages, which were networkwide, across the UK were to cope better but highlighted it was worse during Covid.
<b>7.9.3</b>	Mr Connor noted the available parking next to Gordons Chemists as well as Tesco Metro across the road and enquired regarding the latter whether there were any restriction for people parking their and possibly visiting the Chemists. Mr Goburdhun responded that Tesco have a 90-minute maximum stay and would not impact on any patients needing to visit the pharmacy also.
<b>7.9.4</b>	The Chair had no further question for the Gordons Chemist representative but offered the Committee the opportunity to ask additional questions given the information provided. No additional queries were raised.
<b>8.</b>	<b>The Chair invited Mr Simon Gemmell of Fleming Pharmacy to speak.</b>
<b>8.1</b>	Mr Gemmell read aloud the following pre-prepared statement making alterations as necessary:
<b>8.2</b>	<p>Good morning everyone, I am Simon Gemmell and will be representing Fleming Pharmacy. I would like to thank the panel for the opportunity to present today.</p> <p>As you will be aware, there was an issue with the notification of this application when it was first proposed on 28<sup>th</sup> October 2022. Following an application for judicial review, it has been agreed that Fleming Pharmacy are an interested party. Had we been consulted initially, we would have objected strongly and ask the committee to disregard the previous decision, due to the number of inaccuracies which were not challenged due to our absence.</p>
<b>8.3</b>	Paragraph 5(10) of the Regulations states that an application to the board may only be granted “if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List”. As will be shown, the Application does not fulfil this requirement of the Regulations.
<b>8.4</b>	We believe this application fails to recognise our consistently high levels of service and investment to benefit the community as a whole. And as such does not meet the legal test of a need or desire for an additional community pharmacy.
<b>8.5</b>	I have been a qualified pharmacist since the year 2000 and have spent my career serving local communities as a community pharmacist. I purchased the original Fleming Pharmacy situated at 131 Liberton Brae in 2011. During our time at this site we provided all core services and some additional services. However, it became apparent in the mid to late twenty teens that the population of the local area was growing. Planning permissions had been granted for several large developments and a number of smaller ones. We contemplated a refit but came to the conclusion that a new premises would be better. In January 2020 it came to our attention that the local Bank had given notice to close the branch. We then moved to purchase this premises and completed the purchase in December 2021. We undertook an extensive refit, which was not easy throughout the COVID pandemic. Our new

	<p>purposefully refitted premises is significantly larger, has three consulting rooms, a Pharmaself24 collection automation, purpose-built room for MDS preparation and larger operational areas. The title also includes a portion of undeveloped land for building extension if required. At our new site we provide all core pharmaceutical services and many additional services; including monitored dosage systems, MAR chart provision, disposal of unwanted medicines, Stoma supply service, NRT services, NHS Flu/COVID vaccinations, Quality improvement projects, of which the current one has a respiratory focus, Safe Haven project-supporting victims of domestic violence, Hep C antiviral treatments, and supply of SACT (systemic anti-cancer treatments) such as enzalutamide. We also have capacity for additional enhanced services should the opportunity arise. However, our plans to implement further additional services have been paused due the uncertainty of the impact of this application.</p>
8.6	<p>We have built a large network of registered suppliers and our ability to purchase medicines are not restricted in anyway. These networks have been effective in supporting procurement of medicines for a number of years.</p>
8.7	<p>In the last 10 years we have doubled our staffing provision. We employ a good skill mix of trained medicines counter assistants; qualified dispensers; qualified pharmacy technicians; two ACT's ; a full-time second pharmacist and third IP qualified pharmacist in addition to myself. Some of our staff are still with us from original purchase and others are long standing. This represents a stable experienced staff who understand the community they serve.</p>
8.8	<p>We do not have any cap on the number of deliveries we can provide per day and have 2 delivery drivers so further capacity is available if necessary. We also do not have any restrictions on the number of MDS packs we can provide or any other capacity issues in providing core dispensing services. We have very short prescription turnaround times for repeat prescriptions and short waiting times for those presenting in the pharmacy.</p>
8.9	<p>We have heavily invested in the use of technology to increase capacity and efficiency. We use the Methameasure system and electronic CD registers, Pharmaself24 prescription collection unit which enables 24-hour 7 day per week collection, barcode scanning technology to track prescriptions through dispensing process and also investments in delivery apps to support efficient prescription deliveries and reduce environmental impacts.</p>
8.10	<p>I would like to discuss the Neighbourhood. The borders defining the neighbourhood in the Application are not clear on Form A. However, would seem to suggest that 50 % of the proposed area is currently undeveloped with no planning applications granted or in process for large scale development. If we consider the description agreed by the committee at the previous PPC hearing.</p> <p><b>To the West</b> - woodland to the west of housing development (Frogston east road following the pylon line down to the A720 city bypass)</p> <p><b>To the South</b> - is the A720 Edinburgh Bypass</p> <p><b>To the North</b> - is the B701 (Frogston Road/Captains Road)</p>



