

**Minutes of the meeting of the Pharmacy Practices Committee (PPC) held  
on Friday 11 October 2019 at 12:00pm and Tuesday 15<sup>th</sup> October 2019  
at NHS Lothian, Waverley Gate, Edinburgh**

The composition of the PPC at this hearing was:

Chair: Ms Fiona O'Donnell

Present: Lay Members Appointed by NHS Lothian

Mr John Niven  
Mr Keith Kirkwood

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

Mr Mike Embrey

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

Mr Andrew Beattie

Observer: Mr George Gordon, NHS Lothian  
Ms Liz Livingstone, NHS Lothian (open session)

Secretariat: Ms Jenna Stone, NHS National Services Scotland (open session)  
Ms Liz Livingstone, NHS Lothian (closed session)

**1. APPLICATION BY MR MOHAMMED AMEEN**

1.1. There was submitted an application and supporting documents from the Applicant dated 26 July 2018 for inclusion in the pharmaceutical list of a new pharmacy at 4 Drumshoreland Road, Pumpherston, EH42 0LN

1.2. Further Supporting Information from the Applicant including

- Letter dated 7 September 2018 from Pumpherston Dental Surgery
- Letter dated 4 September 2018 from Craigshill Health Centre
- Letter dated 27<sup>th</sup> August 2018 from Neil Findlay MSP
- Letter dated 27<sup>th</sup> August 2018 from Miles Briggs MSP
- Letter dated 5<sup>th</sup> September 2018 from Kezia Dugdale MSP
- Letter dated 27<sup>th</sup> August 2018 from Gordon Lindhurst MSP
- Letter dated 30<sup>th</sup> August 2018 from Angela Constance MSP

- Letter dated 29<sup>th</sup> August 2018 from Alison Johnstone MSP
- Letter dated 21<sup>st</sup> August 2019 from Councillor Damian Timson, West Lothian Council (East Livingston & East Calder Ward) (incorrect date on letter)
- Letter dated 27<sup>th</sup> August 2018 from Depute Provost Dave King, West Lothian Council (East Livingston & East Calder Ward)
- Letter dated 27<sup>th</sup> August 2018 from Councillor Carl John , West Lothian Council (East Livingston & East Calder Ward)
- Email dated 27 August 2018 from Councillor Frank Anderson, West Lothian Council (East Livingston & East Calder Ward)
- Proposed floor plan of proposed pharmacy at 4 Drumshoreland Road, Pumpherston, EH43 0LN

### 1.3. Submission of Interested Parties

1.3.1. The following documents were received timeously:

- (i) Letter dated 6 December 2018 from Ms Kaye Greig on behalf of the Lothian Area Pharmaceutical Professional Committee (APPC)
- (ii) Email dated 28 November 2018 from Mr Iain Morrison on behalf of Lothian Medical Committee
- (iii) Letter dated 3 December 2018 from Joanne Watson on behalf of Boots UK Ltd
- (iv) Email dated 20<sup>th</sup> December 2018 from Mr John Connolly on behalf of Deans Pharmacy Group
- (v) Letter dated 10<sup>th</sup> December 2018 from Mr Malcolm Clubb on behalf of The Red Band Chemical Company Ltd trading as Lindsay & Gilmour Pharmacy
- (vi) Email dated 6<sup>th</sup> December 2018 from Christopher Freeland on behalf of Omnicare Pharmacy
- (vii) Letter dated 24<sup>th</sup> December 2018 from Mr Matthew Cox on behalf of Lloyds Pharmacy Ltd

1.3.2. Representations received following the conclusion of the consultation period :

- (a) Undated letter from Ms Karen Rogers on behalf of Pumpherston Community Council

An undated letter from Ms Karen Rogers on behalf of Pumpherston Community Council was received via the applicant on 1 October 2019. The Community Council had been consulted in November 2018 and as the Board was unable to confirm that the letter had been received at the time it was deemed reasonable by officers to invite them to attend.

1.3.3. The following parties did not respond during the consultation period, thus removing their rights to make representation to the PPC as interested parties:

- (i) The Craigshill Partnership
- (ii) East Calder Medical Practice
- (iii) Howden Health Centre

- (iv) Ferguson Medical Practice
- (v) Linden Medical Practice
- (vi) The Wood Medical Practice

#### 1.4. **Correspondence from the wider consultation process undertaken jointly by NHS Lothian and the Applicant**

- 1.4.1. (i) Consultation Analysis Report (CAR) dated 2 August 2017

## 2. **Procedure**

- 2.1. At 12:00 hours on Friday 11 October 2019, the Pharmacy Practices Committee (“the Committee”) convened to hear the application by Mr Mohammed Ameen (“the Applicant”). The hearing was convened under Paragraph 2 of Schedule 3 of The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, (S.S.I. 2009 No.183) (“the Regulations”). In terms of paragraph 2(2) of Schedule 4 of the Regulations, the Committee, exercising the function on behalf of the Board, shall “determine any application in such manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the Committee was whether “the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List”.
- 2.2. The Chairman welcomed the members to the meeting and introductions were made. When asked by the Chairman, members confirmed that the hearing papers had been received and considered. When committee members were asked by the Chairman in turn to declare any interest in the application, Mr Kirkwood acknowledged that he was a resident in the neighbourhood but had no interests to declare. No Committee Member had any interest to declare.
- 2.3. Members of the Committee had undertaken a joint site visit to Pumpherston and the surrounding area, during which the location of the premises, pharmacies, general medical practices and other amenities in the area such as, but not limited to schools, sports facilities, community centres, supermarkets, post office, banks and churches had been noted.
- 2.4. The Chairman advised that Ms Stone was independent from the Lothian Health Board and was solely responsible for taking the minute of the meeting.
- 2.5. The Chairman outlined the procedure for the hearing. All Members confirmed an understanding of these procedures.
- 2.6. Having ascertained that all Members understood the procedures, that there were no conflicts of interest or questions from Committee Members the Chairman confirmed that the Oral Hearing would commence. The Applicant and Interested Party were invited to enter the hearing.

### **The open session convened at 12:05**

### **3. Attendance of Parties**

- 3.1. The Chairman welcomed all and introductions were made. The Applicant, Mr Mohammed Ameen accompanied by Muhammad Sufyan. From the Interested Parties eligible to attend the hearing, the following accepted the invitation:
- Mr Tom Arnott on behalf of Lloyds Pharmacy
  - Mr John Connolly on behalf of Deans Pharmacy
  - Mr Chris Freeland on behalf of Omnicare Pharmacy
  - Mr Balvinder Sagoo on behalf of Boots UK Ltd, accompanied by Ms Emma Keen.
  - Mr Malcolm Clubb on behalf of Lindsay & Gilmour, accompanied by Ms Kaye Greig
  - Ms Sharon Gibson on behalf of Pumpherston Community Council.
- 3.2. When asked by the Chairman, all parties confirmed that the hearing papers had been received and considered.
- 3.3. The Chair noted that Mr George Gordon (who would Chair future PPCs) joined the hearing as an observer and would play no part in either the open or closed sessions.
- 3.4. The Chairman advised all present that the meeting was convened to determine the application submitted by the Applicant in respect of a proposed new pharmacy at 4 Drumshoreland Road, Pumpherston, EH53 OLN. The Chairman 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 Chairman read out in part:
- 3.5. “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...”
- 3.6. 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.
- 3.7. The Chairman asked all parties for confirmation that these procedures had been understood. All confirmed that they understood.

- 3.8. The Chairman confirmed that members of the Committee had jointly conducted a site visit in order to understand better the issues arising from this application. Mr Kirkwood confirmed that he resided in the neighbourhood but had no interest in the application. Mr Beattie confirmed that he had a working relationship with the Medical Practice Committee and, indirectly, with all contracts, but had no interest to declare. Assurance was given that no member of the Committee had any interest in the application.
- 3.9. The Chairman asked for confirmation that all parties fully understood the procedures to be operated during the hearing as explained, had no questions or queries about those procedures and were content to proceed. All confirmed agreement.

#### **4. Submissions**

- 4.1. The Chairman invited Mr Ameen “the Applicant”, to speak first in support of the application.
- 4.2. The Applicant read aloud the following pre-prepared statement and also had a detailed PowerPoint presentation which he declined to provide post-hearing in order that it could be appended to the Minutes.
- 4.3. “I thank the Committee for the opportunity to speak today.
- 4.4. The residents of Pumpherston & Uphall Station face two big challenges when needing to access the current pharmacies and medical centres; that is poor access and stretched services. Let’s examine poor access first.
- 4.5. The Community Council in their letter of submission say that “It is extremely difficult to access pharmacies”.
- 4.6. When it comes to walking the Community Council say walking is impossible. Why is this? The most commonly used pharmacy is Lloyds in Strathbrock Health Centre which is almost 2.5 miles away and takes 45 minutes to walk one way, so this is ruled out.
- 4.7. For cars, the Community Council says it is “A logistical nightmare for many, involving lifts from family and friends.” On average, we have a lower car ownership in the community compared to most of the surrounding areas. The availability of cars is limited as most are used to travel to and from work, so when the pharmacy is open, cars are not available in the neighbourhood.
- 4.8. The use of buses has inherent issues – “the public transport is ineffective” is the main concern of the Community Council. On Monday I attended the CC meeting and I met a resident from the neighbourhood who is a part of the West Lothian Transport Forum who recognised that public transport was poor. Local representatives are working with key stakeholders (Council, bus operators and local organisations) who recognised that and he said that the area has been gradually getting worse in public transport provision. You used to be able to get a direct bus to Mid Calder and East Calder; this is no longer the case. Now you need to get a bus to Livingston, get off and go to Lindsay & Gilmour. So it is a 2-3 hour journey when accessing pharmacies, so this is ruled out.

4.9. Access.

The community feels isolated and disenfranchised. Also, people have to resort to expensive ways to get to the pharmacy – by taxi. Worryingly, as it is an effort to see a pharmacist for an appointment, this can result in non attendance.

4.10. The lack of a local pharmacy means that the population’s health is getting worse as they are now empowered to see a pharmacist or doctor.

4.11. The Community Council mentioned that the *“The Minor Ailments Service would provide an invaluable support to many of our residents – a first point of call for health advice”*.

4.12. This Minor Ailments Service is worth more now because of the barriers. I feel this service is a boon for the community. In a year’s time, MAS will be open to everyone; it is an important lifeline for residents, and will reduce the need for the community to make appointments with the GP or to go to A&E.

4.13. The Community Council went online in the past two weeks and engaged residents through social media to find out what has changed since the consultation was conducted and the CAR was produced. There were many responses – people saying that nothing has changed. One resident says they are still relying on public transport. Another resident says they have a 4 year old child and a baby and that “it is not practical to go to Uphall or Broxburn”.

4.14. The bus stops in the neighbourhood do not have any timetables on their notice boards and the community suffers from a poor provision of public transport.

4.15. Stretched Services

At Monday’s Community Council meeting, residents said that nothing really has changed since the public consultation took place and that long waiting times were experienced.

- One resident said that they had waited 45 minutes last week for a prescription at Lloyds Strathbrock.
- Another resident mentioned that they had picked up their prescription from Strathbrock, and because Lloyds were too busy, had taken it to Boots on Friday, but when they went in on the Saturday, it was still not ready.
- Another resident had mentioned that Lloyds had been closed for hours – with no explanation why, which I find unusual as normally pharmacies are under a strict contractual obligation to stay open for a set period of time. Interestingly, it had happened before, and now it has happened a second time. The health board need to find out what is going on.

4.16. Some online comments also mentioned long waiting times at pharmacies:

One person said that they had to wait up to an hour.

One person said that they had to wait between 20-30 minutes and an hour.

The situation has not changed since the Consultation.

4.17. Local Development Plan

The large brown section on the slide [*not provided*] shows allocated housing for Uphall Station and Pumpherston. That is 670 new homes that are allocated which is a lot of construction. 86 social homes were completed last year and a further 286 have been started, with people moving in already.

4.18. What kind of population are we talking of? The new resident population will increase by around 2,345 and, with the current population being 2,200; this means that the population will more than double. The existing services are stretched. What will happen when the new population comes in? The existing pharmacies will not be able to manage.

4.19. There is significant growth taking place. In Broxburn and East Calder, 100s of new homes are under construction.

4.20. However, services have not improved. I would like to play a video clip of a conversation with a lollipop lady who has explained the current issues. Apologies for the sound due to an aeroplane going overhead.

4.21. VIDEO CLIP – Transcript:

Applicant: Your name again is Elaine?

Lollipop Lady: Yes Elaine.

Applicant: Elaine, and you are?

Lollipop Lady: A lollipop lady.

Applicant: A lollipop lady, fantastic. So you mentioned that you just met a lady right there?

Lollipop Lady: There's an old lady I think she's in Scotmid (pointing to Scotmid), and just said it's ridiculous. There's no chemist. The farthest that they've got to go is Broxburn or Craigshill. Another lady yesterday was needing an antibiotic straightaway and it is two buses she's got to get.

Applicant: Two buses?

Lollipop Lady: Two buses to get to a chemist.

Applicant: And this was when, just recently?

Lollipop Lady: That was yesterday.

Applicant: That was yesterday...

Lollipop Lady: And a lady last week was complaining that there's nothing here. No chemist. They've either got to go all the way to Broxburn or up to Craigshill.

Applicant: That's incredible.

Lollipop Lady: Shocking. For the elderly and can't manage or people who don't have transport. Two buses. So there you go.

Applicant: Elaine, thank you very much.

Lollipop Lady: You're welcome.

4.22. I spoke to residents and to businesses – all voiced the same concerns. That lady was a gem – a mouthpiece to explain the barriers that people are experiencing, and provides recent examples.

4.23. I will now talk of the car plan, viability, and access of service.

4.24. NEIGHBOURHOOD

The boundaries are :

North - M8 motorway

West - A899 Livingston Rd until it meets A705

South - Cousland Rd, and along the tree belt that encases Craigshill, then following it down to River Almond to head eastward.

East – To meet pathway/cycle track that heads up to M8 motorway

4.25. 94% of respondents in the CAR felt that the neighbourhood of Pumpherston and Uphall Station was a community in its own right. It consists of a very large school, nursery, library, community hall, dental practice, post office, grocery stores, fast food outlets and restaurants, and other amenities amongst several other businesses. This is a flourishing neighbourhood and residents don't need to leave the area to access their day to day needs – they only have to leave the neighbourhood if they need to access a pharmacy or GP.

4.26. Support

Why did we do a consultation? Because the Regulations require this. First, we want to find out how well the existing services are provided - and if they are adequate – and secondly, to find out how much support there is from residents of Pumpherston and Uphall Station.

4.27. From looking at the CAR, there was a good engagement and response rate. 575 responses were received which, for a community of this size, was good and was the highest percentage of responses in any health board, with a population of 2157, this represented 44% of the population and is statistically significant.

4.28. The Area Pharmaceutical Committee did not object but, in most cases, they tend to object.

4.29. Adequacy

From the graph [slide not provided], you will see there have been a number of complaints in the CAR. Question 2 shows 741 complaints within the consultation – people were asking about the gaps and had a lot to say – a total of 1892 complaints – what did that say about the existing services?

4.30. Graph showing breakdown of complaints [not provided]

You will see the main complaints were about access – with difficulty in travelling being the most common, in addition to it being too long or far, and also issues with the amount of time taken to travel to a pharmacy. It was also costly as well as difficult, so there is a cost impact. 59% of the 1892 complaints were about poor access and 34% about stretched services.

4.31. When people get to the existing pharmaceutical services, they experience



stretched services: long waiting times in the pharmacy, long waiting times for the GP – some people said that they had to wait 2-3 weeks for an appointment. This is a concern in view of the new housing developments and the effect this will have on the current situation – so a total of 34% of complaints relate to stretched services.

4.32. So 59% of people say there is poor access, and 34% of complaints relate to stretched services, so I have proven that the current providers are not delivering an adequate service.

4.33. **NHS Lothian Pharmaceutical Care Services Plan (Lothian PCSP)**

The Lothian PCSP assesses the current pharmacy provision and is used as an aid for future pharmacy planning. It offers interesting insights – especially with regard to travel times to pharmacies, and identifies the travel time for a community for the average person.

4.34. The Lothian PCSP says that 56% of residents travel by a short walk to a pharmacy – but in our neighbourhood the times are longer.

Also, 42% travel by walking according to the Lothian PCSP – but not in this community.

The distance is a long distance – more than 2-3 times longer than the average of 0.8 miles.

<b>Lothian PCSP</b>	<b>Neighbourhood</b>
<b>56% travel by short walk</b>	25 mins to Craigshill 45 mins to Broxburn 31 mins to Uphall 45 mins to East Calder
<b>Average travel by walk 0.8 mile</b>	1.4 miles to Craigshill 2.4 miles to Broxburn 1.6 miles to Uphall 2.4 miles to East Calder
<b>42% travel by walk</b>	Does not apply to neighbourhood

4.35. Slide: photo of Easter Calder and Broxburn roads [not provided]

Walking

The CAR tells us most residents are registered with Strathbrock Medical Centre and they use the pharmacies in Broxburn (45 min walk) one way. This is simply too far a walk for anyone to undertake let alone the elderly, infirm, wheelchair and pram users. The walk to the any existing pharmacy is long, far and difficult. The walk to Broxburn/Uphall and Craigshill/East Calder have single track roads, are poorly lit on one side and have cars speeding by between 50-60mph. Residents feel unsafe. In addition, there are steep inclines and declines throughout, and the walk to Craigshill has no crossing facilities, no dipped pavement, is hidden from public view, with many steps and unpaved parts. The

terrain makes it a difficult exercise to get to the existing pharmacies and it is for these reasons that residents do not walk to pharmacies.

4.36. Bus

The Lothian PSCP says it is difficult to assess how public transport affects access to pharmacies across the region, which is a problem for us – we know people in the CAR complain about the public transport system. There are 3 times more complaints about public transport compared to walking. The reason for this issue is that it is a long round trip (1:40-3 hour round trip to an existing pharmacy) and also the bus service is erratic – there is supposed to be a service every 30 minutes but often this is not the case as there are services missed and people are then having to wait for an hour for a bus.

4.37. The Mid Calder PPC felt that a bus service every 30 minutes was inadequate, and it is why people do not use the bus.

Lothian PCSP	Neighbourhood
“Travel times by public transport across NHS Lothian are more complex and have not been mapped for this plan.”	<p>CAR had 3x more bus complaints than walking complaints</p> <p>1 hour 40 minutes to 3 hours round trip</p> <p>Erratic 30 min service</p> <p>Mid Calder PPC deemed a 30 min bus service is inadequate</p>

4.38. Examples of comments in the CAR included:

- A commuter who used the bus service often had to wait for an hour and complained to the operator (First Bus) who responded to say that they would commonly remove the bus service if other buses break down.
- Another patient said that there was an unreliable bus service and that they were either an hour late or an hour early for an appointment and needed to plan in advance.

4.39. Cars.

<b>Car Ownership 2011 Census</b>	
<i>Area</i>	<i>% No car or van</i>
Neighbourhood	<b>28.6</b>
Mid Calder	9.7
East Calder	19.1
Broxburn & Uphall	25.8
West Lothian	24.4

4.40. The LCSP showed that on average, 47% of people travelled by car. In this community 71% did, but many cars were not available during the day as they were used by people travelling to/from work. This meant a low level of car ownership compared to other regions. This explains why people are not using cars.

4.41. Cost

Cost is a barrier. The NHS Dumfries and Galloway Care Plan say fuel poverty will continue to rise. 1 in 34 people in the neighbourhood are economically inactive – more than the surrounding areas. We need more local services and better service provision.

<b>2011 Census</b>	
<i>Area</i>	<i>% Economically Inactive</i>
Neighbourhood	<b>31.4</b>
Mid Calder	19.7
East Calder	26.0
Broxburn & Uphall	26.9
West Lothian	27.8

4.42. Comments from respondents included:

- A person saying that they needed to visit the chemist every day which required taking 2 buses and spending £21 per week on buses. The social work team was going to take the patient out of the neighbourhood and place them in another neighbourhood with better pharmacy provision. This is a patient from a vulnerable group. Cost was a prohibitive factor.
- One taxi driver had said he took a disabled patient to the Broxburn Health Centre, who had taken her prescription to Lloyds and was told to wait an hour. She could not do this, so went to back to Pumpherston, waited and then returned to collect her prescription – involving multiple trips. Again, this is a vulnerable patient and the costs are prohibitive.
- The CAR was littered with mention of high costs – one person had to use taxis costing £10-20 and another person had to use buses costing £5-10. Costs were rising.

4.43. Stretched Services [slide not provided]

The comments from the Community Council, media and CAR showed the barriers that residents were experiencing, and what the data tells us is that for the population per pharmacy in West Lothian; cater to a higher population 24% higher than the national average.

<b>2018 Population Per Pharmacy</b>	
West Lothian	5,519
East Lothian	4,600
Midlothian	4,807
Edinburgh	4,846
NHS Lothian	4,932
Scotland	4,319

4.44. When we look at how many items are dispensed per month, the average in NHS Lothian is 5900 items per month. Other areas are significantly higher – Lloyds in Broxburn does twice as many as the NHS Lothian average - it is very busy – a similar situation with the other pharmacies.

<b>Pharmacy</b>	<b>Average Previous 12 Monthly Items</b>
Lloyds - Broxburn	11,900
Boots - Craigshill	10,300
Lindsay & Gilmour	7,300
Omnicare	10,800
Ladywell	9,800
NHS Lothian	5,900
Scotland	6,800
<a href="#">Source: Pharmdata</a>	

4.45. Again, West Lothian GP's cater to the highest populations compared to the other local authorities within Lothian and NHS Lothian. West Lothian caters to 38% higher population than the Scottish average.

4.46.

<b>2018 Population Per GP</b>	
West Lothian	9,020
East Lothian	7,434
Midlothian	8,078
Edinburgh	8,015
NHS Lothian	8,024
Scotland	6,112

Source: ISD Scotland and National Records Scotland (statistics.gov.uk)

4.47. All the practices have a higher practice list size than Scotland. East Calder has a practice list size that is twice the Scottish average.