	<b>To the East</b> - by Lasswade Road, which divides Burdiehouse from Gilmerton
<b>8.11</b>	We would suggest the boundary to the north should be extended to include the northern side of the B701 as this would include amenities required to consider the area a neighbourhood. This would also include Gordons Chemist and therefore would have pharmacy services within the neighbourhood.
<b>8.12</b>	While we do not sit directly within the suggested neighbourhood of the applicant, we do feel that this is part of <b>our</b> long-established neighbourhood. We have been providing pharmaceutical services to patients within that area for a significant period of time and latest dispensing information shows that 26% of our patients reside within the area. Patients are provided services from direct interaction with the pharmacy, delivery from the pharmacy or via our 24 hours prescription collection facility.
<b>8.13</b>	While the applicant states there is no current pharmacies within the area, Gordons Chemist sits directly on Captains Road the northern most boundary and as such should be considered within the boundary. The newly acquired Gilmerton pharmacy is less than 1 km from the boundary to the East. We are also just over 1 km from the northern most boundary. Therefore, it cannot be said that there are no pharmacies providing pharmaceutical services to the area.
<b>8.14</b>	The area as agreed does not include many key characteristics of a 'self-sufficient' neighbourhood. The Proposed Premises sits in a very small development, which has only a small convenience store, not large enough to do a week's shopping, and other businesses such as an alarm company, dance studio and travel agent. We would suggest that the majority of residents of the proposed neighbourhood will rarely if ever require to visit these shops. This does not constitute a self-sufficient neighbourhood, rather one in which the residents would have to travel outside of the neighbourhood for key amenities. Seeking access to doctors, schools, shopping, postal services, banking, hairdressers or even a takeaway restaurant all must be done out with the proposed neighbourhood. Pharmacy services can be accessed at the same time, with all of these near Fleming Pharmacy, Gordons Chemist and Gilmerton Pharmacy. The Applicant stated previously that people rarely go to a pharmacy in isolation. So, while it may be convenient, It is neither necessary nor desirable to have a new pharmacy at this location, given that the residents are required to leave the area to access other essential amenities.
<b>8.15</b>	As we have already said in September 2022 Fleming Pharmacy moved to 1 Liberton Drive. This is within 1 mile of the Proposed Premises and less than 1 km from the proposed northernmost boundary. We consider our neighbourhood to include the Burdiehouse area as a large proportion of patients we currently provide pharmaceutical services to live there. We provide an extensive free delivery service which covers the proposed area and beyond and are able to communicate easily with patients using phone, text and utilising 'Near Me' technology to provide secure, confidential face to face consultations if required, alongside all of the services proposed in the Application. There is no evidence that existing services provided to this area are inadequate and the applicant proposes no new or additional pharmaceutical services than those already provided.
<b>8.16</b>	Fleming Pharmacy provide pharmaceutical services to a significant number of patients within the proposed area. Dispensing data analysis shows that during the

	<p>last twelve months, over 2400 patients, equating to 27% of the population of the proposed area, accessed our services. This represents over a quarter of our current provision. The impact of a magnitude of this loss would severely compromise our continuing ability to maintain current service provision and have a profound effect on our ability to invest in the introduction of additional pharmaceutical services.</p>
<b>8.17</b>	<p>SIMD data and census information 2021 would suggest that population of the proposed area to be 8953 individuals. This is an overestimate, as we included the entire population of each of the 7 data zones represented, even although they are not fully within the boundary as described by the applicant. SIMD data from 2011 shows the population of these zones to be 6303, showing the population increase to be around 3500, nowhere near in the region of 10000 as previously quoted. In fact, further data analysis shows that the population of the most deprived zones has not changed at all, meaning the increases can be attributed to an increase in affluent housing in the area.</p>
<b>8.18</b>	<p>While we agree there has been some increase in the population of the local area including Burdiehouse, we had already identified and taken steps to ensure the adequacy of long-term provision of pharmaceutical services. As previously stated, we identified that our previous premises did not have the capacity for expansion required and so moved to a much larger, purposefully refitted, modern premises. The majority of new house building is now complete, as quoted by the Applicant during the previous hearing and as evidenced by our map submitted as part of our written representation. We can see that the increase in population has been absorbed comfortably by existing services throughout the building processes.</p>
<b>8.19</b>	<p>When considering ease of access, the Applicant stated that a percentage of the population would find it difficult to access local pharmacies. It is our understanding that <b>our</b> new location was not considered, and we strongly submit that it should be. The Applicant stated that there was a large number of new homes recently constructed. They stated that this resulted in a large population with a pocket of deprivation. However, these new developments maintained the original cohort of patients in the pocket of deprivation while introducing a middle to high level of affluence in the patient group from the newly constructed homes.</p>
<b>8.20</b>	<p>When considering the data zones described in the neighbourhood as proposed by the applicant, none of these are in the highest 10% most deprived by Scottish Index of Multiple Deprivation (SIMD) 2020. Less than 20% of residents fall into the top 20% most deprived, with much of the rest of the population falling into the 40% least deprived. A search for property prices within the proposed area showed the average sold property price in EH17 8-area in the last 12 months to be £319,000 (Zoopla). This would suggest a middle to high level of affluence, and therefore could reasonably assume car ownership. We are accessible by car in approximately 6 minutes and Gordons Chemist by 2-3 minutes, so this patient group would be able to access pharmacy services easily while accessing other key amenities.</p>
<b>8.21</b>	<p>Our new location has ample free parking close by and sits directly on at cross-roads with a traffic light-controlled crossing. The proposed site has very limited parking shared with other businesses and local residents. This was raised as an issue in the CAR with several people highly concerned with the lack of parking provision creating</p>