<b>2019 Practice List Size</b>	
Strathbrock (Wood, Linden, Ferguson MPs)	20,610 (7,459 - 6,737 - 6,414)
Craigshill	8,558
East Calder	<b>12,133</b>
NHS Lothian	8,024
Scotland	6,112

Source: ISD Scotland and National Records Scotland (statistics.gov.uk)

4.48. Complaints

<b>Pharmacy</b>	<b>2018-19</b>	<b>2017-18</b>	<b>2016-17</b>
Lloyds - Broxburn	<b>18</b>	Not returned	<b>5</b>
Boots - Craigshill	Not returned	1	2
Omnicare - Uphall	Not returned	Not returned	0
Lindsay & Gilmour	Not returned	Not returned	0
Ladywell	Not returned	0	0

4.49. When we get a high population, then the number of complaints increases, which is not good. Lloyds were the most commonly used pharmacy with twice the monthly items compared to the national average, and also had a significantly higher number of complaints.

*The Chair interjected to ask if the Applicant would supply a copy of his powerpoint presentation, and the Applicant confirmed that he would. This was not provided.*

4.50. The rest of the pharmacies were not submitting returns. Each quarter, they have to provide data which helps the Health Boards and it is a question I will ask the existing pharmacies.

4.51. Stretched Services.

From the comments in the CAR:

- One diabetic patient had a repeat prescription and complained of waiting times of 40 minutes at Lloyds in Broxburn, and his wife had submitted a complaint which was being investigated.
- Another complaint related to Lindsay & Gilmour in East Calder where the patient complained of a minimum waiting time of 20 minutes.
- Another complaint related to a patient who had to visit Craigshill by bus and had to wait up to an hour.

4.52. Viability

Viability is ensured. We are catering to a reasonable size population with a

reasonable number of items dispensed per month. Pharmacies have been awarded contracts in areas where the populations are lower than ours.

- 4.53. We intend to dispense 2600 items per month. There are 90 viable pharmacies in Scotland who dispense less than 2600 items per month.

Area	Population
Kirknewton (Lothian)	2,000
Pathhead (Lothian)	982
Falkland (Fife)	1,096
Charlestown (Fife)	778
Aberfoyle (Forth Valley)	769
Carmunnock (Glasgow)	1,216
Fenwick (Ayrshire & Arran)	1,038
Ochiltree (Ayrshire & Arran)	1,046
Symington (Ayrshire & Arran)	1,106

- 4.54. Viability on Existing Pharmacies

In terms of the impact of the new pharmacy on the existing pharmacy, **all** pharmacies will still be viable. You have seen the data for monthly items issued – and the existing pharmacies will not be significantly affected – as they are all doing significantly more items than the NHS Lothian average. You will appreciate that one of the biggest issues was stretched issues, in particular waiting times. A new pharmacy service is needed to tackle these issues.

- 4.55. Hypothetically speaking, if we take 2,600 items directly from each of the existing pharmacies, no pharmacy would need to close. Items taken from the existing pharmacies would be replenished due to the rapid population expansion coming into the neighbourhood; also, with the ageing population increasing, who need more medications, pharmacies would continue to be viable.

- 4.56. Demographics

The neighbourhood has a significantly higher elderly population than the rest of Scotland, a significant increase of 25% since 2011. The NHS Highland Care Plan has identified that if there is a significant increase in the aging population, and then more pharmacies are needed because elderly folk have more long term long term conditions, use more medicines, and need better access. This Community needs it.

% Elderly Change			
Area	2011 Census	2018	% Increase
Neighbourhood	434	543	25%

% Elderly 2018	
Area	%
Neighbourhood	19.75
NHS Lothian	16.27
Scotland	18.87

- 4.57. What services are needed? This neighbourhood needs a pharmacy to offer Core Services like MAS (Minor Ailments Service) and the Chronic Medication

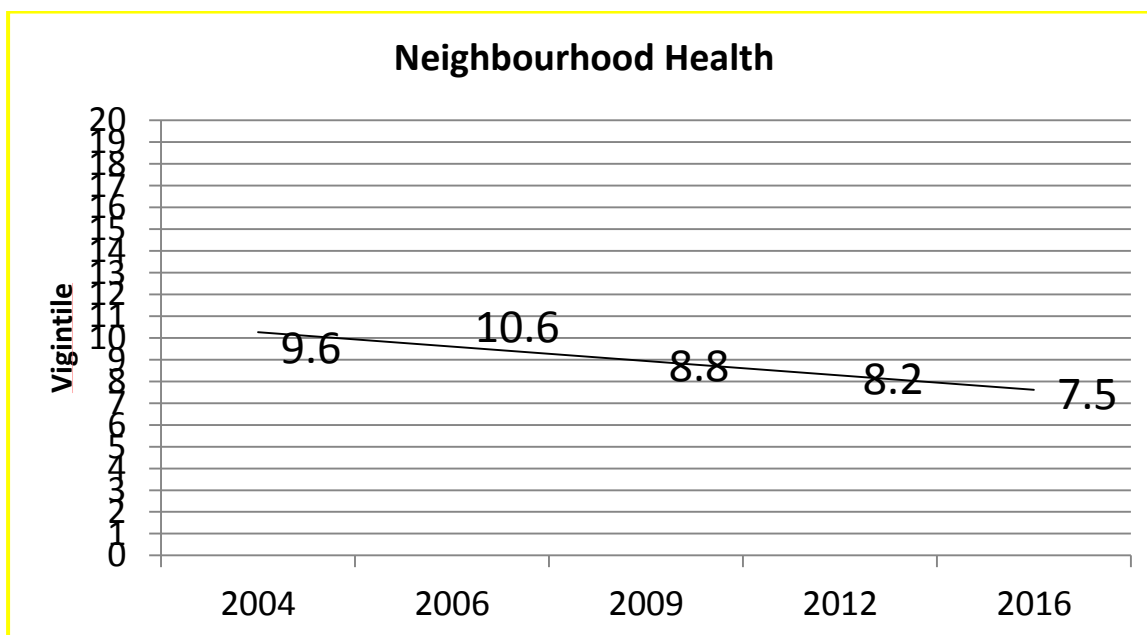
Service (CMS), which are vital in the neighbourhood because of the higher number of elderly residents in the community.

4.58. SIMD

The Scottish Government measures deprivation using SIMD which is a tool used to target policies and resources at the places with greatest need". Services are targeted at the "15% most deprived". For this neighbourhood, the majority falls in this classification. What we are comparing is the journey times to a GP practice, and people experience the same difficulties in accessing pharmacies since GP practices are mainly close to pharmacies. Not only that, the neighbourhood has the worst 'Access to Services' compared to all surrounding areas

4.59. Health

Looking at one type of deprivation, the health of the neighbourhood has been declining since 2004. It has worsened by 22%. This presents health challenges as the health demands of this community need to be addressed by the local pharmaceutical services.



Source: Health SIMD on National Records Scotland ([statistics.gov.uk](http://statistics.gov.uk))

4.60. Smoking.

Again West Lothian has the highest smoking rate compared to the other local regions – 17.97%. Locally in the neighbourhood it has got the highest compared to most of the surrounding areas, NHS Lothian and Scotland. The Stop Smoking Service is part of the Public Health Service which is offered by community pharmacies and I believe this community will utilise this core service.

4.61. Many people say that they want something local, but it is too time consuming to travel. This is important because it requires patients to visit a pharmacy weekly

over a period of 12 weeks, and it is difficult for them to attend weekly due to the travel restrictions. This is why we need a local service. We can bring down smoking rates through the Stop Smoking Programme, which has been attributed to bringing down the national rates and this is why this community needs it.

Smoking 2016-18		
Area	Zone	%
West Lothian	S12000040	17.97
East Lothian	S12000010	15.64
Midlothian	S12000019	16.06
Edinburgh	S12000036	11.05
NHS Lothian	S08000024	13.59
Scotland		14.9

Smoking 2016-18		
Area	Zone	%
Neighbourhood	S02002486	18.67
East Calder	S02002485	7.14
Mid Calder	S02002484	12.67
Broxburn	S02002511/13/14	15.61
Uphall	S02002512	13.38
NHS Lothian	S08000024	13.59
Scotland		14.9

#### 4.62. Neighbourhood vs Lothian Contracts

Health 2016		
Area	Datzone	Rank
Neighbourhood	S01013301	1170
Neighbourhood	S01013300	1949
Neighbourhood	S01013299	3011
Mid Calder	S01013288	3173
Neighbourhood	S01013302	3660
Mid Calder	S01013285	4722
Kirknewton	S01013291	4975
Kirknewton	S01013290	5377
Mid Calder	S01013286	5702
Mid Calder	S01013284	5833
Mid Calder	S01013287	6628

Source: Health SIMD on National Records Scotland ([statistics.gov.uk](http://statistics.gov.uk))

The red shows the lower the rank, the more deprived the datazone area is. Compared to Mid and East Calder, we are worse: 5.7 times more deprived than Mid Calder and 4.6 times more deprived than Kirknewton.

#### 4.63. Car ownership is lower too. The Statistics for both Health and Car Ownership show a greater need for new local pharmacy compared to the other contracts already granted.

Area	% No car or van	Bus Service
Neighbourhood	28.6	30 mins
Mid Calder	9.7	30 mins
Kirknewton	11.2	30 mins



4.64. Delivery Service

The delivery service masks the fact that residents have difficulty accessing pharmacies. It is not possible to serve a population of 2,200 that will double in size through a delivery van. You will also appreciate that those making the deliveries are often not medically trained. The delivery service is not offering the 3 of the 4 core services: MAS, CMS, and the Stop Smoking Service within PHS.

4.65. The NHS Borders Care Plan states that the “delivery service is not a direct NHS funded service or a contractual obligation and may be withdrawn at any time.” The NAP, PPCs and Health boards confirm this.

4.66. Boots are planning to introduce a £5 delivery charge which will affect many sections of the community which tend to be from vulnerable groups such as the elderly, immobile, disabled and housebound patients.

4.67. The Head of Lloyds recognises that charging for deliveries is a barrier to patients and also recognises the need to get patients back to local pharmacies and identify better relationships and offer pharmaceutical services, and said “*We know that half of people take their medicines incorrectly...Bringing customers back into pharmacy allows us to perform those interventions more frequently*” and “*This shows that community pharmacy is all about face to face interaction with the patient and a delivery is not the answer to provide pharmacy services to this neighbourhood*”. We can’t rely on the delivery services.

4.68. There are complaints in the CAR concerning issues with delivery services.

- “*There is a delay in getting my medication. Lloyds only deliver medication on Wednesday.*” Some miss out on a delivery and may therefore be missing receiving their medication for days or weeks.
- “*Waiting 12 days for a Bu Trans pain patch. The new chemist will surely address this. I have mobility problems and I’m housebound. I will also get a blister box.*” The pain patch is used in palliative care when a patient is experiencing high levels of pain.
- “*If prescription request is not put in until Thur-Fri, I don't get my prescription until Wed by delivery*” Ordering prescriptions is an issue as patients can’t pick up the phone and expect their items to be ready on time, and as a result, have to wait for the delivery driver and order a week in advance.

4.69. The pharmacies also miss deliveries which compromise patient safety: “*Recently I had a severe UTI the pharmacy I have to use is Omnicare in Broxburn as they deliver and collect prescriptions from the doctor. I expected my drug to be delivered the next day (Friday) but they were not. My daughters both work and could not pick them up for me. Early on the Saturday I had to activate my Careline for help. I was taken by ambulance to St John’s Hospital. I came home in the evening against medical advice after I had been rehydrated by IV infusion and tablets to reduce my temperature.*” So, delivery service is poorly

provisioned and can affect patient safety.

4.70. Blister Packs.

The blister pack service – often reliance on the delivery service - is at capacity – people would like this aid but are not being offered this service at their local pharmacy.

4.71. Comments include:

- “Public transport is lacking (only one bus service in and out). Using Omnicare as local pharmacy as Strathbrock is too busy. Get 2 weekly blister packs delivered.”
- “I get a blister box from Omnicare every 2 weeks, because Lloyds was full at the time and couldn't help me. Buses don't run at the right time. Not very punctual. I have missed appointments because of this. I don't have a car”

Dosette boxes are supposed to be provided weekly or there tend to be issues for over/under dosage. When a Doctor makes an instruction for a weekly dosette box for a patient but the boxes are only provided every two weeks, this gives concerns on safety.

4.72. Services Have Not Improving

There is a lot of evidence to show current services are not improving.

- The NHS complaints for Lloyds have increased more than 3 fold in 3 years.
- All of the pharmacies are full for blister pack patients

4.73. The Pumpherston Community Council in their submission highlighted that the current pharmacies are not offering 3 core services (Minor Ailments Service, Chronic Medication Service, and Public Health Service). We know this is still current because recently the Pumpherston Community Council went on Facebook to engage with their readers about the current provision and residents were voicing the same concerns in relation to access to the services.

4.74. The Mid Calder CAR had the same complaints of stretched services, which confirms a theme that has not been resolved by the existing pharmacies. In 2009, the first application to Mid Calder, there was the same issues. Lindsay & Gilmour took a decade to resolve these issues.

4.75. Over the past few weeks I have gone around the area and spoken to residents and service providers who are still voicing the same concerns and in addition, there are two new things:

- (i) the £5 delivery charge introduced by Boots
- (ii) the increase in population with 86 social homes completed last year with a further 286 new homes under construction.

4.76. Summary

I have talked of the issues, and looked at the evidence; the most definitive is the CAR with 575 responses. There are 1000s of complaints – 59% of which are about access, and 34% about stretched services.

- 4.77. Bus services are a major issue: there are 3x complaints about bus services compared to walking: infrequent bus services with buses being routed to other parts of the network and providing an erratic service and lengthy journey for residents – where they have to go to Livingston and East Calder. The cost puts people off.
- 4.78. There are also poorer health outcomes for this community, with this neighbourhood being in the 15% most deprived in relation to access to services. Scottish Government recognises that it is a community that needs more services.
- 4.79. This neighbourhood has the highest smoking rates compared to most of the surrounding areas and a stop smoking service will encourage more people to quit and become healthier.
- 4.80. We have a higher incidence of elderly people compared to the surrounding areas which has also increased.
- 4.81. We also have a lower car ownership compared to most of the surrounding areas, confirming that this area finds it more difficult to travel to existing pharmacies.
- 4.82. In terms of deliveries, there are complaints about missed deliveries. Boots have also introduced a new £5 delivery charge, which will have implications.
- 4.83. For Blister Packs, all the current pharmacies are full. People in the community need this service. A service that is offered every two weeks by the existing providers could result in under/over dosing and patients may have to rely on friends and family to help them, which is not acceptable.
- 4.84. When compared to the new contracts of Kirknewton and Mid Calder this neighbourhood is worse for car ownership and poorer health outcomes which places a greater demand on the need for adequate pharmacy services and reinforces the need for a new pharmacy.
- 4.85. The new housing developments in this area will have an impact, as there are 670 new homes being built and will add to the existing strain already experienced by the existing pharmacies. There are lots of homes being built in the surrounding area which will add to the strain.
- 4.86. It is for the above reasons why a new pharmacy is absolutely necessary for this community as they will finally be able to access a pharmacy and alleviate the pressure on the existing health care providers.
- 4.87. This concluded the presentation from the Applicant

**5. The Chairman invited questions from the interested parties to the Applicant**

**5.1. Questions from Mr Arnott to the Applicant.**

- 5.1.1. Mr Arnott asked if the Applicant was aware that a Pharmacy Contract had been awarded in Mid Calder which was 0.9 miles from the southern boundary of the Applicant's neighbourhood.
- 5.1.2. The Applicant replied that the contract was not operational and, in any event, it was not about distance but the cost would make it difficult for residents of Pumpherston to access the pharmacy at Mid Calder, even if it was granted.
- 5.1.3. The Chair interjected that the application for Mid Calder was the subject of an appeal and was not operational, and confirmed that the Mid Calder application would have no bearings on the deliberations of the Committee.
- 5.1.4. Mr Arnott queried whether the problem was due to lack of buses or the fact that there was no path. Mr Arnott acknowledged that the Community Council had contacted the bus providers to request that they provide a better service and asked the Applicant if there was a demand for a bus service.
- 5.1.5. The Applicant confirmed that there was a demand, and that the Community Council had been campaigning for decades for an improved service, and they were attempting to build a better understanding of the need for improved public transport, which had been gradually eroded. People relied on public transport – if they did not have a car, and could not walk to the pharmacy, the only option was public transport.
- 5.1.6. Mr Arnott asked who would be the pharmacist if the application was successful.
- 5.1.7. The Applicant confirmed that it would be himself.
- 5.1.8. Mr Arnott asked the Applicant whether he had confirmed he would be the resident pharmacist when he had made his application in Townhill (NHS Fife).
- 5.1.9. The Applicant confirmed that he had, and clarified that the Townhill application had not been granted. The Applicant confirmed that if the application for a pharmacy in Pumpherston were granted, he would be the main resident pharmacist. Mr Arnott noted that the Townhill application was under appeal.
- 5.1.10. Mr Arnott asked how many times the Applicant had been asked to move his banner "pharmacy coming soon".
- 5.1.11. The Applicant replied he had only been asked once, and clarified that he had not moved it because he had emails to show that it had been agreed that the banner should not be removed.
- 5.1.12. Mr Arnott referred to the Applicant's comment that the most used pharmacy for residents of Pumpherston was Lloyds in Broxburn and queried where the Applicant had obtained this information.

- 5.1.13. The Applicant replied that this information was available from pharmacy healthcare data and also respondents to the CAR had also referenced using Lloyds in Broxburn.
- 5.1.14. Mr Arnott stated that Lloyds in Broxburn was 2.9 miles away, Omnicare was 1.9 miles away, Lindsay & Gilmour was 2.1 miles away, Boots 2 miles away and Lloyds at Howden was 2.4 miles away and queried why more Pumpherston residents would appear to be using Lloyds in Broxburn.
- 5.1.15. The Applicant replied that it could be for various reasons – for example, the Strathbrock Medical Practice had a large catchment area which included Pumpherston and Uphall Station. The Medical Practice in East Calder was not within the neighbourhood.
- 5.1.16. Mr Arnott referred to the Applicant’s comment of a resident visiting the pharmacy to collect a repeat prescription and queried the resident did not take advantage of the free delivery service.
- 5.1.17. The Applicant replied that residents had said that they did want a delivery service but it was not sufficiently well provisioned – for example, missed deliveries. The Applicant referred to a disabled patient who had had to use a taxi, and commented that residents knew about the delivery service, but were not using it because of the problems.
- 5.1.18. Mr Arnott asked if the Applicant was aware that Lloyds offered a free delivery service.
- 5.1.19. The Applicant responded that the service was only once a week.
- 5.1.20. Mr Arnott asked if the Applicant was aware that if a patient had an acute need, then Lloyds would deliver the medication.
- 5.1.21. The Applicant replied that he was not aware.
- 5.1.22. Mr Arnott referred to the Applicant’s comments that Lloyds had been closed twice and asked for clarification on the reasons and times when the shop had been closed.
- 5.1.23. The Applicant replied that when he had been to the Community Council meeting, residents had said that it had happened twice.
- 5.1.24. Mr Arnott asked whether this was during the bad weather and how recent were the closures.
- 5.1.25. The Applicant replied that it was very recent.
- 5.1.26. Mr Arnott asked if the Applicant would invest in premises or staff in the event of a continued danger to existing pharmacies if new contracts were being granted.
- 5.1.27. The Applicant replied that there was no danger to the existing pharmacies. The Regulations determined whether services were adequate and, if so, then the

contract would not be granted. He had taken into account the viability of the existing pharmacies and his application, which were based on volume.

5.1.28. The Arnott repeated his question how the Applicant would choose to invest in his pharmacy.

5.1.29. The Applicant stated that he had answered the question.

5.1.30. Mr Arnott referred to the Applicant's comments that the PPC would take into account the Primary Care Plan but that it was "not the be all and end all", and asked if this would be the same for the CAR – i.e. to take the CAR into account, but note that it was not the "be all and end all".

5.1.31. The Applicant confirmed that the CAR should be taken into account, but was distinct and different from the Primary Care Plan which was an aid, and the PPC were not bound by it, but the CAR had more gravitas – it formed part of the consultation – a legal process and, as such, any results from it – such as the CAR – was a legal documentation and needed to be taken into account.

5.1.32. Mr Arnott repeated his question whether the Applicant agreed that the CAR was not the "be all and end all".

5.1.33. The Applicant replied that the CAR was designed to take into account residents views and whether the existing services were adequate. Mr Arnott said he gave up trying to get an answer.

5.1.34. Mr Arnott asked how far the Mid Calder pharmacy was from the Applicant's proposed pharmacy.

5.1.35. The Applicant replied that he was not sure, bearing in mind that the application had not yet been granted.

5.1.36. Mr Arnott repeated his question.

5.1.37. The Applicant replied that it was very far, as had been pointed out by the Community Council.

5.1.38. Mr Arnott asked whether the Applicant believed that 0.9 miles was very far.

5.1.39. The Applicant remarked that the questions were going in circles.

The Chair pointed out that the question was being asked in terms of relative distance and commented that if the Applicant wished, his response of "0.9 miles being very far" would be noted.

The Applicant replied that the Mid Calder pharmacy was not operational and 0.9 miles was considerable as they were difficult routes for residents to navigate in order to get to the pharmacy in Mid Calder.

5.1.40. Mr Arnott asked that if 0.9 miles was very far, then for someone at the northern end of the Applicant's boundary in Uphall Station, would the distance of 1.1 miles also be too far.

- 5.1.41. The Applicant replied that this was based on different terrain and topography.
- 5.1.42. Mr Arnott repeated his question – from the northern extremity of the Applicant’s neighbourhood in Uphall Station, it was 1 mile to the Applicant’s pharmacy which was more than 0.9 miles away, and asked the Applicant if 1 mile was too far?
- 5.1.43. The Applicant said that he did not understand the question.
- The Chair stated that the Applicant was not responding to the Mr Arnott’s question and asked him to respond, given he had said 0.9 miles was too far to Mid Calder pharmacy, but his pharmacy was also 1 mile from the northern edge of his boundary.
- 5.1.44. The Applicant replied that it was not just about distance.
- The Chair repeated that Mr Arnott had asked about the distance and asked the Applicant to respond.
- The Applicant said he believed it was a long way.
- 5.1.45. Mr Arnott noted that the Applicant’s presentation had shown details of pharmacies with small populations where the application had been granted, one of which was in Fenwick, and asked if the Applicant was aware of the danger that small pharmacies may not be viable. For example, in Fenwick, the pharmacy were sending out leaflets 4 miles away in order to be viable, and asked if the Applicant was aware of this.
- 5.1.46. The Applicant said that distribution of leaflets was not necessarily linked to viability, and could have been simply promoting a new service, which was normal. When a new pharmacy opened he had seen adverts, which should not be taken as a determinant that the pharmacy was struggling.
- 5.1.47. Mr Arnott asked whether the Applicant would deliver outside his defined Neighbourhood if the application was granted.
- 5.1.48. The Applicant replied that he would not.
- 5.1.49. Mr Arnott repeated the question and asked the Applicant to clarify that he would not seek business out with his defined neighbourhood at any time.
- 5.1.50. The Applicant replied that he would only offer the delivery service to residents who were at high risk – for example, those who were immobile or housebound. The Applicant said that he was not seeking more business and expected the majority of the population within his neighbourhood to be catered for by his pharmacy as it was within walking distance.
- 5.1.51. Mr Arnott referred to the Applicant’s comment of the population of Falkland being 1096 and asked if the Applicant was aware that the pharmacy in Falkland also provided services to Freuchie and Strathmiglo which had a combined population of 3100.