	<p>a potential safety issue. We are more accessible by those travelling by car than the Proposed Premises.</p>
<b>8.22</b>	<p>For patients without access to a car, there is a regular bus service approximately every 10 minutes, as evidenced by the Live Bus Tracker which drops off and picks up only a few feet from our door. This journey takes less than 10 minutes.</p> <p>The site proposed by the Applicant is on one side of a busy city centre arterial route. This is a fast, dual carriageway in both directions, with a 40-mph speed limit. There are only two crossings along the almost 1 km length, which means that anyone on foot would still have to walk a reasonable distance alongside a busy road to access the proposed premises. The proposed site is also halfway up a steep hill and sits topographically above the Burdiehouse area in reality making it a challenging walk on foot. We believe it is actually easier for patients to access existing community pharmacies.</p>
<b>8.23</b>	<p>Next, we would wish to raise the issue of the premises itself. The address stated in the Application is 203 Greenwell Wynd, Edinburgh. The Application states that the premises at the Proposed Site are already in the applicant's possession through a lease. The applicant reiterated at the previous hearing that she indeed had a <b>long</b> lease. We understand that the Proposed Site is currently occupied by Go Osteo, a registered osteopath practice, and that this business has been operating since the week commencing 15th January 2024. The premises is owned by Ian Williamson who confirmed he is the owner of the company, and although approached by the applicant on several occasions, he categorically confirmed that he has not transferred title or entered into any lease agreement with the applicant. He also states that he has not granted permission for the applicant to apply for a pharmacy contract at this location and suggested that the applicant had done so fraudulently. Therefore, it is unclear where the applicant proposes to provide Pharmacy Services from.</p>
<b>8.24</b>	<p>The initial application was reviewed by PPC on 23rd March 2023. It was noted at the time that the Application had received no support by the local community. This includes the Lothian GP subcommittee, local Community Councils, or local MSPs. On 29<sup>th</sup> December 2023 a further opportunity was extended for comment and again no support was received. On 30<sup>th</sup> January 2024 the Chair of the APC submitted a response which although raising no objections did not provide any support to the application. These groups are usually aware of any deficiencies in current service provision and support new pharmacy applications where there is a need. The lack of any additional support for the Application demonstrates that there are no concerns in the local community about current provision, and thus no need for an additional pharmacy.</p>
<b>8.25</b>	<p>NHS Lothian agreed that there were no issues with current service provision in June 2023 when concerns were raised about the pressure on existing pharmacies within the area to manage the increased demand from the closing of the Lloyds Pharmacy in Sainsbury's at Straiton. There was no loss, or potential loss, of availability of service within this area, as confirmed by Jenny Long, Director of Primary Care for NHS Lothian in a statement on NHS Lothian website in an article dated 6 June 2023, I quote:</p>

	<p>“We’ve consulted with pharmacies in the surrounding areas to ensure they have the capacity to accommodate patients being redirected to their services and the expected increase in demand.”</p> <p>This provides evidence that as recently June 2023 pharmaceutical service provision was adequate in our area.</p>
<b>8.26</b>	<p>We would like to address the CAR which was carried out between March 22 and July 22. We believe that the situation in 2024 is greatly different from the period two years previous. We wish to present evidence that the majority of the points can no longer be considered applicable as many material changes have occurred since then. These include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Fleming Pharmacy relocation on 23rd September 2022, moving us closer to the Proposed Premises. This allowed us to greatly expand our capacity for the provision of pharmaceutical services.</li> <li>• Lloyds Pharmacy closed its branch in Sainsbury Straiton. July 2023</li> <li>• Lloyds Pharmacy Gilmerton is now under a new Contractor, with operator ownership. This has a low volume of dispensed items historically. It can be reasonably expected that there is additional capacity for growth where required now that it is under independent management. Opening an additional pharmacy in the local area has a strong potential to jeopardize the ongoing viability of Gilmerton Pharmacy.</li> </ul>
<b>8.27</b>	<p>It was noted that there were 259 responses to the CAR. This represents only 2.6% of the referenced 10,000 patient population, not 90% of the population as quoted by the applicant. It should be noted that the patient population figures quoted by the applicant varied at points during the meeting, however this was not challenged, and was accepted by the panel.</p>
<b>8.28</b>	<p>Many of the comments made in the CAR were related to local pharmacy pressures. Unexpected pharmacy closures and long waiting times were often as result of COVID-19 policies in healthcare. At the beginning of the CAR period social distancing in health and social care settings were still in place. This resulted in queues outside pharmacy premises and the appearance of long waiting times. Fluid resistant surgical masks were strongly advised by Scottish Government still to be worn in pharmacies. Asymptomatic testing for COVID was still in place with minimum 5 days isolation for positive results. These public health measures caused significant impact on staffing levels at short notice and clearly contributed to long waiting times and increased turn around for prescriptions. These affected all Pharmacies throughout Scotland, were unpredictable and in any event <b>no</b> longer apply. GP practices also experienced delays in processing prescription requests, which had an effect on all pharmacies. It is reasonable to assume that an additional pharmacy would have experienced same issues and suffered in the same way.</p>
<b>8.29</b>	<p>Question 4 in the CAR asked how often, if at all would you need to make multiple journeys to receive all of the items in your prescription. Medicine supply and deliveries from local wholesalers were also impacted by previously noted COVID restrictions and there were also a number of serious medicine shortages. The out-of-stock bulletins produced by NHS Lothian between March and July 22 listed no</p>

	less than 147 lines returning to stock after being unavailable. These include controlled drugs and other medicines for palliative care; drugs for epilepsy; HRT; ADAH medication.
<b>8.30</b>	The distress and anxiety experienced by families unable to access these essential medications can only be imagined. In addition, on 29 <sup>th</sup> April 2022 Scottish Government introduced the start of an evolving process of serious Shortage Protocols around the provision of HRT medication. This was in response to the national shortage of these medicines which created 12 SSP's for HRT alone which ran throughout the period of the CAR. This would have a significant effect on the ability of stock procurement for these commonly prescribed products. This was unprecedented and generated lots of coverage in the media, which generated further anxiety in patients. The range and number of out-of-stock medication combined with this specific issue may have driven several of the comments in the CAR. However, these National problems would not be resolved by adding another pharmacy to the area.
<b>8.31</b>	A further complication was seen when a major pharmaceutical wholesaler collapsed into administration during May 2022. This happened without warning and caused problems throughout the pharmacy network. Again, this had effects on drug supply to all pharmacies due to the sudden nature of the closure.
<b>8.32</b>	We believe that we have demonstrated that it is neither a necessity nor a desire to grant this application. The proposed site does not improve access to current pharmacy services nor propose any additional services to those already provided by existing community pharmacies, but rather a replication. This application comes at a time when the community pharmacy network is already under strain from higher staffing costs, operational costs, tighter margins and constant challenges of stock supply. These already contributed the closure of one pharmacy in the area. The grant of a new contract at the Proposed Premises is neither necessary nor desirable and by doing so could potentially destabilise current established pharmaceutical service provision and by diluting the amount of income, seriously reduce the potential for reinvestment and development of future services.
<b>8.33</b>	Together with Gordons Chemist and Gilmerton Pharmacy we more than meet the needs of the Burdiehouse community and have capacity to meet future needs. We have always been pro-active not reactive in responding to the changing needs of our patients in the community and therefore invite the Committee to refuse the application, but also would like to make note that there was a letter submitted by Gilmerton Pharmacy which was submitted as part of the evidence.
<b>8.34</b>	This concluded the presentation from Mr Gemmell.
<b>8.35</b>	The Chair re-iterated earlier comments that no evidence from the previous hearing will not be included in any decisions and noted a number of updates from the CAR which has been evidenced today.
<b>9.</b>	<b>The Chair invited questions from Ms June Friel (Applicant) to Mr Simon Gemmell</b>

9.1	Before starting her questioning of Mr Gemmell, Ms Friel wished to note the accusation of fraud against her and took this allegation seriously and would be dealing with this matter. Mr Gemmell stated that it was not himself who had accused the Applicant of fraud but a documented quote from a letter produced by the owner of the property listed on the Application form.
9.1.1	Ms Friel noted that Mr Gemmell refuted the CAR which is a documentary legislative report given independently to NHS Lothian and enquired what documentary evidence Mr Gemmell had evidenced today to counterbalance this. Mr Gemmell responded that they disagree with the CAR and noted three material changes which have taken place since the CAR was processed which was included in the presentation.
9.1.2	Ms Friel noted the figures quoted of 8093 and enquired if the figured had been obtained from 2021. Mr Gemmell confirmed that they were from 2021 as being the latest information.
9.1.3	Ms Friel had no further questions for Mr Gemmell
9.2.	<b>The Chair invited questions from Mr Goburdhun to Mr Gemmell but this was declined.</b>
9.3	<b>The Chair invited questions from the Committee Members</b>
9.4	<b>Mr Brian McGregor (Lay Member) to Mr Simon Gemmell</b>
9.4.1	Mr McGregor enquired what the current situation was regarding staffing at Fleming's Pharmacy. Mr Gemmell noted as per his presentation that he was a pharmacist onsite, two fulltime ACTs and three technicians which were a mix of fulltime and part time, three medical counter assistants and another pharmacist who is IP qualified available if required.
9.4.2	Mr McGregor noted the relocation of Fleming Pharmacy and enquired whether there had been an increase in the volume of business. Mr Gemmell responded that there had been a large and steady increase since the move to new premises and noted they had been able to manage this with additional staff and the additional space was easily absorbing this.
9.4.3	Mr McGregor enquired whether the new premises allowed additional capacity for further increase in business. Mr Gemmell responded that it absolutely did and there was significant space for growth.
9.4.4	Mr McGregor had no further questions for Mr Gemmell
9.5	<b>Ms Eleanor Blair (Lay Member) to Mr Simon Gemmell</b>
9.5.1	Ms Blair enquired what impact a new chemist opening in the area would have on Fleming Pharmacy. Mr Gemmell responded that they would have to review non-core services which are currently provided and would be unable to look to funding at

	future provisions within the area due to the impact in terms of both staffing and operations of the business.
<b>9.5.2</b>	<b>Ms Blair had no further questions for Mr Gemmell</b>
<b>9.6</b>	<b>The Chair invited Mr John Niven (Lay Member) to question Mr Simon Gemmell but this was declined.</b>
<b>9.7</b>	<b>Ms Hazel Garven (Non-Pharmaceutical Contractor Member) to Mr Simon Gemmell</b>
<b>9.7.1</b>	Ms Garven enquired if the increase in business since Fleming Pharmacy moved was potentially linked to the population increase and the neighbourhood being services. Mr Gemmell responded that this was linked to a number of factors, predominately Flemings Pharmacy being more prominent on the road and attracting new groups of patients. Mr Gemmell noted the closure of Lloyds Pharmacy having impact which had been managed, and with the house building mainly completed the new located has been able to absorb those patient groups from the locality.
<b>9.7.2</b>	Ms Garven enquired if Fleming Pharmacy had a boundary for its deliveries. Mr Gemmell responded that they have been delivering into this neighbourhood for a number of years and cover Burdiehouse, much of Gilmerton and the surrounding areas and noted they have a prolific delivery profile based solely on patients' requirements.
<b>9.7.3</b>	Ms Garven noted during her site visit that Fleming Pharmacy had a feedback mechanism for patients to provide feedback on services and enquired if this feedback had and continued to shape the way that the pharmacy operated and delivered services. Mr Gemmell responded that feedback is useful enabling them to operate more efficiently and better to service patient groups noting that all feedback is reviewed.
<b>9.7.4</b>	Ms Garven had no further questions for Mr Gemmell.
<b>9.8</b>	<b>The Chair invited Mr Vinny Billon (Pharmaceutical Contractor Member) to question Mr Simon Gemmell but this was declined.</b>
<b>9.9</b>	<b>The Chair had no question for Mr Simon Gemmell but offered the Committee the opportunity to ask additional questions given the information provided. None were received.</b>
<b>9.10</b>	<b>The Chair invited participants to sum up representation in reverse order.</b>
<b>10.</b>	<b>Summing Up</b>
<b>10.1</b>	<b>The Chair invited Mr Simon Gemmell of Fleming Pharmacy to sum up.</b>
<b>10.1.1</b>	Mr Gemmell noted as explained we recently moved premise and expanded our profile within our local neighbourhood and are taking on a larger capacity of patients which we have been proactive for this happening and any expansions would be