- 5.1.52. The Applicant replied that he did not have details to support that.
- 5.1.53. Mr Arnott referred to the Applicant's comment of taking 2600 items from each of the existing pharmacies in the area and asked the Applicant if he intended to dispense 13,000 items per month.
- 5.1.54. The Applicant replied that he only needed 2600 items per month in total and he had presented 2600 items per month from each pharmacy as an example, which showed that even if he took 2600 items from each pharmacy each month (which he acknowledged would not be possible), then the existing pharmacies would remain viable.
- 5.1.55. Mr Arnott asked if the Applicant knew all the ins and outs of the finances of all the pharmacies.
- 5.1.56. The Applicant replied that he had been through the prescriptions in detail over the past 6 months, which was freely available in FPI and PSD, and had based his proposed figures from looking at the dispensing figures from the existing pharmacies.
- 5.1.57. Mr Arnott asked how many people within the Applicant's neighbourhood were aged between 60 and 64.
- 5.1.58. The Applicant replied that he did not know, and the slide from his presentation had simply indicated that there was a higher population.
- 5.1.59. Mr Arnott referred to the Applicant's quotation on demographics and asked if the Applicant agreed that only 166 people would move into the over 65 age bracket within the next 5 years.
- 5.1.60. The Applicant replied that approximately 500 elder people would be moving – and had moved – into the area which was a significant number.
- 5.1.61. Mr Arnott asked if the Applicant was saying that the population had increased by 500 people, and if so, what was the timing of this, and also were all the residents in Pumpherston.
- 5.1.62. The Applicant replied that the population had increased since 2011, and added that he was not saying that 500 residents had moved in recently, but these people were already established in the area and the population was growing.
- 5.1.63. Mr Arnott asked whether the provision of dosette boxes was a core service.
- 5.1.64. The Applicant replied that it was not.
- 5.1.65. Mr Arnott asked if the Applicant was aware that most Health Boards were moving away from providing dosette boxes to patients, and asked if the Applicant believed that more people had moved on to dosette boxes, despite information from the Health Board which advised otherwise.
- 5.1.66. The Applicant said that he did not know, but if more people were getting them, then this indicated an aging population.



- 5.1.67. Mr Arnott asked which pharmacies did not have capacity for dosette boxes and asked for the Applicant's proof.
- 5.1.68. The Applicant replied that he had called all pharmacies and they had all said that they were full.
- 5.1.69. Mr Arnott asked if all the pharmacies had said that they were full and had no space.
- 5.1.70. The Applicant confirmed yes.
- 5.1.71. Mr Arnott referred to the Applicant's comments that Boots were charging a delivery fee and asked whether people had a choice whether to use a pharmacy that did not charge a delivery fee.
- 5.1.72. The Applicant confirmed that people had a choice.
- 5.1.73. Mr Arnott referred to the Applicant's comment of a patient ordering a prescription from the GP on the Thursday which was not delivered by Lloyds until the following Wednesday, and asked how long it would take a GP surgery to generate a prescription.
- 5.1.74. The Applicant said that he did not have that information as he did not know which GP surgery the patient was registered at.
- 5.1.75. Mr Arnott commented that he had brought up the question but the Applicant did not know anything.
- 5.1.76. The Applicant replied that a once a week delivery had nothing to do with issuing of prescriptions.
- 5.1.77. Mr Arnott noted that the Applicant had said that he would only deliver to housebound patients – ie for individuals who could not leave their house and if that was the case, then how a weekly could delivery be adequate.
- 5.1.78. The Applicant replied that most people did venture out and had some mobility and could visit their next door neighbour.
- 5.1.79. Mr Arnott had no further questions.
- 5.2. Questions from Mr Connolly to the Applicant.
- 5.2.1. Mr Connolly asked the Applicant for his sources of the data that he had provided in the graphics of his presentation.
- 5.2.2. The Applicant replied that he had obtained this from National Records, Scotland Census, AdheraData.
- 5.2.3. Mr Connolly asked why the Applicant had not provided the data in advance in order that the panel could read, digest and check the veracity of his data – to

scrutinise and understand it, given the fact that the Applicant had invested in the process.

- 5.2.4. The Applicant replied that he had worked with the Health Board for some time and they had not requested this information and, if they had, he would have been happy to provide it. He had not provided the information, as he had not been asked.
- 5.2.5. Mr Connolly asked whether the Applicant could see that it would have been beneficial to allow the panel to see the data and view the sources so that they could check the veracity of the data presented.
- 5.2.6. The Applicant replied that his presentation had been based on the results from the CAR which was already available to everyone, and appreciated that he had provided additional information but stated that the reason he had not provided this in advance was because he had not been asked for it.
- 5.2.7. Mr Connolly asked if the Applicant would be surprised that he (Mr Connolly) had different statistics from those presented by the Applicant in relation to the data on Pumpherston on the gov.scot website – for example, car ownership statistics he had bore no resemblance to the figures provided by the Applicant.
- 5.2.8. The Applicant said this depended on the sources used for the data and his car ownership figures had been based on the 2011 census.
- 5.2.9. Mr Connolly asked whether the Applicant agreed that it would have been useful to provide the panel with the data in advance since they were unable to verify the data provided and intimated that the Applicant could have made up the figures, and added that in his opinion, the information provided by the Applicant was inaccurate.
- 5.2.10. The Applicant acknowledged that it would have been better for everyone to have had the information but was offended by the suggestion that he had made up the figures.

The Chair stated that this was not what Mr Connolly had stated and that the question had been whether the Applicant should have identified and referenced the source of his data when presenting it at the hearing.

The Applicant acknowledged that this was a relevant point and perhaps he should have referenced his data sources.

- 5.2.11. Mr Connolly asked whether the Applicant had lied when he had replied to Mr Arnott's comments regarding the dosette boxes.
- 5.2.12. The Applicant replied that he had called each pharmacy on 25<sup>th</sup> September – Lloyds, Omnicare, Boots at Craigshill, Lindsay & Gilmour and Ladywell, and all of them had said that they were full. At Ladywell, he had been informed that there was a 2-3 week waiting list. The Applicant added that he appreciated that the pharmacies were saying that they could take on additional patients and were using fancy robots to make up blister packs, and wondered why they would say that their level of capacity was in 2, 3 or 6 months. The resident pharmacist at

Ladywell had said there was no capacity.

- 5.2.13. Mr Connolly asked with whom the Applicant had spoken at Ladywell pharmacy and asked if he had lied, since he said that his pharmacy had never refused a dosette box and they had a protocol in place to handle dosette box requests and deemed it to be impossible that it would have happened – and repeated his question whether the Applicant had lied when he had called the Deans pharmacy who had told him there was a 2-3 week waiting time.
- 5.2.14. The Applicant replied and said that he had called on 25<sup>th</sup> September at 12pm.
- The Applicant asked to make a comment in relation to this, and the Chair replied that the Applicant would have an opportunity to cross question Mr Connolly at the appropriate point in the proceedings.
- 5.2.15. Mr Connolly referred to the consultation and asked whether any questions were raised by the Health Board regarding the statistical relevancy and safety of the responses to the consultation; whether the Health Board had questioned whether the Applicant had interfered with the paper copy responses to the consultation.
- 5.2.16. The Applicant replied that the claim had been raised by an independent party. The Health Board had raised this with him and, through correspondence; they had identified issues, but had progressed to the next stage.
- 5.2.17. Mr Connolly asked whether the Health Board had written to the Applicant on 28<sup>th</sup> August to say that they had received 575 responses before the deadline, of which 167 were electronic and 408 were paper.
- 5.2.18. The Applicant said that he could not recall.
- 5.2.19. Mr Connolly asked whether the Applicant was struck that it was unusual in terms of the number of paper vs. electronic responses, in terms of other applications in Scotland.
- 5.2.20. The Applicant replied that the Regulations stipulated what to do in terms of engaging with residents. Regulation 583c said that they had to reach the people of the community as far as possible, and simply doing this via a web survey and online link was not sufficient. He had always hankered on that it was very important to understand the community – not everyone had a smart phone, so although having online surveys was a good tool to engage the community, it also needed a pen and paper approach. The Applicant added that this bore out the high number of paper responses as people preferred to engage this way rather than by filling out an online survey.
- 5.2.21. Mr Connolly asked whether NHS Lothian had stated in each advert that NHS Lothian were to be the point of contact for requesting paper copies, which should be returned directly to them when completed.
- 5.2.22. The Applicant said that at the pre-application meeting with the Health Board, the protocol had been agreed and it had been taken into account that the web surveys were not enough and physical hard copies of the survey were also

required.

5.2.23. Mr Connolly asked the Applicant to answer his question.

5.2.24. The Applicant replied that he had.

The Chair interjected that if the Interested Parties felt that the questions they were asking the Applicant were not being answered, the Committee were alive to this point and would note when a question had not been answered.

5.2.25. Mr Connolly said that his question was to clarify a matter of fact as NHS Lothian had a record.

5.2.26. The Applicant said possibly.

5.2.27. Mr Connolly asked whether the Applicant had confirmed in an email on 5 July that he had examined each paper response, created an excel spreadsheet to input the information for his own use, and then returned the responses to the Health Board.

5.2.28. The Applicant replied that the excel spreadsheet had not been created for his own use. It had been a process agreed by the Health Board from the outset.

5.2.29. Mr Connolly asked, given NHS Lothian's concerns on the veracity of the paper responses, did they write to the Applicant to state that the CAR would be produced only on 167 electronic responses received in the Survey, and that the CAR would include a note that 408 responses had not been included as it could not be verified that the responses were authentic responses from local residents.

5.2.30. The Applicant replied that the vast majority of paper responses had identifiable information – names and addresses.

5.2.31. Mr Connolly asked whether NHS Lothian had queried the veracity of the responses that were handed in to them directly by the Applicant.

5.2.32. The Applicant replied that this point had been raised with him by the Health Board through a third party request. The Health Board as a public agency had had to ask him the question since he was the Applicant; and added that the question felt more like a narrative.

5.2.33. Mr Connolly asked whether an academic would consider the methods used to gain responses to be statistically relevant and safe.

5.2.34. The Applicant confirmed he would because that was the process agreed at the outset.

5.2.35. Mr Connolly queried why the Health Board had cited that they were unhappy.

5.2.36. The Applicant replied that the alleged individual had raised the point with the Health Board who had had contacted him; the Applicant noted out that he had the correspondence.

- 5.2.37. Mr Connolly said that his comments were not personal, but asked whether the Applicant felt he might have done himself a disservice, and it would have been better for robustness if he had not handed in the paper responses.
- 5.2.38. The Applicant reiterated that the process had been agreed with the Health Board from the outset, in a pre-application meeting that it would be good to have pen and paper responses. The Applicant said that essentially it meant that the Health Board would circulate the surveys in envelopes to ensure good engagement across the neighbourhood but then the Health Board had said that they had staffing and budgetary issues and had said that they did not have the capacity to do this, which had meant that the Applicant had become involved in disseminating copies. The Health Board had been happy with this, and he had left copies of the consultation at various outlets, ScotMid and cafes.
- 5.2.39. Mr Connolly asked if the Applicant had gone door to door or approached people in the street to ask them to complete the survey.
- 5.2.40. The Applicant replied that he had attended the Community Music Festival at the invitation of the Pumpherston Community Council, and so he had been there on that day as it was a community event.
- 5.2.41. Mr Connolly asked whether the Applicant would accept that his interference could have swayed the responses that people may have given.
- 5.2.42. The Applicant said absolutely not.
- 5.2.43. Mr Connolly referred to the Applicant's statistics obtained from the pharmdata website and asked where it was possible to find out what pharmacies people visited by their postcode.
- 5.2.44. The Applicant said that was not within that data.
- 5.2.45. Mr Connolly asked where the Applicant had obtained his information as the Applicant had stated that he knew people from Pumpherston went to Strathbrock.
- 5.2.46. The Applicant replied that the information he had obtained had not come from the pharmdata website but from the AdheraData website.
- 5.2.47. Mr Connolly referred to the demographics and deprivation statistics and the Applicant's statement in his presentation that Pumpherston was in one of the most deprived areas at 15% and queried which datazones had been used and which website, as he was struggling to understand the Applicant's claim, based on the SIMD figures that he had. Mr Connolly asked for the number, SIMD ranking and decile.
- 5.2.48. The Applicant said that he had used datasets from 2016 NRS – the most up-to-date figures from SIMD.
- 5.2.49. Mr Connolly referred to the four SIMD datazones for Pumpherston and Uphall Station which were ranked 3141, 2328, 2078 and 3089 and asked if the Applicant would agree that this would place them well above the 15% threshold

for high deprivation.

- 5.2.50. The Applicant replied that he believed the measure for looking at deprivation related to access to services, not just the SIMD, and to take into account a range of services including travel time, and quoted the GP surgery as an example, and whilst appreciating that this did not specify access to a pharmacy, he believed that a pharmacy in the neighbourhood was often nestled together with a GP practice, so invariably, access to pharmacies applied equally as for GP practices.
- 5.2.51. Mr Connolly asked whether the Applicant was aware that Ladywell Pharmacy provided a free collection and delivery service which was staffed by someone from the pharmacy team who was also trained to dispense.
- 5.2.52. The Applicant replied that he was not aware of the latter point, but had been aware that Ladywell provided a delivery service.
- 5.2.53. Mr Connolly asked if the Applicant was aware that Ladywell also had double pharmacist cover 5 days per week, and that they also provided home visits by a pharmacist if required.
- 5.2.54. The Applicant replied that he was not aware.
- 5.2.55. Mr Connolly asked if the Applicant would accept that Ladywell provided services into Pumpherston and could deliver all core aspects of the core service.
- 5.2.56. The Applicant replied that he did not accept that point. The reason was in relation to the responses in the consultation. From around 5000 responses, there were 2000 complaints; three of which referenced Ladywell. The first was that it had taken 2 buses to get to Ladywell Pharmacy. The second referenced a very busy pharmacy with a terrible service, and the third commented about poor access. So in view of the CAR which reflected the opinions of the community, it was obvious that residents did not use Ladywell, which consistent with the prescribing data. Most residents were registered with Strathbrock Medical Centre and there were only 0.5% of prescriptions from Ladywell, which mainly had patients from Livingston and the Applicant said that his neighbourhood was on the outer reaches.
- 5.2.57. Mr Connolly asked if there was any way to determine how many patients from the Strathbrock Medical Centre used the pharmacy in Ladywell, as he did not believe it was possible to demonstrate how many people in Pumpherston accessed Ladywell Pharmacy and how many people from Pumpherston received services from Ladywell.
- 5.2.58. The Applicant replied that the CAR informed him that people did not use Ladywell Pharmacy.
- 5.2.59. Mr Connolly asked if the Applicant used the same areas for all his statistics – for example, whether the Applicant flipped between using one datazone in Pumpherston which had a low performance datazone, versus a good one from Uphall; Mr Connolly queried whether the Applicant picked and chose which datazones he used.

- 5.2.60. The Applicant replied that he did not understand the question.
- 5.2.61. Mr Connolly said that the Applicant had provided a bleak picture about Pumpherston and then referenced other datazones from Mid-Calder which looked rosy – and said that the Applicant could have chosen different datazones in Pumpherston and Mid Calder to be more equal – and queried whether the Applicant had selectively chosen his data in order to augment his case (which he also acknowledged that the Applicant was entitled to do).
- 5.2.62. The Applicant replied that the datazones he had used, he had collated together – the larger data from the Scottish Intermediate Data Zone is what was used.
- 5.2.63. Mr Connolly said that the Applicant had provided smaller numbers.
- 5.2.64. The Applicant said that he did not know what Mr Connolly meant.
- 5.2.65. Mr Connolly had no further questions.
- 5.3. Questions from Mr Freeland to the Applicant.
- 5.3.1. Mr Freeland noted that within the methodology of the Consultation, it stated that “The applicant additionally arranged to distribute paper copies of the questionnaire to residents of the neighbourhood, leaving copies at various retail premises in the area, by attending local community events and directly to residents’ homes.” Mr Freeland asked whether this was done door to door.
- 5.3.2. The Applicant confirmed, and explained that the main way of collecting copies of the survey was via the local services, cafes and ScotMid, where people could drop off their responses to the survey. Towards the end of the consultation period, the Applicant had noted that some were still left and had handed them to people in the street.
- 5.3.3. Mr Freeland asked if the Applicant had also gone door to door.
- 5.3.4. The Applicant replied that he had not. In his parlance, “door to door” meant to chap on the door, which he had not done; however, he had put them through the letterboxes.
- 5.3.5. Mr Freeland queried whether the number of 2600 prescription items was what the Applicant hoped to achieve.
- 5.3.6. The Applicant confirmed it was a hope to achieve 2600 items per month.
- 5.3.7. Mr Freeland asked the Applicant if he agreed that the majority of residents who worked outside the neighbourhood or accessed local services outside the neighbourhood would in turn use the Health Centre and other pharmacies.
- 5.3.8. The Applicant replied that in the CAR itself and the Care Plan, it talked of movement of people leaving the neighbourhood and accessing services. It talked of only 8% of the working population accessing a pharmacy at their place of work; therefore most residents would use the pharmacy residing within their

own neighbourhood.

- 5.3.9. Mr Freeland asked if the Applicant agreed that that Pumpherston did not have a supermarket or health centre and therefore used services nearby.
- 5.3.10. The Applicant replied that this applied for most of the neighbourhood.
- 5.3.11. Mr Freeland asked if the Applicant had taken into account that residents would need to move outside the community in order to access services, and whether 2600 items dispensed per month was a high number, and how would it affect viability.
- 5.3.12. The Applicant replied that 2600 was a conservative number and many more pharmacies were viable with fewer prescription items dispensed per month.
- 5.3.13. Mr Freeland asked what effect it would have if the application for Mid Calder were granted.
- 5.3.14. The Applicant said that it was difficult to determine as it was a fair distance away. Pumpherston and Mid Calder were two different communities, and therefore impossible to say what the effect might be.
- 5.3.15. Mr Freeland asked could residents walk from Pumpherston to Mid Calder.
- 5.3.16. The Applicant replied that it was difficult to walk and in fact the Community Council had said that it was impossible to walk.
- 5.3.17. Mr Freeland referred to statements of a customer that due to a delay, they had not been able to access services to get their Bu Trans pain patch, and asked the Applicant if he knew whether there had been a holdup – perhaps the GP surgery had not issued the prescription in time, rather than the delay being from the pharmacy unable to get the medication.
- 5.3.18. The Applicant said that a prescription should be normally be issued and ready within 48 hours, but accepted that there was a remote chance that the delay could have been caused by the GP surgery.
- 5.3.19. Mr Freeland referred to the Applicant's comment relating to a patient who had been unable to get antibiotics they needed to be delivered on the Friday and who had then had to use the out of hours service in order to get their prescription, and asked the Applicant whether this could have been the fault of the GP surgery rather than the pharmacy.
- 5.3.20. The Applicant replied that it could be either, and added that he had simply taken the comments from the CAR and highlighted the situation of this patient. The Applicant acknowledged that there were potentially multiple reasons why this occurred and remarked that, fundamentally, the community were not getting a delivery service – if the person had the ability to walk to a pharmacy then it would not be a problem.
- 5.3.21. Mr Freeland asked if the Applicant was aware that Omnicare operated a Monday, Friday and Saturday delivery service.



- 5.3.22. The Applicant replied that although he did not deny that this service was provided, this had not been reflected in the CAR, where the comments had said that residents found difficulty in having a consistent and reliable service.
- 5.3.23. Mr Freeland asked whether a patient could contact the pharmacy to explain that they needed an item delivered urgently.
- 5.3.24. The Applicant replied that there were variables – perhaps on the Saturday morning the patient had woken up and was not able to wait for the pharmacy to open – the need for the medication may have arisen prior to the pharmacy opening.
- 5.3.25. Regarding Dosette Boxes, Mr Freeland asked when the Applicant had contacted Omnicare and been informed that there was no capacity to take on an additional patient.
- 5.3.26. The Applicant replied that he had called on 25<sup>th</sup> September, and then 2 days prior to the hearing. The Applicant said he had been informed that there was a 6 week waiting list, and that the pharmacy had 3 people working on this service and had started using robotic technology with a lot of work siphoned off to Edinburgh. The Applicant said that in the pharmacy's words, they said that they were struggling to cope.
- 5.3.27. Mr Freeland asked whether the Applicant agreed that investing in robotic technology would in fact increase capacity.
- 5.3.28. The Applicant said that it was important that this remained an onsite service.
- 5.3.29. Mr Freeland said that the robot was local in Uphall and produced many trays, so there was no reason for his staff to say that there were capacity issues.
- 5.3.30. The Applicant replied that he had obtained that information directly from Mr Freeland's pharmacy, and stressed that robots at offsite facilities were not the best way.....
- 5.3.31. Mr Freeland interrupted and stated that it was not an offsite facility as it was local to the neighbourhood.
- 5.3.32. The Applicant said that the person with whom he had spoken had said that dosette box prescriptions were being taken to Edinburgh in order to free space within the branch, as they now had a robot there.
- The Chair acknowledged that the Applicant had made his point.
- 5.3.33. Mr Freeland asked where people would access pharmaceutical services on a Saturday afternoon when the Applicant's pharmacy would not be open.
- 5.3.34. The Applicant replied that, from comments in the CAR, the biggest issue had been access and that they found it difficult to walk.