	hampered if another contractor was to be admitted into the neighbourhood and we ask that the committee refuse this application at this time.
<b>10.2</b>	<b>The Chair invited Mr Nikhil Goburdhun of Gordons Chemist to sum up.</b>
<b>10.2.1</b>	Mr Goburdhun noted we have demonstrated that granting the application is neither necessary nor desirable. Doing so could potentially destabilize current, establish pharmaceutical service provision, and by diluting the amount of income, seriously reduce the potential for reinvestment and development of future services. We would therefore invite the Committee and the Board to refuse the application.
<b>10.3</b>	<b>The Chair asked for the Applicant, Ms June Friel for Logan Gray Ltd to sum up</b>
<b>10.3.1</b>	Ms Friel noted that the neighbourhood is Burdiehouse as described. There are no pharmacies within the defined neighbourhood and a pharmacy on the other side of the boundary is not in the neighbourhood.
<b>10.3.2</b>	Access to the nearest pharmacy out with the defined neighbourhood is not easy, being uphill and some distance for many residents and given the population size should be considered inadequate.
<b>10.3.3</b>	The response from the CAR were overwhelmingly positive to the application.
<b>10.3.4</b>	There were a lot of Executive comments in the car around waiting times and queues for prescriptions. There were concerns also within the CAR about difficulty accessing pharmacies outside the proposed neighbourhood. I have never had any closures whatsoever in any of my pharmacies, even during Covid.
<b>10.3.5</b>	The population and housing has a very large number of housing developments in the area and has an ever increasing population and even the medical crisis which is happening right now for patients with young children, prams or with patients which are infirm who need assistance to get around, then the access route between the proposed pharmacy and Captains Road was very challenging uphill plus limited crossing points and lack of pavements due to the dual carriageway nature of the roads. Whereas Burdiehouse Road did have crossings points and is well served by local buses.
<b>10.3.6</b>	Further, I would suggest even more importantly the services provided by pharmacies in adjacent neighbourhood is inadequate on account of a recent substantial increase in population.
<b>10.3.7</b>	I have evidenced everything within the CAR, whereas I will only heard opinions today. The viability is not a question here, as the closest pharmacies are dispensing at in and around over 11,000 items per month. Population expansion by housing developments. Therefore, a new pharmacy would alleviate this and also the residents would not have to leave the neighbourhood to access pharmaceutical services. The additional closure of the pharmacy at Sainsbury's, which means additional pressure.
<b>10.3.8</b>	The previous PPC granted this application and I think it's important to take it into consideration only to be fair to add the weight to the evidence already documented



	decisions which supports the granting of this application as nothing has changed except an increase in population.
<b>10.3.9</b>	We are only here today due to a minor legal technicality, and as far as I can see, this application passes the legal test on both of their forementioned grounds and should be granted.
<b>11.</b>	<b>Retiral of Parties</b>
<b>11.1</b>	The Chair invited the parties present that had participated in the hearing to individually and separately confirm that a fair hearing had been received and that there was nothing further to be added.
<b>11.2</b>	The Applicant at this point confirmed she had had a fair hearing but wished to highlight that she was now in receipt of confirmation for her legal representative regarding the additional information which was not shared with the Committee due to being received post deadline. The Chair noted that the email regarding the premises was being dealt with by the legal challenge and would be researched by the Central Legal Office out with this hearing.
<b>11.3</b>	Having been advised that all parties were satisfied, the Chair advised that the Committee would not consider the application and representations until advice from the CLO was received and the hearing would be reconvened with interested parties and the Applicant.
<b>11.4</b>	The hearing was adjourned at <b>1303</b> hours.
<b>12.</b>	The full Committee was reconvened on the 2 May 2024 at 0930 hrs following the initial application hearing of the 29 February 2024 to hear detail from the Central Legal Office (CLO) pertaining to the Applicants change of premise from the original application.
<b>12.1</b>	The Chair re-iterated the reason for the reconvening of this hearing with all parties in attendance was due to the legalities around different premise from the original application being noted by the Applicant. It was left to the panel to go head with the hearing on the 29 February on the premise that everyone was aware to go through the public / open session to enable evidence to be heard therefore allowing CLO time, after the fact, to do research and ruling for the legal situation.
<b>12.2</b>	Mr Waclawski thanked the Chair and the Committee for the ability of providing the CLO team more time to take advice and review legal tests regarding this point. Mr Waclawski confirmed that it was permissible for the PPC to decide whether to allow the amendment to the application form at this stage in the proceedings to alter the premises number in this specific situation from 203 to 201 which is one door down the street.
<b>12.3</b>	Mr Waclawski confirmed that the question asked to him regarding this application was “does an Applicant’s change of address from one to another, make the hearing non-valid. “