- 5.3.35. Mr Freeland asked if the Applicant was aware that there was a Saturday bus service with several buses travelling to his branch at Uphall by 5pm.
- 5.3.36. The Applicant admitted that he had noted the travel times.
- 5.3.37. Mr Freeland stated that, therefore, access was not difficult.
- 5.3.38. The Applicant said that public transport was the biggest issue – the Community Council had been campaigning for improved services, and the responses to the CAR had indicated that the population were affected by public transport availability.
- 5.3.39. Mr Freeland asked if the Applicant was correct in stating that he would not be providing a methadone dispensing service.
- 5.3.40. The Applicant confirmed that was correct.
- 5.3.41. Mr Freeland queried if the Applicant therefore intended to limit residents in Pumpherston.
- 5.3.42. The Applicant agreed that it was a vulnerable group but added that, from meetings with the Community Council (who had discussed the situation at Boots in Craigshill in relation to the antisocial behaviour), he had looked into it and spoken with the teams regarding the substance misuse service, and everyone had said that there was a greater need and requirement for this service at Craigshill, but in his neighbourhood they did not see a need for it. This had been borne out by comments in the CAR with talk of the negative effects of that service, parents were concerned about their children in Craigshill because of methadone being given in the open, and not in private; so a collective decision had been made that since it was an additional service, it would not be offered, especially because there was no need.
- 5.3.43. Mr Freeland asked whether the Applicant had decided not to offer the service due to the negative comments from the CAR.
- 5.3.44. The Applicant replied that it was an additional service. When the survey had been drafted, and following correspondence with the Health Board and the Community Council, he had been informed that this would not work which is why he had gone to the Addiction Team at NHS Lothian to obtain more information and, on the back of that information, it had been determined that they would not offer the service.
- 5.3.45. Mr Freeland asked if the Applicant had any correspondence with the Addiction Team to prove this.
- 5.3.46. The Applicant replied that he had correspondence over the last three years and was willing to provide this.
- 5.3.47. Mr Freeland had no further questions.

There was a short comfort break from 14:55 – 15:05

5.4. Questions from Mr Sagoo to the Applicant

- 5.4.1. Mr Sagoo asked the Applicant to state the population within his neighbourhood.
- 5.4.2. The Applicant replied the population was exactly 2,157.
- 5.4.3. Mr Sagoo asked in percentage of return responses to the CAR was the response rate for the Applicant's consultation higher than the national average.
- 5.4.4. The Applicant confirmed that it was: when considering a population of 2157, and having received 575 responses, the survey also took into account when people who also had children and partners, which is why he had said that the response rate was 44% of the population of the neighbourhood
- 5.4.5. Mr Sagoo referred to the earlier discussion on the high number of paper responses that had been received and asked – with the majority of hindsight – whether the Applicant would have taken a different approach.
- 5.4.6. The Applicant replied that the method had been agreed in conversations with the health board that had identified that online responses only were not good enough.
- 5.4.7. Mr Sagoo repeated his question whether the Applicant would have taken a different approach.
- 5.4.8. The Applicant said he would not.
- 5.4.9. Mr Sagoo referred to Mr Arnott's earlier comments relating to the application in Townhill (September 2018) and a section of the minutes which had said "*In response to questions posed by Mr Arnott, the Applicant confirmed he owned a Pharmacy based in Ayrshire which is a partnership. He confirmed he would be the Pharmacist in the new Pharmacy if awarded the contract and that he was looking for a house in the area*". Mr Sagoo asked if the Applicant stood by his earlier comment that he would be the responsible pharmacist in Pumpherston if the application was successful, and noted that the Applicant had also applied for a pharmacy in Cradlehall, Inverness (June 2019) which was under appeal where the minutes stated that the Applicant was "*hoping to move to the area from Glasgow and looking for a house to rent*". From Mr Sagoo's viewpoint the Applicant owned property in Glasgow was moving to Townhill and now also hoping to rent in Inverness and also wanted to be the pharmacist in Pumpherston. Mr Sagoo asked how the Applicant intended to make this happen if he owned four pharmacies.
- 5.4.10. The Applicant stated that neither of those pharmacy contracts had yet been granted and were under Appeal.
- 5.4.11. Mr Sagoo repeated his question how would the Applicant make it happen if all four contracts were granted.
- 5.4.12. The Applicant responded that he had replied to the question by explaining that the contracts had not yet been granted, but added that he had a family of pharmacists so there were plenty of others.

- 5.4.13. Mr Sagoo asked who the Applicant's pharmacists were.
- 5.4.14. The Applicant replied that they were family members, and asked the Chair if this was too specific a line of questioning.
- The Chair acknowledged that the Applicant's comment would be noted.
- 5.4.15. The Applicant replied that there were 5 pharmacists, two of which were prescribers, and all of whom were registered.
- 5.4.16. Mr Sagoo referred to a previous line of questioning in relation to the methadone dispensing service and asked the Applicant to confirm his choice would be not to offer this if the pharmacy contract were to be granted.
- 5.4.17. The Applicant replied that they had not identified any need.
- 5.4.18. Mr Sagoo said that the Applicant had informed the panel that it was too challenging for patients to walk a considerable distance over different topography, or have to take an inconsistent bus service to pharmacies out with the neighbourhood, and asked if the Applicant was happy for patients who required methadone to go through that to access the methadone dispensing service from the existing contractors.
- 5.4.19. The Applicant referred to his previous response where the local addiction team had not identified any need and had said that there were no residents in the area who required this service.
- 5.4.20. Mr Sagoo asked if the Applicant had done his research to clarify that there were no patients in the neighbourhood who required that service.
- 5.4.21. The Applicant replied that he had no information to support that there were any patients in the area.
- 5.4.22. Mr Sagoo asked if there were any drug users in Pumpherston.
- 5.4.23. The Applicant suggested that Mr Sagoo ask the question of the Lothian Addictions Team and agreed to provide a point of contact if required.
- 5.4.24. Mr Sagoo referred to the Applicant's comments of "barriers of access" and that "the health of the population was getting worse", and the Applicant for the source of his information.
- 5.4.25. The Applicant responded that he had looked at health specific indicators from 2004-2016 – the National Register of Scotland. His earlier slide from his presentation had indicated that over 15 years, the health of the population had declined by 22% which he believed was significant.
- 5.4.26. Mr Sagoo asked how this related to the national average.
- 5.4.27. The Applicant replied that facilities were getting worse over time compared to the surrounding areas – and noted that it was more of a determinant than

comparing it to NHS Lothian or the Scotland average.

5.4.28. Mr Sagoo referred to the Applicant's slide of complaints for 2018-19 and that almost all of the contracts had not had a return which the Applicant had felt was a concern. Mr Sagoo admitted that this was also surprising to him and asked whether this could be as a result of an administrative error, or as an issue for the health board as there had been so few returns, as opposed to this being an issue for the contractors.

5.4.29. The Applicant said that 3 or 5 pharmacies had submitted returns but it was difficult to say why there were so few returns.

5.4.30. Mr Sagoo asked whether this would have meant that in fact there had been no complaints made.

5.4.31. The Applicant replied that the returns would then have indicated zero, not a "no return".

5.4.32. Mr Sagoo asked if the Applicant was confident that there had been no returns.

5.4.33. The Applicant confirmed he was confident.

5.4.34. Mr Sagoo referred to the earlier discussion on blister packs and asked if he was aware of the view of blister packs from the Royal Pharmaceutical Society and NICE (the National Institute for Health and Care Excellence)

5.4.35. The Applicant said that there was an aging population and he knew this from key publications, and although he appreciated that the NHS, various organisations, GPs and others were saying that there was a need to shift away from blister pack use, he believed it was something to be cognisant of as this community needed these services. The Applicant agreed that it was acceptable not to offer the service, but the fact was that if the community needed it, it should be offered.

Mr Sagoo said it was not a white paper – only a suggestion – that there should be a move away from offering blister packs to a polypharmacy and patients not needing to take medications.

5.4.36. Mr Sagoo referred to the Applicant's comments that certain pharmacies were not providing the core services and asked which pharmacies and which core services were not being provided.

5.4.37. The Applicant said that from the Community Council's submission, they had said that the community were not getting the core services they needed.

5.4.38. Mr Sagoo asked the Applicant what he regarded to be the core services.

5.4.39. The Applicant asked whether this was a quiz.

The Chair asked the Applicant to respond to the question of what 3 core services were not being provided.

The Applicant replied that all pharmacies were not provided those 3 core

services to the neighbourhood as evidenced by the CAR, the Community Council and various comments which he had shown in his presentation.

5.4.40. Mr Sagoo had no further questions.

#### 5.5. Questions from Mr Clubb to the Applicant

5.5.1. Mr Clubb referred to the Applicant's quote that 958 people were entitled to use the pharmacy in Pathhead, and said that the Pathhead GP surgery and the community pharmacy used the same car park. As at 1<sup>st</sup> April 2017, 5660 people were registered with the GP surgery and Mr Clubb asked the Applicant why it meant that only 958 people were eligible to use the pharmaceutical services.

5.5.2. The Applicant said that the application had been granted on the basis of a population of 958. There had been a change in population since then and noted that Mr Clubb may have referenced more recent and updated information.

5.5.3. Mr Clubb said that he lived in East Lothian and that there had been no new houses built since the application and felt that the Applicant's figures on viability should be reviewed in relation to the GP Practice and Pharmacy.

5.5.4. The Applicant said that other pharmacies across pharmacy were viable with a low population.

5.5.5. Mr Clubb referred to the Applicant's comment that the Lothian APC had not objected and asked how many people had objected.

5.5.6. The Applicant said that from his experience of attending PPCs and reading the minutes, the vast majority of parties who made a submission were normally in opposition.

5.5.7. Mr Clubb said that Kaye Greig, pharmacist at Lindsay & Gilmour, was formerly Chair of the Lothian Area Pharmaceutical Committee who had informed him that was not the case, and asked for the Applicant's response.

5.5.8. The Applicant replied that he was going by information he had read and said that is what came across – he had looked into this in detail and had noted that interested parties at PPCs tended to object to an application.

5.5.9. Mr Clubb asked for a note to be recorded in the Minutes that Kaye Greig had signed letters on behalf of the Lothian Area Pharmaceutical Committee up until April 2019.

5.5.10. Mr Clubb referred to the statistics the Applicant had used which had come from a US based company and asked why the Applicant was using a company in the US that had access to UK patient postcodes. And asked for clarification of the website address.

5.5.11. The Applicant confirmed the company was AdheraData.  
<https://adheradata.co.uk/>

5.5.12. Mr Clubb referred to the standards that stated that a pharmacist needed to provide person centred care and asked how the Applicant believed that the

pharmacists from the existing contractors were not providing person centred care.

5.5.13. The Applicant referenced earlier specific healthcare providers (the Addictions Team) who had not identified any substance misusers. If they had been identified, then the Applicant confirmed he would be happy to consider offering the service.

5.5.14. Mr Clubb asked the Applicant to clarify the walking distance and time from his neighbourhood to Boots in Craigshill and Ladywell.

5.5.15. The Applicant confirmed that it was 27 minutes walk one way to Boots in Craigshill from the centre of his neighbourhood.

5.5.16. Mr Clubb referred to the difficulties with dosette boxes and explained that his company had invested a substantial amount of money in robotics which was offsite in Mid Calder and only operating at 40% capacity, and queried why any of his pharmacists would have informed the Applicant that they had a problem.

5.5.17. The Applicant said that he could only go the information obtained from the phone calls he had made and, more importantly, in the CAR, a number of respondents had also indicated that they had experienced difficulties.

5.5.18. Mr Clubb said that if the Applicant had an excellent relationship with the Local Community Council and was aware that patients were waiting for blister packs, perhaps in the short term patients should be signposted and referred to other pharmacies.

5.5.19. The Applicant queried if this was a statement or a question.

The Chair informed the Applicant that he should not assume the responsibilities of the Chair.

The Applicant explained that he was not responsible for the efforts of the other pharmacies.

5.5.20. Mr Clubb asked if the Applicant was aware that Lindsay & Gilmour had drivers that were healthcare trained. One was a full time driver and visited Pumpherston on a daily basis.

5.5.21. The Applicant said he was not aware.

5.5.22. Mr Clubb asked if the Applicant was aware that Lindsay & Gilmour offered deliveries available – and free - to everyone.

5.5.23. The Applicant said he imagined so.

5.5.24. Mr Clubb had no further questions.

5.6. Questions from Mrs Gibson to the Applicant

- 5.6.1. Mrs Gibson had no questions.
- 5.7. **Having established that there were no further questions from the Interested Parties, the Chairman invited questions from the Committee members.**
- 5.8. Questions from the Chair to the Applicant
- 5.8.1. The Chair referred to the controversy around the CAR, and the Applicant's presentation in relation to the sources he had used and sought clarity on some points. In relation to the CAR which was over 2 years old, did the Applicant expect it to be controversial given the age of the CAR, the numbers and response rates – ie did he think that the hearing would have proven controversial given the methodology and the age of the CAR.
- 5.8.2. The Applicant replied that in terms of the age of the CAR, he had not foreseen this as being an issue, and noted that perhaps the responses of the community had expired. The Applicant referred to the initial part of his presentation which had looked at real time complaints and the current situation.
- 5.8.3. The Chair asked whether the Applicant had considered undertaking a fresh consultation.
- 5.8.4. The Applicant said that a fresh consultation had not been needed.
- 5.8.5. The Chair asked if the Applicant had considered whether a fresh consultation was needed.
- 5.8.6. The Applicant replied that he had not.
- 5.8.7. The Chair asked if NHS Lothian had offered him the opportunity to undertake a fresh consultation.
- 5.8.8. The Applicant confirmed that NHS Lothian had offered but that he had felt that the situation had gone on so long....
- The Chair interrupted to clarify that the Applicant had considered and rejected the offer from NHS Lothian.
- 5.8.9. The Applicant clarified that he had always intended to proceed with this consultation – given the correspondence his view was that they had had the consultation, which was robust, they had had good engagement and to go back to start a fresh consultation would be regressing and this would mean that residents would go on for even longer without access to core pharmacy services.
- 5.8.10. The Chair acknowledged that the Applicant had undertaken an academic apprenticeship to become a pharmacist and expressed disappointment in his presentation that there had been no reference to his sources throughout, and therefore this information was not available to the Committee to consider. The Chair added that although the Applicant might consider it reasonable since he had stated that he had not been asked to provide data sources, however, the



Chair said that since the Committee were unaware of what information the Applicant was going to present, it was an unreasonable expectation. The Chair said that the Applicant had acknowledged that he had weakened his presentation as he had not identified datasources – such as the 2011 census, which had made it more challenging for the Committee to consider.

- 5.8.11. The Applicant appreciated the Chair's valid comments that his presentation had not referenced each table and statistic. However, he said that the majority of information had been from Scotland NRS and Open Data, which tended to be the place where information was sourced within the pharmacy realm and as such, he had felt that the information was free-flowing and available. Which explained why he had not referenced his data sources and hoped the Committee appreciated this.
- 5.8.12. The Chair referred to the Applicant's comment that it was impossible to drive to the existing pharmacies and asked in what way was it impossible.
- 5.8.13. The Applicant said that this was in terms of car availability. The community had a low level compared to the surrounding areas.
- 5.8.14. The Chair referred to the Applicant's controversial decision in relation to methadone dispensing and asked which drug and alcohol partnership he had spoken with who had informed him that nobody in Pumpherstons was currently prescribed methadone.
- 5.8.15. The Applicant replied that they had informed him that in terms of offering a particular service to residents, they envisaged it would not get used. Most patients were based in Craigshill, so effectively, if a patient was offered methadone, it would attract people from Craigshill who were already established in that area.
- 5.8.16. The Chair asked if the Applicant knew how many methadone prescriptions were provided by other pharmacies in the area.
- 5.8.17. The Applicant replied that he did not.
- 5.8.18. The Chair expressed surprised that the numbers were low and asked if the Applicant believed that people struggling with addiction and turned to supervised methadone dispensing deserved access to any pharmacy.
- 5.8.19. The Applicant said that yes if there was a need for the service, then it should be offered; however, it was an additional service and in his application he had taken the route not to offer the service but, in a year or five years' time if the demographics and needs changed and this service became essential, then as a healthcare provider he could....
- 5.8.20. The Chair interrupted and asked if the Applicant offered this service at his other pharmacies.
- 5.8.21. The Applicant confirmed that he did.

- 5.8.22. The Chair referred to dosette boxes and asked how - or whether - the Applicant had introduced himself, when he had called the pharmacies.
- 5.8.23. The Applicant said that he had asked if they had availability, but had not introduced himself.
- 5.8.24. The Chair asked if he had asked for a name of the person with whom he spoke.
- 5.8.25. The Applicant said he had not but the conversations were short – as he had only called to get an assessment of what was going on to ascertain if the CAR’s comments were still in effect, and that was when all calls to the pharmacists had said that they were full.
- 5.8.26. The Chair asked if the Applicant would be surprised to learn that when they had visited each pharmacy, each had confirmed that they had capacity.
- 5.8.27. The Applicant confirmed he would be surprised.
- The Chair expressed surprise at the Applicant’s research considering the responses provided by the existing pharmacies where one had said that they had an offsite facility but the patient got the same service.
- 5.8.28. The Chair queried the Applicant’s statements – knowing where people went to get their prescriptions, his first answer – which had been provided to the Applicant by his Observer - had been that the information had come from NHS Lothian, but subsequently the Applicant had said that he had obtained his information from AdheraData and queried which was correct.
- 5.8.29. The Applicant confirmed that AdheraData was correct. The way it measured the information....
- The Chair interjected that she did not require additional information.
- 5.8.30. The Chair referred to the Applicant’s comments that Scottish Government regarded Uphall Station and Pumpherston as one community and asked for the source of the information.
- 5.8.31. The Applicant replied that it was the Scottish Intermediate Zone and Data Zone statistics.
- 5.8.32. The Chair referred to complaints in the CAR and queried what the Applicant would refer to as a complaint and asked whether someone stating that the “bus service was bad” would be regarded as a complaint.
- 5.8.33. The Applicant confirmed it would.
- 5.8.34. The Chair asked if a respondent had said that a Pharmacist was not available at lunchtime because they were on a lunch break, would the Applicant regard that as a complaint.
- 5.8.35. The Applicant said that it had not come across like that.

- 5.8.36. The Chair referred to walking distance to the nearest pharmacy and stated that the criteria provided by the local authority as the statutory distance for school children to walk is 3 miles over the age of 8, and asked whether the Applicant regarded a distance of 1.1 miles (being the central point in Pumpherston to the pharmacy in Craigshill) to be an unreasonable distance for someone to walk to access pharmaceutical services.
- 5.8.37. The Applicant replied that it was.
- 5.8.38. The Chair referred the Applicant's comments of a 2-3 hour bus journey and asked him to clarify.
- 5.8.39. The Applicant replied that this related to Lindsay & Gilmour pharmacy. In the past there had been direct bus access to Mid Calder and East Calder. Now that had been removed, so a resident would need to board the 275 bus to Livingston and then another bus to get to East Calder.
- 5.8.40. The Chair had no further questions.

5.9. Questions from Mr Niven to the Applicant

- 5.9.1. Mr Niven referred to the CAR and asked whether the Applicant had felt any necessity to confirm the veracity of the report or information contained in the report given the time since the consultation had been undertaken in 2017 and the current time.
- 5.9.2. The Applicant acknowledged that the CAR was 2 years old which was why he had walked around the neighbourhood to speak with residents and the Head of the School. The Community Council's messages established that sentiments in the CAR were similar to what was going on at present and the Applicant also referred to the video of the lollipop lady. Nothing had changed or improved since the original consultation. The Applicant pointed out that the consultation for the Mid Calder application was also 2 years old – and that application had been granted.

The Chair stated that the Mid Calder application was not relevant to this hearing.

The Applicant said that in response to Mr Niven's question, no major significant changes had taken place except that residents were still unable to access services which were overstretched. He had a final point to add – that the legal team for the health board had approved that he should progress with the application and so he should not be prejudiced as a result, in any way

- 5.9.3. Mr Niven said that during the site visit that morning, the Committee had visited various but not all pharmacies. Mr Niven said he appreciated that Boots in Craigshill had experienced difficulties due to external circumstances. Mr Niven referred to the comments from the Applicant in relation to the impact that delivery charges would have on the service that would be provided to the residents and said that the information he (Mr Niven) had obtained from the Manager at Boots had indicated very little difference in service being provided to people following the introduction of the delivery charges, and asked the Applicant to comment.

- 5.9.4. The Applicant replied that from a recent example from another pharmacy where he worked, many patients had come to his pharmacy to say that they feared the high cost of the delivery charges and did not want to stay with Boots because they felt that the NHS should offer a free delivery service.
- 5.9.5. Mr Niven said that it was not about Boots but about the Applicant's neighbourhood, as he (Mr Niven) had been told by the Boots Manager that there would be little or no impact on their delivery business, and asked the Applicant to refer his responses to his current application not about situations elsewhere.
- 5.9.6. The Applicant explained he had been trying to provide a reference regarding delivery charges, but acknowledged that it was early days to gauge what the impact might be.
- 5.9.7. With reference to the site layout, Mr Niven asked the Applicant to clarify the layout which had been discussed onsite – for customers, there appeared to be one door with converted access, a retail area, a consultation room, a service counter and a solid wall, behind which was the dispensing area, and asked what measures the Applicant would provide to ensure the security and safety of staff and patients from the dispensing area.
- 5.9.8. The Applicant explained that there would be CCTV at the entrance to the dispensing area on the right hand side, and was hoping to shift the central section which would mean that staff would have a clear view of the retail space. The Applicant would also ensure that on the right hand side of the wall, there would be visibility through the dispensing area.
- 5.9.9. Mr Niven asked what staffing levels the Applicant intended to provide at the premises.
- 5.9.10. The Applicant replied that there would be a full time pharmacist, 2 dispensing assistants and 1 counter assistant, and was hoping to get a delivery driver for patients who were housebound and needed a delivery service.
- 5.9.11. Mr Niven asked how the Applicant would handle lunchtime periods as far as the pharmacist was concerned and asked if he would say no to people and ask them to come back after lunch
- 5.9.12. The Application replied that he would never say no to any patients in need – he did not mean that the pharmacist could not take a lunch break but felt that the patients should be provided with a certain level of care.
- 5.9.13. Mr Niven had no further questions.
- 5.10. Questions from Mr Kirkwood to the Applicant
- 5.10.1. Mr Kirkwood asked the Applicant to clarify whether 2600 prescription items per month was from each pharmacy, or in total.
- 5.10.2. The Applicant replied that it was a total.

- 5.10.3. Mr Kirkwood asked if the pharmacy would be viable at 2600 items per month.
- 5.10.4. The Applicant confirmed it would.
- 5.10.5. Mr Kirkwood asked if everyone was eligible for dosette packs or would there be eligibility criteria.
- 5.10.6. The Applicant confirmed that there had to be a need for the patient – e.g. elderly patients or those who found it difficult to pop....
- 5.10.7. Mr Kirkwood interrupted and asked where there criteria to reach.
- 5.10.8. The Applicant replied that there was, at patient level.
- 5.10.9. Mr Kirkwood referred to the call that the Applicant had made to each pharmacy and asked whether that was discussed or did they simply tell him that there was no capacity, without checking whether if he would be eligible, and queried whether, in his discussion with the pharmacies, whether they had asked a question regarding his eligibility for dosette boxes.
- 5.10.10. The Applicant confirmed that they did not ask a question.
- 5.10.11. Mr Kirkwood asked the Applicant to clarify that the pharmacies had been prepared to inform him that they had no capacity but had not asked any questions to clarify if he would be eligible.
- 5.10.12. The Applicant confirmed this was correct.
- 5.10.13. Mr Kirkwood had no further questions.
- 5.11. Questions from Mr Embrey to the Applicant
- 5.11.1. Mr Embrey referred to the map boundaries and acknowledged that the Northern boundary was simple, and the West boundary was the main Road. On looking towards the south west, Mr Embrey asked where Pumpherston stopped and Craigshill started and what was the boundary since, from the Applicant's map, he felt that the pharmacy in Craigshill had been excluded and sought clarification on this point.
- 5.11.2. The Applicant said it was a combination of man-made and natural boundaries, and said that the North South East and West boundaries were all encased by motorways or significant other boundary, and Pumpherston was encased by those two points. The Applicant added that the West Lothian Council also had a similar outline for his neighbourhood, and Scottish Government's official map of the area made the neighbourhood boundary similar to what he was proposing.
- 5.11.3. Mr Embrey asked how did Cousland Road form a boundary and what were the crossing points.
- 5.11.4. The Applicant replied that it was because residents had said that it was Pumpherston and that to get to Craigshill, they could not do it as there was countryside to cross – a woodland area. The only other way to get there was to

walk all the way around Grange Road to connect into Craigshill Road; and it was therefore impossible to access the area of Craigshill directly from Pumpherston.

- 5.11.5. Mr Embrey queried about the previous pharmacy in the area.
- 5.11.6. The Applicant replied that it had been around 20-25 years ago; the pharmacist had passed away – at the time it had been provisioned by GPs – residents from Broxburn came to Pumpherston and others came from Uphall Station. When the pharmacist passed away, the brother and sister – who were offering a satellite service – retired. Within 6-12 months, there was a removal of many services in the area. In the intervening period, there was an increase in the population – in this and other nearby neighbourhoods. The pharmacist was Mr Dickie (called Dr Dickie by residents) and he had a well utilised service which fell away after he had passed away.
- 5.11.7. Mr Embrey said that if it had been well utilised and had been a vibrant and successful business for many years, why had the pharmacy not been sold – why had it folded.
- 5.11.8. The Applicant said that the only information he had was that the pharmacist had passed away.
- 5.11.9. Mr Embrey had no further questions.
- 5.12. Questions from Mr Beattie to the Applicant
- 5.12.1. Mr Beattie referred to the CAR and asked the Applicant if someone presented a methadone prescription at his pharmacy, would he be able to dispense.
- 5.12.2. The Applicant replied that he would not. He had contacted the Addiction Services team and historically a prescription could not be dispensed for someone who just walked through the door. There was a set process to ensure that the patient was well known and also to be the nominated pharmacy shown on the prescription.
- 5.12.3. Mr Beattie asked whether the Applicant would intend to collect prescriptions for delivery within his defined neighbourhood since there were currently no GP services within his neighbourhood, and asked if he intended to collect from other GP surgeries.
- 5.12.4. The Applicant confirmed that collection of prescriptions from GP surgeries was vital and he would collect from out with the neighbourhood – mainly Strathbrock and Craigshill surgeries.
- 5.12.5. Mr Beattie referred to earlier discussion on prescriptions being ready within 48 hours and asked if that was in terms of having the package ready for patients to collect, or the time for the GP to produce the prescription.
- 5.12.6. The Application confirmed this was the processing time for the GP to issue the prescription.

5.12.7. Mr Beattie had no further questions.

## 6. Interested Parties' Submissions

### 6.1. Mr Arnott on behalf of Lloyds Pharmacy Ltd

Mr Arnott read out the following prepared statement:

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

6.1.2. The Applicant's reason for making this application seems to be that the Pharmaceutical Services provided by current Contractors is inadequate only because there are no pharmacy premises in his definition of the neighbourhood.

6.1.3. There are, as the Panel is aware numerous examples from Pharmacy Practice Committee hearings and numerous National Appeal Panel hearings that adequate Pharmaceutical Services can be provided to a neighbourhood from pharmacies situated out with that neighbourhood and this is the case in Pumpherston.

6.1.4. Indeed the Panel will see from The Advice and Guidance for those attending the Pharmacy Practices Committee, they must consider "*what are the existing pharmaceutical services in the neighbourhood or in any adjoining neighbourhood*".

6.1.5. However, before I go any further can I express my concern that this hearing is going ahead without a fresh Consultation Analysis Report having been actioned, there has been a significant change in the provision of pharmaceutical services to the residents of Pumpherston since the CAR Report dated August 2017.

6.1.6. Since August 2017 a pharmacy contract has been awarded in Mid Calder 1.5 miles from the Applicant's proposed site. And although it has gone to appeal there is little doubt this application will be granted.

6.1.7. All the letters of support clearly mention that residents of Pumpherston have to travel to East Calder to access pharmaceutical services this is no longer the case. I am sure the person who applied for the contract in Mid Calder would have used a business plan that included obtaining business from Pumpherston so the granting of a contract in Pumpherston may affect the viability of his pharmacy.

6.1.8. Finally the residents of Pumpherston were unaware of a pharmacy in Mid Calder and this development may result in less residents seeing the necessity of having a pharmacy in Pumpherston.

6.1.9. According to Wikipedia, Pumpherston is a small dormitory village in West Lothian with a population including Uphall Station of 2,732. Uphall Station has a population of 1,026 therefore the population of Pumpherston is 1,706, a small population and I would suggest unable to support a pharmacy.

- 6.1.10. The following is taken from the NHS Pharmaceutical Services (Scotland) Regulations (as amended) :
- “Should the panel deem the existing service inadequate but also consider the applicants business not likely to be viable, and therefore not securing adequate provision of pharmaceutical services, the Application should be refused”.*
- 6.1.11. I would point out that the previous pharmacy in Pumpherston closed.
- 6.1.12. If this application were granted, there would be 4 pharmacies servicing the populations of Uphall, Uphall Station, Mid Calder, East Calder and Pumpherston. The combined population is 12,975 an average of 3,243 per Pharmacy, the average head of population in West Lothian is 5,485.
- 6.1.13. There are 8 existing pharmacies within 3.5 miles of the Applicant’s proposed site some of which open for longer hours than those proposed by the Applicant indeed 4 of these pharmacies are within 2.5 miles
- 6.1.14. I would also point out that the difference in distance for the residents of Uphall Station travelling to Uphall (which has a Pharmacy 1.3 miles) and Pumpherston 1 .0 miles is negligible.
- 6.1.15. The Panel must take account as to whether the granting of an application would adversely impact on the security and sustainable provision of existing NHS primary medical and pharmaceutical services in the area concerned.
- 6.1.16. Residents of Pumpherston on a regular basis travel out with the neighbourhood to access services such as banks, supermarkets and pharmacy services. Indeed, there is no secondary school in Pumpherston.
- 6.1.17. Although delivery is not a core service, all contractors offer this service for anyone who is housebound, and I cannot see how, if someone is housebound, and requires delivery, the granting of this contract would help them.
- 6.1.18. I would also point out that out with any normal delivery schedules, emergency deliveries are made by all contractors.
- 6.1.19. All existing pharmacies offer all core services and the Lloyds Pharmacies are fully engaged with CMS e MAS and AMS.
- 6.1.20. Convenience is not a reason for granting a pharmacy contract; Indeed, the Applicant has shown no inadequacies in current service provision and indeed I would question whether a pharmacy in Pumpherston is more accessible to residents of Uphall Station than existing pharmacies. Indeed anyone living at the northern edge of Uphall Station is only 0.9 miles from the Omnicare Pharmacy at Uphall; and anyone living at the southern edge of Pumpherston is only 0.9 miles from the new contract in Mid Calder.
- 6.1.21. The Applicant in support of his application has carried out a Consultation Exercise. I am amazed at the number of responses; however this Applicant does have a reputation for gaining a high response rate however I am unsure as to why responses on behalf of other people have been accepted, and I am



unclear as to where the respondents actually live in the neighbourhood as this is not made clear in the CAR.

- 6.1.22. Many of those responding mention convenience and many mention poor public transport. I wonder if the local councillors and MPs have sought to rectify this issue. The average number of patients per pharmacy in West Lothian is 5,485, more than 3 times the number of residents in Pumpherston.
- 6.1.23. I am also surprised that in the letters of support from Neil Findlay MSP, Gordon Lindhurst MSP, Damian Timson Councillor, Dave King Deputy Provost Carl John Councillor and Miles Brigg MSP, they all mention accessing pharmacy services in East Calder. If the pharmacy application in Mid Calder is granted why would they travel to East Calder? Were the MSPs and Councillors and indeed the residents of Pumpherston made aware of this application by the applicant prior to them completing the surveys?
- 6.1.24. The Applicant had the opportunity to carry out a fresh CAR but chose not to.
- 6.1.25. Convenience is not a reason for granting a pharmacy contract.
- 6.1.26. I am also surprised that the Applicant is intending to be the pharmacist in Inverness, Townhill and elsewhere. He is also happy for substance misuse to go elsewhere, so he does not care where these patients go.
- 6.1.27. The Panel must consider what the existing pharmaceutical services in the neighbourhood are or in any adjoining neighbourhood.
- 6.1.28. The following is taken from the NHS (Pharmaceutical Services) (Scotland) Regulations (as amended) :
- “Should the panel deem the existing service inadequate but also consider the applicants business not likely to be viable, and therefore not securing adequate provision of pharmaceutical services, the Application should be refused”.*
- 6.1.29. The following is also taken from the NHS (Pharmaceutical Services) (Scotland) Regulations as amended :
- “The viability of existing service providers is also relevant in this context If granting the application would affect viability of those who currently provide a service in the neighbourhood, then it may be that granting the application would have a negative effect upon services in the neighbourhood as a whole Such an application may be refused. Similarly, if the granting of an application would have a detrimental effect upon the provision of services in the neighbourhood for some other reason, then refusal may be justifiable”*
- 6.1.30. The Panel has to consider the affect on a new pharmacy in Mid Calder.
- 6.1.31. I have also requested an FOI from NHS Lothian. The Applicant has had more success than me. I was advised by the Analytical Services Department of NHS Lothian that the information was not available in a centralised format regarding smoking, life expectancy and male and female population over 65.

- 6.1.32. Having examined the NHS Lothian Pharmaceutical Care Services Plan, I can see no reference to there being a need for a pharmacy in the Applicant's proposed neighbourhood and indeed there have been no complaints to the Health Board regarding existing service provision.
- 6.1.33. I would therefore ask the panel to refuse this application as it is neither necessary nor desirable in order to secure the adequate provision of Pharmaceutical Services in the neighbourhood in which the premises are located."
- 6.1.34. This concluded the representation from Mr Arnott.
- 6.2. The Chair invited the Applicant to question Mr Arnott.
- 6.2.1. The Applicant asked whether Mr Arnott agreed that from the centre of his community to the centre of Mid Calder was 1.6 miles and took 31 minutes to walk, and asked whether 31 minutes was considered a reasonable walking time for patients.
- 6.2.2. Mr Arnott replied that the distance was 1.5 miles and said that this depended on the state of health of the individual – for example, he had an arthritic knee and could do it. In answer to the Applicant's question as to whether he would regard it as reasonable, the point he wished to make was that there cannot be a pharmacy within 400m of every resident or the Scottish Government would be bankrupted.
- 6.2.3. The Applicant referred to Mr Arnott's comment that the CAR had an unusually high response rate and asked if Mr Arnott was aware that Blackburn had had a higher response rate?
- 6.2.4. Mr Arnott noted that the Blackburn response rate was slightly higher (580) but said that it should be noted as a percentage of the population. The Applicant's response rate was the highest he had seen, other than the application for Townhill, and said that the Applicant should not simply quote a number, and had to state it as a percentage of the population.
- 6.2.5. The Applicant asked whether it was a shorter distance to travel from Uphall Station to Omnicare in Uphall.
- 6.2.6. Mr Arnott said that from the edge of Uphall Station it was 0.9 miles.
- 6.2.7. The Applicant stated his question related to the distance from the centre of his neighbourhood.
- 6.2.8. Mr Arnott replied that he had said it was 1 mile, and that the Applicant's statement of the distance being 1.3 miles was negligible.
- 6.2.9. The Applicant asked whether it was reasonable for residents to walk a further distance.
- 6.2.10. Mr Arnott replied that he had answered the question.

- 6.2.11. The Applicant asked whether Mr Arnott agreed that from Pumpherston it was a shorter distance to Uphall to visit Omnicare.
- 6.2.12. Mr Arnott confirmed that from Pumpherston to Uphall, it was.
- 6.2.13. The Applicant had no further questions.
- 6.3. The Chair invited Mr Connolly to question Mr Arnott.
- 6.3.1. Mr Connolly referred the FOI and asked how Mr Arnott had obtained his statistics from NHS Lothian and what had they not been able to provide.
- 6.3.2. Mr Arnott said he had used the SIMD figures but because the Applicant was well known to bring up other issues in his applications and he (Mr Arnott) was unsure of the Applicant's data sources, he had requested an FOI asking for general questions on the health of the population in NHS Lothian, and had read out his reply that Health Board could not provide the information.
- 6.3.3. After clarifying that Mr Arnott was not a pharmacist, Mr Connolly asked how long Mr Arnott had been involved in management of pharmacies.
- 6.3.4. Mr Arnott replied 16 years.
- 6.3.5. Mr Connolly asked how many pharmacies had Mr Arnott overseen in this period.
- 6.3.6. Mr Arnott replied that, at most, it was 45 at any one time and, over years between 250 and 300.
- 6.3.7. Mr Connolly asked if Mr Arnott considered himself an expert.
- 6.3.8. Mr Arnott confirmed that he did, from a business perspective.
- 6.3.9. Mr Connolly appreciated the comments made in relation to the application in Mid Calder which he would refer to in his own presentation and asked, in Mr Arnott's opinion as an expert, did he feel that a new pharmacy in Pumpherston would be viable.
- 6.3.10. Mr Arnott said it would not, because the Applicant had talked of putting in a pharmacy manager other than himself, which would have an additional cost. Without him coming out of the neighbourhood of Pumpherston for collections and deliveries, and visiting care homes, it would not be viable.
- 6.3.11. Mr Connolly referred to the Lothian PPC having awarded the contract to Mid Calder which had been appealed once and with reference to the decision, asked Mr Arnott, in his experience, was there a conceivable outcome where the NAP could dismiss the appeal and that the ultimate outcome would be that the pharmacy in Mid Calder would open.
- 6.3.12. Mr Arnott replied based on the information, he could not see the appeal being dismissed by the NAP.

- 6.3.13. Mr Connolly asked whether, given that it was likely that a pharmacy would open in Mid Calder, did Mr Arnott believe that a new pharmacy in Pumpherston could co-exist and be viable.
- 6.3.14. Mr Arnott replied it would not be viable.
- 6.3.15. Mr Connolly had no further questions.
- 6.4. The Chair invited Mr Freeland to question Mr Arnott.
- 6.4.1. Mr Freeland had no questions for Mr Arnott.
- 6.5. The Chair invited Mr Sagoo to question Mr Arnott.
- 6.5.1. Mr Sagoo had no questions for Mr Arnott
- 6.6. The Chair invited Mr Clubb to question Mr Arnott.
- 6.6.1. Mr Clubb asked Mr Arnott whether the methadone dispensing service was a core or an additional service.
- 6.6.2. Mr Arnott confirmed it was a locally enhanced service. He had not heard of any pharmacies refuse to provide it as it was part of patient care.
- 6.6.3. Mr Clubb asked whether compliance aids were a core or additional service.
- 6.6.4. Mr Arnott replied that it was a non NHS service for which the pharmacy is not paid, and they have shot themselves in the foot.
- 6.6.5. Mr Clubb had no further questions.
- 6.7. The Chair invited Mrs Gibson to question Mr Arnott.
- 6.7.1. Mrs Gibson had no questions for Mr Arnott.
- 6.8. The Chair then invited questions from the Committee to Mr Arnott
- 6.8.1. Questions from Mr Beattie to Mr Arnott
- 6.8.1.1. Mr Beattie asked whether Lloyds were offering alternatives to dosette boxes.
- 6.8.1.2. Mr Arnott replied that one or two pharmacies (including the Lloyds in Rosebery Avenue in South Queensferry) were working on providing Medicine Administration Record (MAR) charts rather than dosette boxes, so that carers could....
- 6.8.1.3. Mr Beattie interrupted and asked whether there were any Lloyds pharmacies in West Lothian providing this.
- 6.8.1.4. Mr Arnott replied that he believed they were looking at implementing this where possible.

- 6.8.1.5. Mr Beattie had no further questions.
- 6.8.2. Questions from Mr Embrey to Mr Arnott.
- 6.8.2.1. Mr Embrey asked whether Lloyds had limits for dosette boxes or methadone patients.
- 6.8.2.2. Mr Arnott replied that, like other contractors, they had an offsite dispensing facility so there was no issue with capacity for dosette boxes, and added that although the Lloyds pharmacy within the Strathbrock health centre was small, it could keep going for years.
- 6.8.2.3. Mr Embrey referred to negative feedback from the CAR in relation to Lloyds and asked what had changed since 2017.
- 6.8.2.4. Mr Arnott replied that the management structure had changed; they now had an extra ACT (Accuracy Checking Technician) in the pharmacy. Health Centre pharmacies were busier, so if the four surgeries were all shooting out patients at the busiest time of day, up to 50 patients could walk into the pharmacy, so waiting times would go up. Mr Arnott emphasised that the Lloyds pharmacy in Broxburn was not the closest to Pumpherston and that there were 2 or 3 pharmacies that were closer. However, Mr Arnott confirmed that there were no capacity issues, and stated that it was a busy health centre pharmacy with a higher footfall and would therefore have a longer waiting time for items compared with a quiet pharmacy in Pumpherston.
- 6.8.2.5. Mr Embrey had no further questions.
- 6.8.3. Questions from Mr Kirkwood to Mr Arnott.
- 6.8.3.1. Mr Kirkwood had no questions for Mr Arnott.
- 6.8.4. Questions from Mr Niven to Mr Arnott.
- 6.8.4.1. Mr Niven noted that the application for Mid Calder was under appeal. And although he had no wish to prejudge what the NAP Chair might decide, asked why the Applicant's pharmacy in Pumpherston would not be viable if the application in Mid Calder was granted.
- 6.8.4.2. Mr Arnott said that it was not possible for a pharmacy to survive on a population of 1700. The SIMD statistics showed that it was not a deprived area as regards health. Ratings of 3011 (SIMD 0103299), 1949 (SIMD 0103300) and 3660 (SIMD 01013302) were low – and showed a healthy population – many of whom left the area during the day to access services elsewhere.
- 6.8.4.3. Mr Niven had no further questions.
- 6.8.5. Questions from the Chair to Mr Arnott.
- 6.8.5.1. The Chair asked whether Mr Arnott had a view on the neighbourhood proposed by the Applicant.

6.8.5.2. Mr Arnott replied that the neighbourhood was Pumpherston and should not include Uphall Station.

.9. **Presentation from Mr Connolly of Deans Pharmacy**

6.9.1. Mr Connolly thanked the panel for allowing him to speak, and noted that this hearing was unique.

6.9.2. He had 14 years' experience – both as an Applicant, an Interested Party and a member of a PPC, and disagreed that this hearing had gone ahead.

6.9.3. Representations by himself and other interested parties had been made on this point as they did not feel that the Regulations had been adhered to. However, he did not wish to labour the point and said that the issue would not be resolved at the hearing, and felt that this may be resolved by a NAP or a court hearing. He believed passionately in the Regulations, which was why he was making the point. In his opinion, NHS Lothian was incorrect to have allowed a joint consultation to take place while there was a live application in Mid Calder. This was dangerous and did not sit well within the Regulations because of the close proximity of both pharmacies. Now there was a situation where the PPC were being asked an impossible question because of the complexities of the Mid Calder application.

6.9.4. Having read the determination of the NAP Chair, Mike Graham, he had requested that the panel be re-empanelled in order to articulate the decision it had reached, not to change their decision. Mr Connolly's understanding, based on the appeal made, the only possible outcome would be a re narration of the facts. It was Mr Connolly's contention that at some point, the Mid Calder pharmacy would open.

6.9.5. He believed that if legal advice had been sought and if CLO had provided any legal advice, there would have been a different opinion.

6.9.6. Mr Connolly said that although most people would think that every pharmacy will object naturally to any application, this was not true for him. The reason he had not objected to the Mid Calder application was that he had looked at the evidence from the Applicant and, on balance; he had felt it would be hypocritical for him to object. What the Applicant had presented had met the legal test; this was to explain that not everyone objected to every application.

6.9.7. Mr Connolly stated that he was at this hearing as he believed this application was an attempt to fabricate an illusion of need in a very small community, which was a danger to the stability of the pharmaceutical network – both locally and nationally.

6.9.8. In relation to the discussion raised by the Applicant in relation to substance misuse in Pumpherston, Mr Connolly stated that the Applicant's claim that there was no need for a dispensing service was factually inaccurate.