<p><b>12.4</b></p>	<p>Mr Waclawski noted that he took the view that the question itself had at its core, the question of whether or not the PPC has this power to amend, if it wishes to do so, the application. The power to amend is not something that is contained within the 2009 Regulations nor any of the Circulars.</p> <p>The CLO team have had to look more deeply at the inherent powers of this type of non-judicial decision-making body to see what the authorities say regarding that. Upon reviewing similar asks with other legal systems (notably Courts, Planning law, decisions of appeal making bodies, Intellectual Property appeals and County Councils) across Scotland and England including going to the House of Lords levels in some situations which supports the idea of an adherent power of a quasi-judicial decision-making body to allow amendment of its initiating document.</p> <p>It was highlighted that in Circular 2011 it was noted that the approach of the PPC generally should be one which is not fully mechanistic, and its decision making should have a flexible approach adopted and governing principles have to be to provide the local population with a reasonable and adequate access to the full range of NHS pharmaceutical services.</p> <p>in that regard from the fact that things like the power to regulate procedure a PPC is not something which is provided for anywhere - it is essentially an inherent power of the Chair and of the Panel in a hearing. Therefore, it is clear that what is in the letter of the law is not the end of the story as far as these hearings are concerned.</p>
<p><b>12.5</b></p>	<p>The next stage was to question “what next”. What does the PPC need to do when exercising the power of deciding whether an amendment should be allowed, the Authorities are helpful regarding this and they suggest that “Provided the changes that are being suggested are not so substantial that the application cannot be considered fairly and appropriately, then an amendment can be allowed.</p>
<p><b>12.6</b></p>	<p>In the context of the PPC, what impact would an amendment have on the context of the CAR if any. Would the amendment result in other individuals being consulted and would it impact the substance of the CAR or relevancy of those comments in terms of the newly amended application.</p>
<p><b>12.7</b></p>	<ol style="list-style-type: none"> <li>1. Provided the change been proposed is not so substantial that the application can only be considered fairly and appropriately by a fresh application. So that's substantial element.</li> <li>2. Procedural safeguards to ensure interested parties are not being prejudiced against by the amendment.</li> <li>3. Is there a justifiable reason for the amendment and that the panellist are happy with the reasoning of this.</li> </ol>
<p><b>12.8</b></p>	<p><b>Summary</b></p>
<p><b>12.9</b></p>	<p>The advice from the CLO is that it is within the PPC panel’s power to decide whether an amendment should be accepted.</p> <p>First consideration has to be given to whether the changes are substantial enough that the application can only be considered fairly and appropriately by requiring a fresh application to be lodged. Depending on how substantial this may be is essentially the question. What impact would it have on the CAR and any other</p>

	evidence that needs to be considered. Then the panel should invite interested parties who may be impacted by the amendment to give submissions in relation to it and any impact this may have on their response to the application. The panel should consider whether any prejudice identified has already been addressed by the adjournment that has taken place that the ability to give submissions and if there is further requirement for consideration and for the development of submissions, then would it be enough to give a further adjournment an opportunity to representatives to have that time, or , is the prejudice so great that it mean that this is something that should not be allowed. The final point should be what is the reason for amendment, Is the panel satisfied that the reason is sufficient to justify this, therefore is their cause to justify it being granted or projected at this point.
<b>12.10</b>	The Chair thanked Mr Waclawski for his time regarding this issue.
<b>12.11</b>	The Chair noted discussions on the 29 February hearing that all parties (Applicant and interested parties) were happy to continue with the presentations and evidence provided whilst the question around the change of address was considered by CLO colleagues. It was decided at that time that the open section of the PPC hearing would continue, and once legal findings were completed, the hearing would reconvene.
<b>12.12</b>	The Chair sought clarification from the participants whether they felt that they had enough time to decide if their evidence was fair and at this time whether they felt the reason for change could put them in danger of prejudice.
<b>12.13</b>	The Interested Parties, upon return from a short comfort break to enable them to confer with colleagues in the meeting offline, confirmed that they did not feel any prejudice against the change of address.
<b>12.14</b>	The Chair welcomed that no prejudice was given and evidence around the premises themselves had been taking into account in the hearing of the 29 February.  The Chair, before calling a short comfort break to enable the PPC Panel and minute taker to review the part of the test, to review part 1 and 3, enquired with the Applicant to confirm the reason given at the panel for the move was due to the loss of any lease arrangement with the premise noted on the application due to the timescale involved. Ms Friel, the Applicant confirm that this was wholly the reason for the change.
<b>12.15</b>	<b>The Panel returned to the meeting at 1020 hrs</b>
<b>12.16</b>	The Chair noted that the Committee Panel discussed and reviewed the issue, considering the information provided by CLO colleagues and felt that no significant change, nor prejudice with interested parties case, the panel will move forwards and make a decision from all the evidence heard on the 29 Feb 2024.
	<b>The Reconvened open session closed at 1025 hrs</b>
<b>13.</b>	<b>Supplementary Information</b>
<b>13.1</b>	Following consideration of the oral evidence, the Committee noted:

	<ul style="list-style-type: none"> <li>i. That they had independently / jointly undertaken a site visit of 203 Greenwell Wynd and the surrounding area noting the location of the proposed premises, the pharmacies, general medical practices and the facilities and amenities within.</li> <li>ii. A map showing the location of the proposed Pharmacy in relation to existing Pharmacies and GP surgeries within Burdiehouse and the surrounding area.</li> <li>iii. Area Profile report for Data Zone</li> <li>iv. Dispensing statistics of the Community Pharmacies in Burdiehouse</li> <li>v. Further information including details about the existing Provision of Pharmaceutical and Medical Services in/to Burdiehouse and population figures for Burdiehouse as indicated by Scottish Neighbourhood Statistics and General Register Office Statistics.</li> <li>vi. Report on Pharmaceutical Services provided by existing pharmaceutical contractors to the neighbourhood</li> <li>vii. NHS Lothian's Pharmaceutical Care Services Plan</li> <li>viii. The application and supporting documentation including the Consultation Analysis Report provided by the Applicant.</li> </ul>	
<b>14.</b>	<b>Summary of Consultation Analysis Report (CAR)</b>	
<b>14.1</b>	<b>Introduction</b>	
<b>14.2</b>	NHS Lothian undertook a joint consultation exercise with Logan Gray Ltd regarding the application for a new pharmacy within 203 Greenwell Wynd, Edinburgh EH17 8WQ.	
<b>14.3</b>	The purpose of the consultation was to seek views of local people who may be affected by this or use the pharmacy at its proposed new location. The consultation also aimed to gauge local opinion on whether people felt access to pharmacy services in the area was adequate.	
<b>14.4</b>	<b>Method of Engagement to Undertake Consultation</b>	
<b>14.5</b>	The consultation was conducted by placing an advertisement in the Edinburgh Evening News; notifications being placed on the Health Board's website ( <a href="#">Pharmacies – NHS Lothian   Our Services</a> ); hard copies of the questionnaire were available and could be requested by telephone. Respondents could reply electronically via Jisc Questionnaire or by returning the hardcopy questionnaire.	
<b>14.6</b>	The Consultation Period lasted for 90 working days and ran from 18 <sup>th</sup> March 2022 until 29 <sup>th</sup> July 2022.	
<b>14.7</b>	<b>Summary of Questions and Analysis of Responses</b>	
<b>14.8</b>	Questions covered: the neighbourhood; location of the proposed pharmacy; opening times; services to be provided; perceived gaps/deficiencies in existing services; wider impact; impact on other NHS services and optional questions on respondents' addresses and circumstances	
<b>Question</b>	<b>Response Percent %</b>	<b>Response Count</b>

	Yes	No	Don't know	Yes	No	Don't know
1. Do you think the neighbourhood described is accurate	94.2	1.2	4.7	243	3	12
2. Do you think there are gaps/deficiencies in the existing provision of pharmaceutical services to the neighbourhood	92.3	2.7	5.0	239	7	13
3. Would you consider that you receive your prescriptions in a timely manner using the existing pharmacy services provided to the neighbourhood	16.9	73.7	9.4	43	188	24

Question	Response Percent (%)					Response Count				
	Never	Sometimes	Often	Always	Don't know	Never	Sometimes	Often	Always	Don't know
4. How often, if at all, would you have to make multiple journeys to receive all of the items from each prescription from the existing pharmacies servicing the neighbourhood	5.9	40.6	34.4	13.7	5.5	15	104	88	35	14

Question	Response Percent %			Response Count		
	Positive	Negative	Don't know	Positive	Negative	Don't know
5. What impact do you think a community pharmacy would have in the neighborhood	97.7	1.2	1.2	253	3	3
6. What are your views on the pharmaceutical services being proposed by the applicant?	96.9	1.2	1.9	251	3	5
7. Do you think there is anything missing from the list of services to be provided?	8.6	72	19.5	22	185	50
8. Do you think a community pharmacy in the neighborhood will work with other NHS health services such as GP practices?	95.0	0.4	4.7	245	1	12
9. Do you believe the proposed pharmacy would have a positive or negative impact on existing NHS services?	96.5	0.4	3.1	249	1	8
10. What do you think of the location of the proposed community pharmacy?	95.0	1.5	3.5	246	4	9
11. What do you think about the proposed opening hours?	95.0	3.9	1.2	245	10	3

<b>14.9</b>	In total 259 responses were received. All submissions were made and received within the required timescale, thus all were included in the Consultation Analysis Report.
<b>14.10</b>	From the responses 253 were identified as individual responses. 6 respondents did not provide an indication as to whether the response was individual or on behalf of an organisation.

<b>14.11</b>	<b>Consultation Outcome and Conclusion</b>
<b>14.12</b>	The use of Jisc questionnaire allowed views to be recorded and displayed within the full Consultation Analysis Report in a clear and logical manner for interpretation.
<b>15.</b>	<b>Decision</b>
<b>15.1</b>	The Committee in considering all evidence submitted during the period of consultation, presented during the hearing and recalling observations from site visits, and information provided by CLO colleague, first had to decide the question of the neighbourhood in which the premises, to which the application related, were located.
<b>15.2</b>	<b>Neighbourhood</b>
<b>15.3</b>	The Committee noted the neighbourhood as defined by the Applicant and the view of the Interested Party and that it should be a neighbourhood for all purposes. A number of factors were taken into account when defining the neighbourhood, including those residents in it, natural and physical boundaries, general amenities such as schools / shopping areas, the mixture of public and private housing, the provision of parks and other recreational facilities, the distances residents had to travel to obtain pharmaceutical and other services and also the availability of public transport.
<b>15.4</b>	<p>The Committee agreed that the neighbourhood should be defined as follows:</p> <p>North: B701 (Frogston Road / Captain's Road)</p> <p>South: A720 Edinburgh Bypass</p> <p>East: Lasswade Road, which divides Burdiehouse from Gilmerton</p> <p>West: Woodland to the west of housing development (Frogston East Road) following the pylon line down to the A720 City Bypass.</p> <p>The Committee agreed that as Captain's Road was the boundary it was logical that Gordons Chemist was part of the neighbourhood as it was located on Captain's Road.</p>
<b>15.5</b>	<b>Adequacy of existing provision of pharmaceutical services and necessity or desirability</b>
<b>15.6</b>	Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of pharmaceutical services to that neighbourhood and, if the committee deemed them inadequate, whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.