6.9.9. Mr Connolly stated that he had been involved for some time over a number of years in the Livingston and wider area, and sensed that the Applicant had made false comments in relation to his own pharmacy. He had taken the opportunity

to contact his Manager during the comfort break who had confirmed that nobody had had a conversation with the Applicant as he had described, which gave Mr Connolly concerns as to the veracity of the information that the Applicant had presented.

- 6.9.10. Mr Connolly stated that the legal test asked for the PPC to define the neighbourhood. Mr Connolly handed out copies of the map on which he believed the borders more accurately represented the neighbourhood which he believed was not contentious, and queried if the Applicant was comfortable.

The Chair confirmed that this was acceptable as a legitimate part of Mr Connolly's presentation and the Applicant also confirmed that he was comfortable with the map being circulated.

- 6.9.11. Mr Connolly said that the Applicant had created an increased area to generate a larger population and said that he believed the neighbourhood should be Pumpherston only.

- 6.9.12. The Northern Boundary was the industrial units behind Harrysmuir North Road, up Uphall Station Road along the line of the industrial units to its intersection with Houston Road, continuing east along Cawburn Road which created the Eastern Boundary. Following the line of the golf course behind Heany Avenue, across open land south of Pumpherston behind the south village created the Southern Boundary, and then following the land behind Harrysmuir Gardens for the Western Boundary.

- 6.9.13. Mr Connolly stated that he believed the Applicant's neighbourhood was incorrect as there were no residents in the industrial park which provided a clear boundary. Also, the industrial units split Uphall Station and Pumpherston as there were no properties on the left side of the road and, indeed, there was only open land behind which created a distinct and clear natural boundary.

- 6.9.14. Mr Connolly said that, having established the neighbourhood boundaries, he wished to consider the nature of the neighbourhood. It had a population of 1700 and was a dormitory town where people travelled outside to work, which meant that fewer people were expected to be present during the day, by comparison with the entire population. Most people would generally access pharmaceutical service near where they worked; in addition to accessing other amenities and they would also probably pass several pharmacies on their journey back to Pumpherston.

- 6.9.15. Mr Connolly explained that he had a business partner and uncle who lived in the neighbourhood as he had defined, and he travelled outside Pumpherston for nearly every part of his daily life. Nearly everyone went to Livingston regularly and Mr Connolly did not think that the statistics he had seen backed up the picture painted by the Applicant.

- 6.9.16. Mr Connolly said that when he had driven around Pumpherston, he saw a number of cars in driveways or outside houses, so again this did not tie up with the Applicant's comments that residents did not have access to vehicles.

- 6.9.17. Mr Connolly said that he had not looked into the bus services, as this had been

discussed the first time around, and therefore he could not comment.

- 6.9.18. Mr Connolly admitted that he could comfortably say that there were no pharmaceutical services in the neighbourhood as he had defined, but added that as Mr Arnott had pointed out, services were already being provided to the neighbourhood from outside the area by several pharmacies, and they all provided excellent services to the neighbourhood.
- 6.9.19. Mr Connolly said that he had two pharmacists in store working Monday to Friday which meant that a pharmacist was also available for home visits if required.
- 6.9.20. Mr Connolly confirmed that his pharmacy also offered a free delivery service – Darren and Lauren both provided the service and were trained to a level where they could operate in the dispensary. So if they were visiting a patient, they would not simply hand over the bag of medicines, but would also hold a conversation about the need for pharmaceutical interventions, and it was the same when any patient walked into the pharmacy – a team member could do likewise. Mr Connolly stated that he believed in providing a service over and above average, and that the delivery service was available to every resident of Pumpherston, whether housebound or not.
- 6.9.21. Mr Connolly stated that all pharmacies provided the core services and additional services. They had modern premises and had invested heavily in robotic technology, which had been built specifically in order to improve efficiency, safety and also enabled staff to spend more time engaging with patients.
- 6.9.22. Mr Connolly said that Pumpherston benefitted from good pharmaceutical services from numerous pharmacies nearby, many of which were easily accessible by car, bus or walking.
- 6.9.23. From the Google map provided, Mr Connolly referred to two visible paths from Pumpherston to Boots in Craigshill which Google maps gave as a route and said that from the Applicant's premises it was a 20 minute walk. Based on this, many residents in the neighbourhood were closer to Craigshill in terms of walking time, as well as Uphall Station, and noted that there would also be residents closer to Omnicare in Uphall, and only a certain number of residents in the middle would be closer to the Applicant's pharmacy, but this was a smaller population than the Applicant had defined.
- 6.9.24. Mr Connolly said that many people worked in the day out with Pumpherston and many children went to school also outside Pumpherston, and the Applicant's pharmacy would only serve people on a daily basis who were resident in the neighbourhood and not out with, which vastly reduced the numbers.
- 6.9.25. Mr Connolly said that he understood why the Applicant talked of his headline figures since he wanted to convince the panel to grant the contract, but felt that there was a need to look at the reality of what people did on a daily basis.
- 6.9.26. From his position, Mr Connolly said that there were no inadequacies in relation to the existing contract providers and therefore the application failed the legal test on this basis alone, but Mr Connolly added he would explore this further, for completeness.



- 6.9.27. Mr Connolly acknowledged that the PPCs needed to consider the CAR and noted that it was up to them to consider how much weight they should apply to the CAR and also, following the earlier discussion, in relation to the veracity and authenticity of the results. However, from his view, it was the strangest CAR he had ever seen. Mr Connolly said he did not think that any research organisation or scientific body would undertake an exercise in any form in the manner in which the Applicant had gathered his data, which meant that he (Mr Connolly) did not believe that the results were statistically relevant or safe.
- 6.9.28. Mr Connolly said that what appeared to have happened was that the Applicant had direct involvement in the responses to the joint consultation and had conducted a concerted PR exercise in order to generate a CAR that suited his desire. Mr Connolly said that it was unusual that methadone supervision and services for drug misusers had been omitted; pharmacies should seek to provide services to all members of the community. Mr Connolly said he was not surprised that the Applicant had done this since including it would likely generate a large number of negative comments, which Mr Connolly said he had seen before, and said that this was potentially why the Applicant had chosen to omit this service.
- 6.9.29. Mr Connolly said that the biggest question for the panel to consider was how relevant the CAR was.
- 6.9.30. Mr Connolly said that they had already heard that Pumpherston had previously had a pharmacy which had closed 20 years ago, at a time when pharmacies were more profitable when they were currently. Mr Connolly referred to comments by Mr Embrey which had said that the sale of pharmacies over that period was strong (and added that he would not have been able to afford to buy it), and profitable businesses were desirable. The fact that the pharmacy had closed said a lot – potentially it may have been because it was not a viable business, and noted that he could not comment in detail on the accuracy of this, but felt that it was unheard of – and strange that someone had not bought the pharmacy.
- 6.9.31. Mr Connolly said he would skip the point about the Mid Calder application other than to say that the two pharmacies could not co-exist, and he could not see a reasonable way that both pharmacies could be viable if the application in Pumpherston were granted once the pharmacy in Mid Calder opened.
- 6.9.32. Whilst appreciating that any advice given by CLO would depend on the questions asked of them, Mr Connolly said that judicial guidance that needed to be considered included what might happen in the near future, and often this related to future housing developments. Applications had often fallen by the wayside because a developer could say that they would build affordable housing within two years, and subsequently build 5-bedroom houses which cost £700k: basically there was no guarantee that any future developments would come through and the Applicant had provided no evidence that could be scrutinised by the Committee or Interested Parties.
- 6.9.33. Mr Connolly said that in granting the pharmacy in Pumpherston, it would destabilise the network in general and it would have a negative effect on service

provision since there was no way that a pharmacy could survive on a such a small population, although Mr Connolly noted that it was different for rural communities; however, although Pumpherston was not a rural community, Mr Connolly noted some commonalities.

- 6.9.34. Mr Connolly said that even if the Committee disagreed with everything he had said about the services, under Regulation 5(10) it stated that the Committee must be satisfied that adequate provision of services needed to be secured – it was not about access to amazing services, although Mr Connolly admitted that all pharmacies strived to provide an excellent service and he believed they did provide that in the neighbourhoods which they served. The point was about securing adequate provision – which was not a high bar. The legal test asked the Committee to ensure adequate provision was secured in or to the neighbourhood. In Mr Connolly’s opinion, an adequate service had been secured a long time ago, and therefore there was no need to consider this further, as an adequate provision of pharmaceutical service in and to the neighbourhood had already been secured.
- 6.9.35. This concluded the representation from Mr Connolly
- 6.10. The Chair invited the Applicant to question Mr Connolly.
- 6.10.1. The Applicant referred to the Mid Calder application and asked if Mr Connolly was aware that the application had not yet been granted.
- 6.10.2. Mr Connolly admitted that the Mid Calder application was subject to legal advice that had been sought and referred to the determination of the NAP Chair.
- 6.10.3. The Applicant asked Mr Connolly to reply to his question yes or no.
- 6.10.4. Mr Connolly confirmed that the contract had not been granted, but wished to convey the context and noted that he had afforded the Applicant the opportunity to expand on his own comments. From Mr Connolly’s view, he had no doubt that the pharmacy in Mid Calder would open – almost guaranteed and added that it would take bizarre circumstances if it was not granted. Whilst appreciating the comments of the Chair that the application of Mid Calder would not be considered by the Committee, he wished this recorded in the minutes.
- 6.10.5. The Applicant asked if Mr Connolly was aware that a PPC could overturn any decision that had been made.
- 6.10.6. Mr Connolly replied that this was only if the PPC were asked to reconsider their decision, which they had not been asked. They had only been asked to re-narrate certain aspects.
- 6.10.7. The Application asked if Mr Connolly was aware that the CAR for the Mid Calder application was two years older.
- 6.10.8. Mr Connolly said that this had no relevance to the current hearing but the relevant part was that he questioned the integrity of the CAR due to the methodology used by the Applicant, and stated that NHS Lothian had criticised the Applicant and had said that they would strike the paper responses from the

CAR which the Applicant had directly handled and was surprised that NHS Lothian had done an about turn and agreed to include the paper responses in the CAR. Mr Connolly said there were a whole series of questions that could fall foul of the Regulations which he noted that they would not resolve today.

- 6.10.9. The Applicant asked if Mr Connolly was aware that in relation to the Regulations quoted by the PPC and the NAP, none of them had mentioned that the CAR was not valid and asked for Mr Connolly's views whether a CAR could expire or not be valid.
- 6.10.10. Mr Connolly replied that in relation to the decision of NAP Chair, Mike Graham, the panel were an expert committee and had expertise to put weight on what they saw fit that was contained within the CAR. The panel today could say it was a brilliant CAR or equally they could say that all the paper responses were rubbish. Mr Connolly said that he felt that the CAR was questionable and the panel should pay no weight to the responses from the CAR, but noted this was for the Committee to discuss and decide. Mr Connolly said he had simply highlighted the unfairness and called into question the integrity of the process and how this had occurred.
- 6.10.11. The Applicant asked if Mr Connolly was aware that the vast majority of responses in the CAR had identifiable information – names and addresses.
- 6.10.12. Mr Connolly said he had not seen a copy of the individual responses but he knew that NHS Lothian had questioned the fact that similar handwriting had been used on a number of forms and that NHS Lothian had had serious concerns on the authenticity of the documents which had been returned to them by the Applicant, which is why he had questioned the veracity and integrity of the data provided.
- 6.10.13. The Applicant had no further questions.
- 6.11. The Chair invited Mr Arnott to question Mr Connolly.
- 6.11.1. Mr Arnott asked which core services were not being provided by Mr Connolly's pharmacy.
- 6.11.2. Mr Connolly confirmed all core services were provided.
- 6.11.3. Mr Arnott asked if Mr Connolly lost 2600 prescription items a month from Ladywell, could they keep the second pharmacy open.
- 6.11.4. Mr Connolly confirmed they would not be able to keep the second pharmacy open.
- 6.11.5. With regard to the fact that the Applicant was not providing the substance misuse service, Mr Arnott asked whether Mr Connolly believed had left this out in order to keep both the Pumpherston Community Council and the residents happy.
- 6.11.6. Mr Connolly confirmed that he did, and added that he believed this was a mistake on the Applicant's part as it was better to engage with the community to

let them know if there were vulnerable people in their midst, and it was no different to someone who smoked; often the most vulnerable people required the services.

- 6.11.7. Mr Arnott asked whether someone who was addicted to methadone was better able to walk, get a bus, car or taxi than someone who did not need methadone.
- 6.11.8. Mr Connolly said no, and explained that this was because most would have multiple health issues as a result of drug misuse and often were physically less able – for example, they may have vascular ulcers from injecting, so access could be more challenging. Both from a mental and physical health view.
- 6.11.9. Mr Arnott asked if Mr Connolly had methadone patients at Ladywell pharmacy.
- 6.11.10. Mr Connolly confirmed that he did.
- 6.11.11. Mr Arnott asked if running a business in Pumpherston with a population of 1700 could be viable (leaving aside the issue with the contract in Mid Calder).
- 6.11.12. Mr Connolly confirmed it would not be viable. Whilst acknowledging that the Applicant had cited a number of viable pharmacies with low populations, Mr Connolly knew that they may need to employ locums and gave an example of the contract in Fenwick, Lanarkshire – he lived 6 miles away in Stewarton and said that the Fenwick pharmacy was targeting Stewarton which already had two pharmacies. The pharmacy had to go wider and offer dosette boxes to people who did not need them in order to maintain viability.
- 6.11.13. Mr Arnott had no further questions.
- 6.12. The Chair invited Mr Freeland to question Mr Connolly.
- 6.12.1. Mr Freeland asked Mr Connolly to clarify the capacity issues in relation to deliveries and dosette boxes.
- 6.12.2. Mr Connolly replied that there were no capacity issues. They had just acquired a second vehicle so that they could expand their business, as they wanted to separate collection of prescriptions from surgeries to the delivery of medications to patients, which is why they had invested in a second vehicle.
- 6.12.3. Mr Freeland asked how Mr Connolly how he would spend money in future to help the demand of dosette boxes and deliveries.
- 6.12.4. Mr Connolly replied that he believed charging for deliveries was wrong and that possibly Boots had introduced this service for patients who were not specifically housebound. However, if the patient was housebound the pharmacist could ensure a delivery was made free, and emphasised that his pharmacy provided a free service delivery to everyone. This service was separate from the NHS and the business proposition was to seek a greater level of pharmaceutical care by the methods talked of.
- 6.12.5. Mr Freeland referred to Mr Connolly's comments that he had sat on both sides of a PPC and asked when NHS Lothian had questioned the methodology and

authenticity. Mr Connolly acknowledged that he had not seen anything personally and knew that the question had been raised but had not been sure what level it had got to.

6.12.6. Mr Freeland had no further questions.

6.13. The Chair invited Mr Sagoo to question Mr Connolly.

6.13.1. Mr Sagoo referred to Mr Connolly's comments of Boots charging for Blister packs and, whilst noting that Ladywell Pharmacy was closest to Boots Craigshill, asked whether Ladywell Pharmacy would have capacity in the event that any patients chose not to pay the delivery charge and decided to go to another pharmacy.

6.13.2. Mr Connolly confirmed Ladywell Pharmacy would have capacity and noted that the biggest interaction they had had with Boots Craigshill was when the fire had happened. There had been an initial bit of confusion, but following collaboration with other pharmacies, they had ensured that patients were not disadvantaged. Mr Connolly acknowledged that Boots had no control over the circumstances and confirmed that Ladywell Pharmacy had increased their delivery stops in order to mitigate issues and help patients, due to the fire.

6.13.3. Mr Sagoo had no further questions.

6.14. The Chair invited Mr Clubb to question Mr Connolly.

6.14.1. Mr Clubb said that there were 8 pharmacies and asked what Mr Connolly's view was that the Applicant could have an overview of the pharmacy through a solid wall.

6.14.2. Mr Connolly said that it was not possible and recalled that the Applicant had said that he would change it, probably based on comments at the hearing. Mr Connolly added that the Applicant may have an issue with that since, having been involved in other renovations; he believed that there was a supporting wall which would require steel work and would prove costly, and thus would further affect viability. And this would also fall under the remit for West Lothian Council in relation to building standards.

6.14.3. Mr Clubb referred to Robbie the Robot at Ladywell and asked how it had helped.

6.14.4. Mr Connolly confirmed that Robbie could provide up to 30,000 items per month working on a 14 day stock. Because of the number of deliveries per day, they could reduce this to a 7 day stock level which would further increase capacity and if needed they could also expand premises after getting permission from West Lothian Council. Mr Connolly added that he did not see any issue with Ladywell Pharmacy reaching capacity on any service and commented that his staff prided themselves on their service and would never turn away any patient. In terms of dosette boxes, Robbie the Robot allowed them to increase their capacity. And on a related subject, if someone called the pharmacy to request a dosette box, there was a process to follow – first they would need to arrange a consultation with the individual in order to understand the issue with the medications and provide a MAR chart. Mr Connolly reconfirmed that there were

no capacity issues.

- 6.14.5. Mr Clubb asked Mr Connolly to clarify what the waiting times were at Ladywell Pharmacy.
- 6.14.6. Mr Connolly confirmed that they did not have waiting times (but noted that others might disagree with this comment), and acknowledged that although a customer may need to wait 5 minutes, they would never be told it would be X minutes – Ladywell was a well structured pharmacy and the work coming in was planned with prescriptions and repeats. Mr Connolly acknowledged that if ten people all walked in at the same time, there may be a short wait, but stated that waiting times had been praised highly.
- 6.14.7. Mr Clubb had no further questions.
- 6.15. The Chair invited Mrs Gibson to question Mr Connolly.
- 6.15.1. Mrs Gibson asked it to be noted that the map from Mr Connolly did not contain the new housing development in Uphall Station Village had not been highlighted, and that the boundary from the M8 down to Roman Camps was more Pumpherston.
- 6.15.2. Mr Connolly accepted Mrs Gibson's opinion as an expert from the area.
- 6.15.3. Mrs Gibson had no questions.
- 6.16. **The Chair then invited questions from the Committee to Mr Connolly**
- 6.16.1. Questions from the Chair to Mr Connolly
- 6.16.1.1. The Chair asked for Mr Connolly's view on how many more homes would meet the threshold for viability, given the recent developments in Pumpherston, with some of them at a more advanced stage and other developments less certain.
- 6.16.1.2. Mr Connolly replied that it was difficult to answer but he believed it would need to be a significant number. Based on the current population of 1700, it would require a significant number of properties to be built. On an average of 2.1 residents per household, adding 500 houses would equal around 1000 residents and not every resident would need to visit a pharmacy. Mr Connolly added that people had long standing loyalties to their existing pharmacies so even if the Applicant opened his pharmacy, residents may not go there. With regard to deliveries, people had a relationship with their pharmacy for 15-20 years and Mr Connolly was not clear what it would take for them to go elsewhere.
- 6.16.1.3. The Chair explained that the judgement of the Committee was based adequacy and capacity.
- 6.16.1.4. Mr Connolly provided an example. In Kilmarnock and he had worked at a Grocers 7 days a week 9am-6pm until he had obtained his pharmacy licence and then opened up a pharmacy. However, one of his first customers when he had opened his Grocers still took his prescription to another pharmacy 13.5 years later because he had a loyalty to the people who looked after him – the

customer had said that his current pharmacy had done nothing wrong so he saw no reason to change.

6.16.1.5. The Chair had no further questions.

6.16.2. Questions from Mr Niven to Mr Connolly

6.16.2.1. Mr Niven had no questions.

6.16.3. Questions from Mr Kirkwood to Mr Connolly

6.16.3.1. Mr Kirkwood referred to the population quoted of 1700 and asked where Mr Connolly when this figure had been valid.

6.16.3.2. Mr Connolly said he would bow to local knowledge but he had based his figures on the 2011 census on the statistics.gov.scot website. He had tried to look at projections but it had not worked.

6.16.3.3. The Chair interjected to ask whether the population of 1700 was for the population as defined by Mr Connolly.

6.16.3.4. Mr Connolly confirmed that it was, and his rationale had been because Pumpherston and Uphall Station had four datazones, two took in Uphall Station and Houston Industrial Estate, and the other two datazones had covered Pumpherston and also a great deal of rurality to the East. Mr Connolly confirmed that he had based his figures on the datazones, not on postcodes.

6.16.3.5. Mr Kirkwood commented that, in relation to the population and additional housing, this would be variable due to the difference between the 2011 census and the present time.

6.16.3.6. Mr Connolly acknowledged this point.

6.16.3.7. Mr Kirkwood had no further questions.

6.16.4. Questions from Mr Embrey to Mr Connolly

6.16.4.1. Mr Embrey had no questions.

6.16.5. Questions from Mr Beattie to Mr Connolly

6.16.5.1. Mr Beattie said that if someone lived in Pumpherston and wished to travel to Edinburgh, was it possible that they would walk to Uphall railway station and take the train to Edinburgh.

6.16.5.2. Mr Connolly confirmed, and added that sometimes a neighbourhood was easy to define, but acknowledged that defining this neighbourhood was more challenging. He had based his neighbourhood after speaking to residents of Pumpherston. He had also looked at what judicial guidance set as a reasonable neighbourhood – open land, a change in housing, a change in use between residential and industrial. Mr Connolly said people would walk through the Houston Industrial Estate, and acknowledged that defining the neighbourhood

was difficult.

- 6.16.5.3. Mr Beattie asked whether Mr Connolly agreed that the path that had been highlighted to Craigshill was a tree covered pathway and less than suitable for walking in the evening or early morning.
- 6.16.5.4. Mr Connolly replied that he had not walked the path as he had not had the time, and accepted Mr Beattie's point and suggested that the Pumpherston Community Council representative could give her opinion on the suitability of the pathway.
- 6.16.5.5. Regarding the statistics, Mr Beattie asked if there were any statistics that Mr Connolly wished to highlight that he felt differed from the Applicant's figures in his presentation.
- 6.16.5.6. Mr Connolly said that the websites that hosted statistics had previously been easy to navigate but he could not get the websites to provide him with CSD files, and added that some of the numbers that the Applicant had quoted (acknowledging that he could not give specifics) did not bear any relationship to the figures that he (Mr Connolly) had obtained. Mr Connolly added that he was not expecting the Committee to take his word, but was giving his opinion and felt that some of the information provided by the Applicant was highly questionable – one example was the car ownership figures were different.
- 6.16.5.7. The Chair interjected that if she had been travelling to Uphall Railway station after work, the chemist would have been closed by the time she got there.
- 6.16.5.8. There were no further questions from Mr Beattie.

.17. **There was a 10 minute comfort break at 16:05-16:15.**

.18. **Presentation from Mr Freeland of Omnicare Pharmacy who read from a pre-prepared statement.**

- 6.18.1. "Good afternoon and thank you all very much for allowing me the opportunity to speak today.
- 6.18.2. I am the superintendent pharmacist and joint owner of Omnicare pharmacy. I am here representing our branch in Uphall which you will have visited this morning.
- 6.18.3. Hopefully you will have seen the benefit to our customers of the large pharmacy with two consultation rooms and separate room for drug misuse patients. Waiting times are short and customers have access to full range of pharmacy NHS services and additional travels clinic.
- 6.18.4. We have a number of interested parties here today so I don't intend to drag my presentation on any longer than necessary. I intent to keep to the facts and my view, which importantly begins with the elephant in the room and has been for 4 years now. And that is the outstanding application in Mid Calder.



- 6.18.5. I don't feel that the hearing with the Applicant should have gone ahead. The Mid Calder application has been passed twice by the PPC and is on a final appeal. There is no reason to doubt that the application will proceed.
- 6.18.6. Neighbourhood  
The applicant has defined both Pumpherston and Uphall Station in his neighbourhood.
- 6.18.7. Pumpherston has a population of 1671 and Uphall Station a population of 1079, which is now outdated from the 2011 census. I would strongly disagree with the applicant's neighbourhood as there are natural boundaries surrounding Pumpherston separating it from Uphall Station and the industrial estate which contains no residential properties.
- 6.18.8. I have a map which outlines a similar outline to the neighbourhood defined by Mr Connolly.
- 6.18.9. A neighbourhood could be defined as where people go about their day to day life and I feel those residents of Uphall Station are more likely to do this in Uphall as there are far more amenities there than there is in Pumpherston. As the name suggests, it shows more affiliation with Uphall than Pumpherston.
- 6.18.10. Omnicare Uphall  
  
As an independently owned group of 11 pharmacies in Lothian and Fife, we pride ourselves in our ability to deliver an efficient and professional pharmacy service to our areas.
- 6.18.11. The pharmacy in Uphall is open Monday to Friday 9 am to 6pm and Saturday until 5pm. Therefore offering extra hours on Saturday over the applicant.
- 6.18.12. The branch in Uphall employs 4 senior technicians, 4 checking technicians and 2 counter staff to cope with the demand of the immediate neighbourhood and surrounding areas. This allows us to provide all contract NHS pharmacy services without delay for our customers in a comfortable environment.
- 6.18.13. There are two full time pharmacists at our branch in Uphall that deal with the day to day running of the pharmacy as well as provide visits to local care homes and home visits to patients when necessary. One is an independent prescriber and in the process of setting up a cardiovascular clinic within the pharmacy along with an already established travel clinic.
- 6.18.14. We have invested heavily in robotics to cope with the dispensing demands and recently installed a robot in Uphall to dispense and prepare all dosette boxes for the community and other branches. This robot has allowed us to future proof our capacity to take on more patients requiring this service. We will also be investing in a dispensing robot for the pharmacy in Uphall next year. I strongly disagree with the Applicant's assertion that we do not have capacity. We are also investing next year to cope with future demands.

- 6.18.15. Our branch in Uphall collects repeat prescriptions from Strathbrock health centre three times daily. This is where the majority of the population of Pumpherston will be registered. We also collect repeat prescriptions from all surgeries in Livingston and surrounding areas. We accept Bar codes from all surgeries when required for urgent prescriptions, with delivery of those medicines the same day
- 6.18.16. We offer a full delivery service to all our patients that require it, free of charge and specifically delivery to the applicant's neighbourhood twice daily during the week and on a Saturday. This is obviously not considered a pharmacy service, however in reality pharmacies across the UK offer this for patients who cannot leave their house for a variety of reasons. Granting an application in Pumpherston would therefore not benefit those people.
- 6.18.17. **Demographics**
- Scottish census data shows the neighbourhood has a mixed population of elderly, people with poor health and then those in good health. Pockets of the population have very good health compared to the Scottish average and then there are others where they have lower than average health. Car ownership of 2 cars is above average in many areas in particular where there is a higher than average children at school age with one parent using the car for work. Leaving another parent access to a car, so I say car ownership is mixed.
- 6.18.18. Most residents within the neighbourhood will travel outside Pumpherston to access supermarkets, doctor's surgery, banks, hairdressers, opticians and other day to day amenities. Pumpherston itself only has a Scotmid, post office and numerous take away outlets.
- 6.18.19. There are a choice of 5 local pharmacies close to the neighbourhood, with Boots in Craigshill (1 mile), Lloyds in Howden healthcare centre (1.8 miles) Omnicare in Uphall is 2 miles away, Ladywell Pharmacy 1.3 miles away and Boots in the centre is (2.5miles). Pharmacies are within walking distance and a bus service operates twice hourly to these pharmacies. Parking is available at all of them.
- 6.18.20. All of these pharmacies offer prescription collection and delivery services, EMAS, CMS, public health services, pharmacy first consultations and pharmacy advice. Our pharmacy in Uphall can be accessed by bus every 20 minutes from Pumpherston and for those driving there is adequate parking and no charge.
- 6.18.21. The Applicant stated that to walk and park is an issue, as well as the bus service. In terms of my experience, buses are every 20 minutes from Pumpherston to Uphall. People can walk to Craigshill. Also, when the Mid Calder pharmacy opens, people can walk there comfortably to access services.
- 6.18.22. From Uphall and other pharmacies close to the neighbourhood there are

clearly no inadequacies or issues around access that I can see. The application therefore fails the legal test

6.18.23. The CAR

Evidenced by the emails going back and forth clarifying authenticity of the responses, the number of CAR response seems highly suspicious to me, especially the 96 pages of additional comments. Many responses are on behalf of others and how many are from those living in the actual neighbourhood? I believe the importance of the CAR is to obtain a voluntary opinion of the pharmaceutical services within the neighbourhood and the method used by the applicant brings some doubt into my mind.

6.18.24. Documents brought to my attention from the NHS to the applicant back in 2018 questions the authenticity of the hard copies submitted. It appeared the applicant asked friends to complete the questionnaires and added the local address later. The 408 hard copies were then asked not to be included in the report; however the CAR we have today has them included.

6.18.25. This entire issue questions the credibility of the applicant and I find it hard to believe the process was not dismissed at this point.

6.18.26. Additionally, most of the responses mention convenience as the main reason for the support of the application and not inadequacy of pharmacy services. Convenience is not mentioned anywhere in the guidance to support the granting of an application

6.18.27. Viability.

Can Pumpherston support a pharmacy, with its size of population? It didn't 20 years ago when the previous pharmacy closed. There was a mention in the paperwork that the pharmacist retired or passed away. However if it had been viable, it would still be here today.

6.18.28. The majority of people in Pumpherston will work outside the neighbourhood, Scottish census data shows higher than the Scottish average of people in employment and traveling to work by car. Along with the lack of amenities located in the neighbourhood for residents to use and no GP service, many people will go about their daily routine and use pharmaceutical services elsewhere.

6.18.29. What is important in this application is the viability of the proposed pharmacy. There will eventually be 6 pharmacies within a 3 mile radius of Pumpherston.

6.18.30. The viability of this application alongside a pharmacy contract being granted in Mid Calder will invariably have a detrimental effect on the provision of services and result in both not being able to secure adequate pharmaceutical provision. .

- 6.18.31. Taking into account the response rate of the public consultation and unprecedented comments which all seem suspiciously similar, there have still been no complaints to the health board regarding existing pharmaceutical service.
- 6.18.32. I would ask the panel to refuse the application as it is neither necessary nor desirable in order to secure the adequate provision of pharmaceutical services in the neighbourhood.
- 6.18.33. This concluded the representation from Mr Freeland
- 6.19. **The Chair invited the Applicant to question Mr Freeland.**
- 6.19.1. The Applicant queried Mr Freeland's comment about a short waiting time and asked him to clarify what "short" would be.
- 6.19.2. Mr Freeland referred to Mr Connolly's response to that question – and said that pharmacies were busy at certain times, and probably 5-10 minutes would be as long as anyone would like to wait, but it could be longer as it depended on the situation. But it was important that it was done accurately and that there was also a consultation with the patient to ensure compliance with the requirement that the patient understood the medication needs. Mr Freeland summarised by confirming that waiting times were low – around 5-10 minutes.
- 6.19.3. The Applicant asked Mr Freeland to expand on his comments about the bus service, as residents only knew of a half hourly bus service, which was erratic, and asked where he had obtained his information in relation to a service every 20 minutes.
- 6.19.4. Mr Freeland replied that according to Google, it was a 20 minute journey from Pumpherstons to Uphall, using either No.24 or No. 275, so there were two buses available which would take 7 minutes.
- 6.19.5. The Applicant referred to the minutes of the PPC for Mid Calder which stated that Omnicare had declared a financial interest in the application and asked Mr Freeland to expand on this.
- 6.19.6. The Chair interjected and said that it was not a declarable interest and was not a material consideration in the deliberations of the Committee.
- 6.19.7. The Applicant had no further questions.
- 6.20. **The Chair invited Mr Arnott to question Mr Freeland.**
- 6.20.1. Mr Arnott asked which core services were not being provided by Mr Freeland's pharmacy.
- 6.20.2. Mr Freeland confirmed there were no core services not provided by his pharmacy.
- 6.20.3. Mr Arnott asked if Mr Freeland lost 2600 items per month, would he still be able to have to pharmacists on duty.

- 6.20.4. Mr Freeland replied that he would not.
- 6.20.5. Mr Arnott asked if Omnicare Pharmacy provided the substance misuse service.
- 6.20.6. Mr Freeland confirmed that all of the pharmacies provided this service.
- 6.20.7. Mr Arnott asked whether he was aware if the Lothian Addictions Team had said that there was no need for substance misuse service.
- 6.20.8. Mr Freeland replied he was not aware.
- 6.20.9. Mr Arnott asked for Mr Freeland's opinion whether a population of 1700 was a viable population.
- 6.20.10. Mr Freeland replied it was not a viable population.
- 6.20.11. Mr Arnott said he had noted that one of Mr Freeland's staff had applied for the application in Mid Calder and asked whether Mr Freeland believed that the pharmacy in Mid Calder would open at some point.
- 6.20.12. Mr Freeland said that from reviewing the decision of the NAP, it seemed to be asking the PPC to expand on their review of the CAR which, as far as he was aware, was the only grounds of appeal, and therefore he believed the pharmacy in Mid Calder would open.
- 6.20.13. Mr Arnott had no further questions.
- 6.21. **The Chair invited Mr Connolly to question Mr Freeland.**
- 6.21.1. Mr Connolly referred to the Applicant's comment that dosette boxes were delivered at two weekly intervals and asked if there was a requirement for the boxes to be delivered weekly.
- 6.21.2. Mr Freeland said this was not a requirement on the prescription, but would often say every two weeks and for patients with dementia they could deliver weekly, or the dosette box could be collected.
- 6.21.3. Mr Connolly asked Mr Freeland to clarify that there was nothing in the Regulations to state that dosette boxes had to be weekly and that if Mr Freeland wanted, he could deliver.
- 6.21.4. Mr Freeland confirmed this was correct.
- 6.21.5. Mr Connolly had no further questions.
- 6.22. **The Chair invited Mr Sagoo to question Mr Freeland.**
- 6.22.1. Mr Sagoo had no questions.
- 6.23. **The Chair invited Mr Clubb to question Mr Freeland.**

- 6.23.1. Mr Clubb had no questions.
- 6.24. **The Chair invited Mrs Gibson to question Mr Freeland.**
- 6.24.1. Mrs Gibson had no questions.
- 6.25. **The Chair then invited questions from the Committee to Mr Freeland.**
- 6.25.1. **Questions from Mr Beattie to Mr Freeland**
- 6.25.1.1. Mr Beattie noted that there were two pharmacies in Uphall and that Mr Freeland had referred to provision for care homes, and asked how many care homes were supported.
- 6.25.1.2. Mr Beattie confirmed this was 5.
- 6.25.1.3. Mr Beattie had no further questions.
- 6.25.2. The other Committee Members had no questions.
26. **Presentation from Mr Sagoo of Boots UK Limited who read from a pre-prepared statement.**
- 6.26.1. “Good afternoon Chair and committee members. I would like to refer to the email sent by John Connolly on 8/10/2019 on behalf of all the pharmacy contractors here and for it to be noted that this application and hearing should not have proceeded due to failures in the process as described in the said communication.
- 6.26.2. Neighbourhood  
We do not agree with the neighbourhood defined by the applicant. As mentioned by a few respondents in the CAR report, the map is difficult to read. Upon closer inspection it includes Houston Industrial Estate which has no residential dwellings
- 6.26.3. We believe the neighbourhood should be described as Pumpherston, with similar boundaries to those described by Mr Connolly. We believe the neighbourhood should be described as Pumpherston.
- 6.26.4. Population of Pumpherston as detailed in 2018 West Lothian Development plan is 1213. Even if we take the population up to 1700, it is not enough to sustain a viable pharmacy.
- 6.26.5. The neighbourhood does not exist in isolation. Residents of Pumpherston will look to Livingston and Broxburn for many key amenities e.g. large grocery shopping, banking etc. This is also evidenced by comments made within the CAR where many respondents talk of accessing GP and pharmaceutical services in the wider area.
- 6.26.6. The characteristics of the neighbourhood are such that the population are required to travel out with by car or regular public transport to access the

majority of services with regards to their daily needs. There are no GP services in the neighbourhood defined by the applicant. Residents of Pumpherston are most likely to be registered with GPs in Broxburn and Craigshill and will have easy access to pharmaceutical services when visiting their GP.

6.26.7. Should the panel adopt the neighbourhood defined by the applicant that does not have a pharmacy located within it; we trust the panel will have regard to pharmaceutical services provided to the neighbourhood from pharmacies located out with.

6.26.8. Adequacy.

There is no pharmacy currently in the neighbourhood defined by the applicant. However, it is not sufficient to say that just because there is no pharmacy within the neighbourhood that the pharmaceutical service provision therefore must be inadequate. Consideration must be given to pharmaceutical services provided to the neighbourhood from the existing pharmacies.

6.26.9. The applicant has provided very little information as to why he believes inadequacy exists in the neighbourhood, and has instead relied on conclusions taken from the CAR which mostly emphasises the convenience of having a pharmacy.

6.26.10. Question 2 of the CAR asks: Do you think there are gaps/deficiencies in the existing pharmaceutical services to the neighbourhood.

6.26.11. From the 575 respondents and over 400 comments on this question, only 28 commented on any deficiencies from the current provision from the existing pharmacies. So less than 5% of the respondents felt there was inadequate provision.

6.26.12. Interestingly all 28 comments had the same reason, waiting times. Now these were across quite a few different pharmacies, showing that not any one pharmacy had an ongoing issue with waiting times. The waiting times were mainly quoted as 10 to 30 minutes. We all know that sometimes the dispensing of a prescription can take time, especially where a pharmacist might need to check something with the GP. I am sure the care and the resulting advice given by the pharmacist that on certain occasions may take longer than normal is respected by the patients. From only 20 comments for 5-6 pharmacies, only one has an issue.

6.26.13. Therefore, the CAR really does not indicate in any way as to the inadequacy of current pharmaceutical provision provided by the existing pharmacies.

And about waiting times. Through our internal measure of patients giving feedback both our Craigshill and Broxburn pharmacies are currently measuring 100% for Time Taken to Complete Prescription. Contrary to some of the comments in the CAR.

6.26.14. The existing pharmacies provide access to an extensive range of pharmaceutical services as well as access to services in the evening and seven days a week (Boots Livingston).

6.26.15. Boots, Craigshill

Our pharmacy in Craigshill is in a parade of local shops and only a very short walk from Craigshill Health Centre. This pharmacy serves a significant number of patients from the Pumpherston neighbourhood. Recently a fire to one of the adjacent properties meant the shopping centre had to close. We were able to open a temporary pharmacy in less than a week showing our commitment to the health care needs of our patients.

6.26.16. Our pharmacy is open from 8.30am until 6pm Monday to Friday and from 9am until 1pm on Saturday. There is free parking outside the shopping centre with ramped access to the centre. The store has a consultation room and a hearing loop.

6.26.17. All the core national services are offered including Minor Ailments (MAS), smoking cessation, Chronic Medication Service (CMS) and Emergency Hormonal Contraception (EHC). They also offer locally negotiated services such as Methadone Supervision and Pharmacy 1st

6.26.18. The store offers a compliance aid service for those who require it and have capacity for new patients. A managed repeat service is also available, along with a Malaria prevention service.

6.26.19. Our pharmacy does offer a delivery service to patients.

6.26.20. We have eight members in the pharmacy team at Craigshill including pharmacists and Registered Technicians and Accuracy Checking Technicians.

6.26.21. Boots, Broxburn

6.26.22. Our Pharmacy in Broxburn is in Argyle Court. It is open from 9am to 5.30pm Monday to Saturday. There is free parking directly outside the pharmacy.

6.26.23. The pharmacy is appropriately staffed with pharmacists, dispensers and ACTs Like Craigshill all of the core national services are offered. They also offer locally negotiated services such as Methadone Supervision and Pharmacy First. A managed repeat service is available as well as a Malaria prevention service.

6.26.24. Boots, Livingston

Our pharmacy within the Almondvale Centre is open seven days a week. Our pharmacy is open from 8.45am until 6.30pm Mon, Tues, Weds, from 8.45am until 8pm Thursday and Friday. Saturday is from 8.45am to 6.30pm and Sunday from 9.30am until 6pm

6.26.25. Our pharmacy offers an extensive range of services including all national and local core services as previously described. In addition, we offer Flu immunisation, malaria prevention service and have a trained Macmillan pharmacist, who offers advice to cancer patients.

6.26.26. The pharmacy is DDA Compliant. The store is open out onto the centre with



plenty of access. It also has a hearing loop and a consultation room will adequate wheelchair access.

- 6.26.27. Our pharmacy does offer a managed repeat service and a delivery service to patients. The pharmacy is appropriately staffed with pharmacists, dispensers and ACTs.
- 6.26.28. There is plenty of parking at the Almondvale Centre with over 4,000 spaces across four car parks and including designated parking for blue badge holders near to the shop mobility facility.
- 6.26.29. All 3 pharmacies have received a good rating from General Pharmaceutical Council (GPhC) premises inspections showing no inadequacies in our service.

6.26.30. Recent applications

We would also like to respectfully remind the panel that an application has recently been approved subject to appeal for premises in Mid Calder and, although the proposed new pharmacy is not within the neighbourhood of this application, it will increase pharmaceutical provision in the wider area.

- 6.26.31. We submit that the existing pharmacies provide an adequate level and range of pharmaceutical services to residents of Pumpherston - There is no evidence to suggest that the existing level of service provision is not meeting patient needs.

6.26.32. Access

By bus

The 24 service calls at the Pumpherston turning circle every half an hour during the day, then on to Craigshill and Livingston. (The journey takes approximately 7 minutes to Craigshill and 14 minutes to Livingston Bus Station).

6.26.33. On foot

There are several paved and lit footpaths and walkways that run through the area linking Craigshill with Pumpherston.

The walk from the junction of Drumshoreland Road to Boots at Craigshill takes approximately 20 minutes (1 mile) using footpaths.

- 6.26.34. The NHS Lothian Pharmaceutical Care Services Plan (2014) refers to national research that 86% of the population are within 20 minutes travel time of their pharmacy. The travelling times are mapped within the plan and this shows that the entire neighbourhood is within 20 minutes travel time of a pharmacy by walking or driving.

6.26.35. By Car

Car ownership in the Livingston locality (which includes the neighbourhood) is higher than the national average with 75% of households having access to a private vehicle v 69% nationally. Any patients wishing to access services by car will find free parking available at our pharmacies at Craigshill and Broxburn.

6.26.36. Viability

Consideration should be given to both the viability of the proposed pharmacy and the effect on the existing pharmacies should the application be granted.

6.26.37. We question the viability of the pharmacy given the limited population in the neighbourhood, and as there are no medical services in the neighbourhood, and that residents are likely used to accessing the existing pharmacies when they currently visit their GP or neighbouring areas to shop.

6.26.38. The opening of another pharmacy in the area would be felt by the existing contractors throughout the wider area, particularly if the Mid Calder application is granted and goes on to open.

6.26.39. A further pharmacy contract in the wider Livingston area would have a compound effect on the existing pharmacies.

6.26.40. Summary

We submit that the existing pharmacy provision is adequate and that the proposed pharmacy is neither necessary nor desirable to secure the provision of pharmaceutical services in the neighbourhood in question. The application should be refused.

6.26.41. This concluded the representation from Mr Sagoo

6.27. **The Chair invited the Applicant to question Mr Sagoo.**

6.27.1. The Applicant asked Mr Sagoo how many comments on waiting times had he found in the CAR.

6.27.2. Mr Sagoo confirmed he had found 28 comments.

6.27.3. The Applicant said that in the bar graph on his presentation, he had counted 78.

6.27.4. Mr Sagoo reconfirmed that he had counted 28 comments.

6.27.5. The Applicant asked Mr Sagoo if he was aware of an online Google review about Boots Craigshill where a patient had left a review on Boots pharmacy services. They had penned an essay on the difficulty they had experienced on waiting times.

6.27.6. Mr Sagoo said no he was not aware.

6.27.7. The Applicant said that his following questions related to that complaint.

6.27.8. The Chair interrupted and said that as Mr Sagoo had replied that he was unaware of the complaint, it would be difficult for the Applicant's next question to be answered.

6.27.9. The Applicant said that the patient had raised issues about the dosette box

being sent to the wrong customer which could potentially kill them. The Applicant wondered why the patient would go online to make such a complaint.

6.27.10. Mr Sagoo said he was unable to comment on that individual's circumstances as he had not previously been aware of it. Mr Sagoo pointed out that if it was something that had happened, he would conduct an immediate investigation (as all pharmacies were required to do), and also make amends as quickly as possible for the patient to ensure that they had the correct medicines and to find out what it had happened, in order to ensure it did not happen again.