15.7	The committee noted that Gordon's Chemist was within the neighbourhood and that Flemings Pharmacy was close to the northern boundary. There was also another pharmacy within a reasonable distance in Gilmerton.
15.8	The committee noted that the responses from the CAR were overwhelmingly positive to the application.
15.9	The committee also noted the negative comments in the CAR around waiting times and queueing for prescriptions. The committee noted that there was evidence in the hearing that pointed to some of these problems being down to the covid restrictions which were in place at the time the CAR was taken.
15.10	There were concerns also within the CAR about difficulty accessing pharmacies outside the proposed neighbourhood
15.11	The committee also noted that there had been no complaints against Gordon's pharmacy but that it had closed for a few days over the preceding two years.
15.12	<p><b>Population and Housing:</b></p> <ul style="list-style-type: none"> <li>• The Committee noted a number of developments in the area some of which had completed during their site visits.</li> <li>• The Committee considered the data relating to the population both from the Applicant and Interested Parties which was inconsistent and found it challenging to define the population for Burdiehouse.</li> <li>• The Committee noted the Applicant's asserted population for the neighbourhood for Burdiehouse was circa 10,000.</li> <li>• The Committee noted that there were no amenities in the neighbourhood as outlined by the Applicant and therefore regardless of the size of the population, locals would have to travel outwith the neighbourhood to secure such services (including supermarket). The Committee noted that the two nearest small supermarkets were adjacent to Gordon's Chemist.</li> <li>• The Committee looked at the patient list size of the 2 GP Practices which were within 1 mile (Gracemount Medical Practice and Liberton Medical Group) of the proposed premises and the fact that both had already closed their Lists to new Patients.</li> </ul>
15.13	<p><b>Accessibility:</b></p> <ul style="list-style-type: none"> <li>• For parents with young children, prams and buggies, or for patients who were infirm who needed assistance to get around, access routes to both the proposed premises and to Gordon's Chemist could be challenging.</li> <li>• The Committee noted that Captain's Road was very busy but did have a couple of crossing points.</li> </ul>

	<ul style="list-style-type: none"> <li>• The Committee noted that Burdiehouse Road was also a busy road but did have crossing points and was well served by local buses.</li> <li>• Good public transport links as well as parking availability around existing providers was noted by the Committee.</li> <li>• Committee noted parking at the Proposed Premises could result in illegal parking in the Residents only area to the rear of the premise or parking on the double yellow lines at the front.</li> </ul>
<b>15.14</b>	<p><b>Current Pharmaceutical Services:</b></p> <ul style="list-style-type: none"> <li>• During site visits of Panel members there were no note of existing Pharmacy being under pressure in any way and there were no queues and no sense of upset or frustration had been perceived from patients</li> <li>• Existing providers in and to the neighbourhood had adequate space with which to meet current and future demands.</li> </ul>
<b>15.15</b>	<p>The Committee noted the statements made by all the interested parties that they had capacity if there was an increase in population or local demand for increased service provision. The Committee also noted that the recently acquired pharmacy in Gilmerton also had capacity to grow. The Committee concluded from the evidence presented that the existing pharmacies within the neighbourhood and into the neighbourhood had the appropriate capacity to adequately provide the necessary services should these situations arise.</p>
<b>15.16</b>	<p>The Committee noted both Gordons Chemists and Fleming Pharmacy both had stated that they could ensure a good level of service was provided as they could be flexible with regard to staffing requirements and had a quantity of qualified pharmacist provision either currently in place or shortly to be added, which gave confidence that service demands could successfully be met.</p>
<b>15.17</b>	<p>In considering current service provision and provision in the near future, the PPC were mindful that it should only give weight to what can be said to be probable and having a sufficiently near-future impact on adequacy to remain relevant to their considerations, and concluded that no evidence had been provided to indicate that the population of Burdiehouse was likely to expand significantly over the next three years beyond a level which existing Pharmacy providers in and into the neighbourhood could not cope with.</p>
<b>15.18</b>	<p>The Committee noted that there had been no evidence of any current complaints, although they acknowledged the historical complaints in relation to COVID timeframe and safety measures around this.</p>



<b>15.19</b>	In considering the CAR, the Committee noted the Applicant's assertion that the CAR demonstrated there was overwhelming support for the proposed pharmacy.
<b>15.20</b>	The Committee noted the lack of available space at the new proposed premise of only around 380 square feet for patients / customers with mobility issues and the lack of possibly Consulting rooms and waiting areas for patrons.
<b>15.21</b>	Following the withdrawal of Ms Hazel Garven and Mr Vinny Billon at 1116 hrs in accordance with the procedure on applications contained within Paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, the Committee, for the reasons set out above that the provision of pharmaceutical services in and to the Neighbourhood were adequate.
<b>15.22</b>	The Committee considered whether granting this Application was necessary to secure adequate provision of pharmaceutical services in and to the Neighbourhood. The Committee agreed unanimously that it was not necessary nor desirable to grant the Application in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the Application was denied. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.
<b>15.23</b>	The Hearing ended at 1124 hrs

**Signed by Martin Connor**  
**Chair – Pharmacy Practices Committee**

**Date: 9<sup>th</sup> May 2024**