6.27.11. The Applicant had no further questions.

6.28. **The Chair invited Mr Arnott to question Mr Sagoo.**

6.28.1. Mr Arnott asked which core services were not being provided by Boots.

6.28.2. Mr Sagoo replied that there were no core services that Boots did not provide.

6.28.3. Mr Sagoo asked if Mr Arnott had been surprised by the number of responses to the CAR.

6.28.4. Mr Sagoo confirmed that he was.

6.28.5. Mr Arnott asked if he believed that the Applicant had removed the substance misuse service from his application in order to keep the Community Council happy.

6.28.6. Mr Sagoo confirmed he did as he knew that the Applicant had used the same approach for the Craigshill application, so he was unsurprised.

6.28.7. Mr Arnott asked if Mr Sagoo had heard of the Lothian Addictions team saying that the substance misuse service was not required.

6.28.8. Mr Sagoo said he had not heard.

6.28.9. Mr Arnott asked if Mr Sagoo agreed that a population would not be viable.

6.28.10. Mr Sagoo confirmed he did not believe that a population of 1700 would be viable for a pharmacy.

6.28.11. Mr Arnott had no further questions.

6.29. **The Chair invited Mr Connolly to question Mr Sagoo.**

6.29.1. Mr Connolly referred to the Google review raised by the Applicant which was a one off incident and asked if Mr Sagoo had any concerns on error rates within his pharmacy.

6.29.2. Mr Sagoo said he did not have concerns because they reviewed the process regularly. If there was a near miss, they took the opportunity to learn from this and also conducted patient safety reviews every month.

- 6.29.3. Mr Connolly asked if Mr Sagoo would agree that there was a potential for a disgruntled person to write malicious online reviews.
- 6.29.4. Mr Sagoo replied that the online Google website was not a trusted site to obtain information.
- 6.29.5. Mr Connolly had no questions.
- 6.30. **The Chair invited Mr Freeland to question Mr Sagoo.**
- 6.30.1. Mr Freeland had no questions.
- 6.31. **The Chair invited Mr Clubb to question Mr Sagoo.**
- 6.31.1. Mr Clubb had no questions.
- 6.32. **The Chair invited Mrs Gibson to question Mr Sagoo.**
- 6.32.1. Mrs Gibson had no questions.
- 6.33. **The Chair then invited questions from the Committee to Mr Sagoo**
- 6.33.1. **Questions from Mr Beattie to Mr Sagoo**
- 6.33.1.1. Mr Beattie asked how long Mr Sagoo was expecting his Boots store to be in a temporary unit following the fire at the shopping centre.
- 6.33.1.2. Mr Sagoo said approximately 12 weeks as they were still waiting to get a definitive response from the Landlord.
- 6.33.2. Mr Beattie asked whether this was going to be an opportunity to update the premises while they were empty.
- 6.33.3. Mr Sagoo confirmed that they were looking at how to change the layout of the premises in order to provide a better experience for patients and staff.
- 6.33.4. Mr Beattie had no further questions.
- 6.33.5. **Questions from the Chair to Mr Sagoo**
- 6.33.5.1. The Chair asked in terms of the past two years whether Boots had taken any steps to reduce waiting times for prescriptions.
- 6.33.5.2. Mr Sagoo said that there was a process for delivering prescriptions and dispensing in the pharmacy. At Craigshill, due to the sheer volume of patients coming out of the Health Centre with repeat prescriptions, they were managing this was a managed and expected business, and they were focussing on walk in patients.
- 6.33.5.3. The Chair had no further questions.
- 6.33.6. The other Committee Members had no questions for Mr Sagoo.

34. **Presentation from Mr Clubb of Lindsay & Gilmour Chemist who read from a pre-prepared statement.**
- 6.34.1. "I would like to thank the committee for the opportunity to speak today.
- 6.34.2. I would like to state I believe this contract is neither necessary nor desirable to secure adequate pharmaceutical services to this area of West Lothian.
- 6.34.3. Within a two-mile radius of the postcode, there are seven pharmacies as it stands according to NHS Inform website.
- 6.34.4. The closest pharmacy opens at 8.30 in the morning and other pharmacies close after 6pm on weekdays. Other pharmacies including ourselves open until 17.00 or later on a Saturday afternoon. Boots at the Almondvale are also open on a Sunday. The hours proposed by the applicant are lower than those currently provided by other pharmacies nearby. As the Applicant does not intend to open on Saturday afternoon we can assume that the Applicant sees current pharmaceutical services as adequate on Saturday afternoons.
- 6.34.5. Lindsay & Gilmour pharmacy in East Calder, provide a full range of contracted services.
- 6.34.6. We received a GPhC "Good" at our inspection in February 2019 which delighted the team in the pharmacy. We have extended our opening hours on a Saturday to 5pm.
- 6.34.7. Lindsay & Gilmour East Calder also provides a twice daily acute and repeat prescription collection service from the East Calder medical practice, which is one of the practices serving Pumpherston residents. Lindsay & Gilmour East Calder also provides a free (on demand) delivery service to patients in the neighbourhood, many of which are delivered on the same day. This service had been in operation for some years and the driver is familiar to the patients of Pumpherston.
- 6.34.8. To increase capacity for compliance aids requested by patients these are prepared using robotics at our Main Street pharmacy in West Calder. We have no waiting list for compliance aids at our West Lothian pharmacies and don't envisage any waiting list moving forward following the adoption of robotics.
- 6.34.9. We have installed a Buzz Box monitor in all of our pharmacies on the counter to get feedback on several questions including waiting times. For the week ending 6<sup>th</sup> October 2019, East Calder received a 96% satisfaction score for the week. The Buzz Box comments include staff being nice.
- 6.34.10. As it stands, we see no reason to open another pharmacy which could jeopardise pharmaceutical services elsewhere. We need to realise that two contracts have already been granted in Kirknewton and Mid Calder over recent years, and the viability of the contracts surrounding East Calder could be threatened if a third pharmacy is opened in Pumpherston. Kirknewton is only averaging around 2000 items and a reduction of 20% could have a catastrophic effect on its viability.

6.34.11. Consultation Analysis Report

Following the notification of the interested parties, we requested an FOI from NHS Lothian on all documents about this application, in particular CLO advice on the status of the application and the preparation of the CAR. It should be noted today that the CAR we are seeing today has 575 responses.

6.34.12. We were astounded to find in the FOI that firstly, an anonymous complaint had been made that the applicant was getting survey forms completed by friends and relatives. It is alleged that the applicant has used a Livingston postcode on the submissions.

6.34.13. Whilst we are aware the complaint is anonymous, NHS Lothian wrote to the applicant expressing concern at the fact, he admitted to handling the paper copies encapsulating recording them on excel spread sheet prior to submitting them to NHS Lothian.

6.34.14. In the letter, NHS Lothian advised that they were keen to only accept electronic submissions of responses, which totals 167. But today we are looking at a CAR with 575 responses some of which are noted by NHS Lothian to have been completed by the same people.

6.34.15. We urge the Committee to discount the CAR which was created 808 days ago and about which NHS Lothian have concerns on the veracity of some of the responses. We also believe that since this CAR has been undertaken, a significant change in provision has occurred with the granting of a contract in Mid Calder although I note this is currently under appeal.

6.34.16. Procedure

I also wish to complain about the time delay between the submission of an acceptable contract application being made and the interested parties being informed. The permitted time delay in the Regulations is 10 working days, but the Interested Parties were not informed until 73 days later.

6.34.17. The other procedural concern is that, under the Regulations, any application received must be submitted to the health board no later than 90 days following the completion of the joint consultation. The joint consultation occurred between 16<sup>th</sup> March and 25<sup>th</sup> July 2017, but the application that was received and which is being considered today was made some 366 working days later.

6.34.18. This application is well out with the timeframe contained in the Regulations and I urge the Committee to refuse this application”.

6.34.19. This concluded the representation from Mr Clubb

6.35. **The Chair invited the Applicant to question Mr Clubb.**

6.35.1. The Applicant referred to the active feedback system in his pharmacy which measured things including waiting times and asked Mr Clubb what was the average waiting time.

- 6.35.2. Mr Clubb replied that the Buzz Box measured customer relative happiness; ranging from green if they were very happy, down to red if they were very unhappy, and just pressed a button. It provided quick feedback but did not give details on waiting times.
- 6.35.3. The Applicant referred to comments online when people had said that they were waiting an unreasonable amount of time of 20, 25 minutes or even up to an hour, which were real time comments, and asked Mr Clubb to comment.
- 6.35.4. Mr Clubb replied that he was unable to comment as he did not look online for customer feedback.
- 6.35.5. The Applicant had no further questions.
- 6.36. **The Chair invited Mr Arnott to question Mr Clubb.**
- 6.36.1. Mr Arnott asked which core services were not being provided by Mr Clubb's pharmacy.
- 6.36.2. Mr Clubb replied there were no core services which were not being provided.
- 6.36.3. Mr Arnott asked whether Mr Clubb would agree that one reason why the Applicant did not offer to provide the substance misuse service was in order to keep the Community and the Pumpherston Community Council happy.
- 6.36.4. Mr Clubb replied that he had included the drug misuse and needle exchange service when he had applied for a contract in Granton and although they had received some negative feedback, he felt it was important to be realistic since, wherever you went, there would always be some people who needed help, and therefore, the pharmacy needed to provide this service. Mr Clubb added that he would not be surprised if the Applicant had avoided adding in the substance misuse service in the application in order to avoid any potential negative issues.
- 6.36.5. Mr Arnott asked whether Mr Clubb was aware of the Lothian Addictions Team had said that there was no need for substance misuse service.
- 6.36.6. Mr Clubb replied that having previously worked with the Addictions Team in the Borders, he knew that there would always be demand and it was naive to assume that there would nobody who required that service, and was disappointed that the stigma remained.
- 6.36.7. Mr Arnott asked whether a population of 1700 would be viable, in view of the contract in Mid Calder having been approved.
- 6.36.8. Mr Clubb replied that the pharmacies in Kirknewton, Mid Calder and East Calder all had concerns.
- 6.36.9. Mr Arnott had no further questions.
- 6.37. **The Chair invited Mr Connolly to question Mr Clubb.**

- 6.37.1. Mr Connolly asked about the feedback from patients using the Buzz Box and the Applicant's query on waiting times.
- 6.37.2. Mr Clubb replied that it was one of five questions that were asked.
- 6.37.3. Mr Connolly asked if anyone was unhappy with waiting times, would they raise this directly with the pharmacist, and had the pharmacist received any complaints on waiting times.
- 6.37.4. Mr Clubb replied no complaints were received and added that it was easy for a customer to push the red button to say that they were unhappy.
- 6.37.5. Regarding the appeal for the Mid Calder application, Mr Connolly asked Mr Clubb for his opinion on the likelihood of the contract being granted.
- 6.37.6. Mr Clubb opined that he expected the Mid Calder pharmacy to open. However, he had reviewed how the application was handled and he would not have appealed if the minutes had shown that the process had been correctly followed.
- 6.37.7. Mr Connolly queried why Mr Clubb had appealed against the Mid Calder application.
- 6.37.8. Mr Clubb explained that it was because the Regulations had not been followed.
- 6.37.9. Mr Connolly repeated his question whether Mr Clubb believed that the Mid Calder pharmacy would open.
- 6.37.10. Mr Clubb confirmed that he did believe it would open and added that the Regulations needed to be complied with in order to avoid any future legal precedence.
- 6.37.11. Mr Connolly had no further questions.
- 6.38. **The Chair invited Mr Freeland to question Mr Sagoo.**
- 6.38.1. Mr Freeland had no questions.
- 6.39. **The Chair invited Mr Sagoo to question Mr Clubb.**
- 6.39.1. Mr Sagoo had no questions.
- 6.40. **The Chair invited Mrs Gibson to question Mr Clubb.**
- 6.40.1. Mrs Gibson asked how Mr Clubb would envision residents of Pumpherston attending a clinic in Mid Calder, given that there were no direct bus services and it would take two buses to get there.
- 6.40.2. Mr Clubb replied that residents of Pumpherston were likely to be registered with the GP practice 50 yards away from the pharmacy, so if they attended the GP surgery, then they would then visit the pharmacy to get their prescription filled. Mr Clubb added that his pharmacy offered a mobile phone app prescription service for repeat prescriptions, so that residents did not need to leave



Pumpherstons in order to access his pharmacy's services.

6.40.3. Mrs Gibson had no further questions.

**6.41. The Chair then invited questions from the Committee to Mr Clubb**

**6.41.1. Questions from Mr Beattie to Mr Clubb**

6.41.1.1. Mr Beattie asked how Mr Clubb knew the numbers or volume of patients from Pumpherstons who visited Mr Clubb's pharmacy in East Calder.

6.41.1.2. Mr Clubb replied that their delivery driver used a Mobile Phone App for recording details – by adding the patient's name which would then advise on the best route to take. So it could track and trace deliveries, and therefore he had data which showed where the delivery driver went, and he could see how many drops were made on a daily basis. Mr Clubb acknowledged that although there was a demand, this was small as they had more deliveries in East Calder.

6.41.1.3. Mr Beattie had no further questions.

**6.41.2. Questions from Embrey to Mr Clubb**

6.41.2.1. Mr Embrey asked for Mr Clubb's view of the neighbourhood.

6.41.2.2. Mr Clubb responded that he would concur with Mr Connolly's definition of the neighbourhood; and that the industrial estate should be dropped.

**6.41.3. Questions from Mr Kirkwood to Mr Clubb.**

6.41.3.1. Mr Kirkwood had no questions.

**6.41.4. Questions from Mr Niven to Mr Clubb.**

6.41.4.1. Mr Niven had no questions.

**6.41.5. Questions from the Chair to Mr Clubb.**

6.41.5.1. The Chair asked if Mr Clubb was aware of a recent ruling relating to a pharmacy application in Tranent which said that notification was required to be given within ten days of assessment as to whether the neighbourhood fell within a controlled locality, not about ten days of the submission of the application.

6.41.5.2. Mr Clubb stated that he was referring to the 2014 Regulations.

6.41.5.3. The Chair stated that the Regulations she referred to were more recent.

6.41.5.4. Mr Clubb said he had read and disagreed with it.

6.41.5.5. The Chair had no further questions.

**.42. Presentation from Mrs Gibson on behalf of Pumpherstons Community Council who read from a pre-prepared statement in addition to having a**

## **slide presentation handout.**

- 6.42.1. "I would like to thank the panel and the Chair. I am here to represent the Community I live in, and the people I work with and live beside, and also everyone in this room as I have dealings with all the pharmacies. I know I sent my presentation late; apologies.
- 6.42.2. There are three main areas that we would like to concentrate on
- Pharmacy Access
  - Minor Ailment
  - Public Health
- 6.42.3. Having a pharmacy and being able to access these areas are essential as currently residents in Pumpherston and Uphall Station are severely disadvantaged
- 6.42.4. Pharmacy Access
- Transport has been identified via numerous community consultations as a key problem - many people feel isolated particularly for our elderly and families with young children - these people need additional support
- 6.42.5. The bus service is not just poor....it's ineffective. A bus through the village is every half-hour. There is no direct service to East Calder- people who use the doctor's service in East Calder and who use public transport would need to take two buses.
- 6.42.6. There is no direct service to Mid Calder, and no direct service to Craigshill. There is a bus service to Broxburn.
- 6.42.7. Waiting times for a prescription are regularly 40-45 minutes.
- 6.42.8. Therefore currently people - who are ill and need of help - are waiting 30 minutes for a bus in all kinds of weather - waiting to be seen by a GP - waiting for a prescription - waiting for a bus to go home – which easily takes 2.5 hours.
- 6.42.9. A pharmacy in the village could sometimes negate the need to visit the GP - with support, self diagnosis could be achieved - in circumstances where this is not appropriate the bus journey will remain the same but the turnaround for a prescription is significantly reduced and could be organised around the patient's well being.
- 6.42.10. Minor Ailment Support
- 6.42.11. A pharmacy in the village would become a First Point of call for many people and reduce the demand on GP services in both Broxburn and East Calder - both areas are growing in population and likewise so is Pumpherston.
- 6.42.12. The logistics of transport is a concern we genuinely believe a number of

residents find the whole process to challenging and therefore do not attend the GP and do not seek help - this will have a negative impact on health.

- 6.42.13. Other areas are already benefitting from the provision of a pharmaceutical practice - they have access to a minor ailment clinic and vital support that our residents' do not.
- 6.42.14. For example The Chronic Medication Service would teach residents how to take their medication more effectively, adherence and use of their medicines. Several people have chronic conditions and/or are elderly and they would greatly benefit from this service.
- 6.42.15. Public Health Support
- At this juncture very few, if any, residents participate in any health campaigns. It is our understanding that this would increase if facilities were easily accessed – Stop Smoking Clinics and Healthy Eating Programmes. The Community Council would work with the Applicant, the local school and the senior citizens to make a success of these kinds of campaigns.
- 6.42.16. The Village
- 6.42.17. Interestingly, while we were preparing our presentation for today the Scottish Government released a well researched Guide on Brexit which highlighted the areas in Scotland most likely to be affected by Brexit.
- 6.42.18. While we are not suggesting a pharmacy would make any difference to Pumpherston in terms to Brexit the areas that were concentrated on to establish the communities most at risk do.
- 6.42.19. Access to services - we have none, we don't even have a community hall - the community council meet in a pub. Share of population of working age - we have an ageing community and a significant rise in new build homes - mainly social - which is bringing stay at home parents and young families into the village - we have no mother and toddler groups either - so there is very little support.
- 6.42.20. Income Deprivation - the village is predominantly social housing, we have a number of homes that are allocated as 'temporary' via West Lothian Council. Furthermore, we have a large travelling community and at least eight flats which house Romanian Immigrants.
- 6.42.21. Population Change - 86 New homes have been allocated for social housing; 300 new homes are in the process of being delivered off plan for private housing with another 1000 planned over a five year period.
- 6.42.22. A new housing complex for people with severe learning difficulties is also planned.
- 6.42.23. Pumpherston falls within the top 11% of most Vulnerability – not just in West Lothian but in Scotland as a whole. On the BVI graph we are between 1st and 2nd place for the whole of Scotland - this is not something we want to win - on this occasion, first place is not good.

- 6.42.24. For note, the areas with current pharmacy provision and the companies that operate those pharmaceutical practices who are objecting to Pumpherston having its own service are sitting comfortably in position 9<sup>th</sup> and 10<sup>th</sup> - with absolutely no threats at all.
- 6.42.25. It speaks volumes and I hope you agree with me that Pumpherston doesn't just need a pharmacy - it should be looked upon as a vital service for us to help our residents - we firmly believe a pharmacy will help galvanise and protect our community.”
- 6.42.26. This concluded the representation from Mrs Gibson
- 6.43. **The Chair invited the Applicant to question Mrs Gibson.**
- 6.43.1. The Applicant referred to the earlier comments relating to the high number of paper responses and asked Mrs Gibson to explain how the Community Council had become involved with the public consultation and how they had raised awareness of the survey.
- 6.43.2. Mrs Gibson said that she had taken her steer from the residents and added that, in her area, there was an elderly population which made it difficult for residents to go to ScotMid or a cafe to pick up the survey, and they had asked her to pick up and deliver a copy to them. Via the Facebook page, residents had asked for the Community Council to do a paper drop, so they had put paper copies of the survey through residents’ doors, which is where the high turnover of paper responses had come from.
- 6.43.3. The Applicant noted that this was a concerted effort by the Community Council and asked if there were local captains for each area and how had the Community Council managed to deliver the forms, and whether they had engaged with the residents.
- 6.43.4. Mrs Gibson confirmed that they had engaged with the Community, and that she would not have come to the hearing if residents had said that they did not feel that it was a necessary service. There were many older people in their 80s who were having to get a bus to see the GP in Broxburn, but could not wait 45 minutes for their prescription as there was no waiting area. So they would take a bus to Pumpherston and back, or either they would send a message to the Community Council to request that they pick up the prescription on the patient’s behalf as they were unable to get there. Mrs Gibson referred back to times of her childhood when she remembered people being on first name terms with the GP and pharmacist, and had a great relationship with them. In the Community now, she envisaged that personally knowing the pharmacist would be a benefit as people looked out for each other and cared for each other in the community. Mrs Gibson added that she wanted someone local who could give support and be a friend to residents. Sometimes what residents needed was reassurance to say that they had a cold and take Paracetamol, and not take up a GP’s time in order to justify why they were feeling unwell.
- 6.43.5. The Applicant asked what the experiences were of the community in accessing Ladywell Pharmacy.

- 6.43.6. Mrs Gibson said that she did not have the figures but she did not believe that a large number of residents attended.
- 6.43.7. The Applicant asked why not.
- 6.43.8. Mrs Gibson replied that it was due to transport issues.
- 6.43.9. The Applicant asked how residents from Pumpherston would travel to Ladywell Pharmacy – for example, was it one bus, two buses, and how long did they have to wait.
- 6.43.10. Mrs Gibson said that it would either be one or two buses, or rely on walking but the path was not well lit since, for Craigshill, residents would need to pass through a wooded area – and there had been some crime in the area recently. Mrs Gibson added that although the road to Mid Calder was lit, it had a steep gradient and therefore would be a problem for anyone with mobility issues. Mrs Gibson said that she had highlighted this problem to the West Lothian Council and the transport network in relation to unsafe paths. Likewise down to Uphall Station, coming down that road was a long gradient down and back up again to visit the pharmacy there.
- 6.43.11. The Applicant asked if Mrs Gibson was saying that they were inaccessible.
- 6.43.12. Mrs Gibson confirmed.
- 6.43.13. The Applicant asked about the bus to Omnicare and whether she experienced a 20 minute bus service.
- 6.43.14. Mrs Gibson said that she had never had a 20 minute service with First Bus, Lothian or any other bus service. Many services had been removed, and although she understood that the comments said that waiting times at Omnicare were less, if a patient was going to the GP surgery in Broxburn and given a prescription, the resident would need to travel from Broxburn to Uphall to get their prescription filled and then take another bus from Uphall to Pumpherston.
- 6.43.15. The Applicant asked for Mrs Gibson's view on public transport.
- 6.43.16. Mrs Gibson said that in her opinion, the public transport services were shocking and she was seeking a consultation with the bus companies and was also on a transport forum for West Lothian as their community was not the only one suffering from a poor public transport network.
- 6.43.17. The Applicant asked Mrs Gibson to give an account of her recent experience in visiting a local pharmacy.
- 6.43.18. Mrs Gibson said that she was a service user due to a chronic condition and had used the services of the pharmacies – and had some positive and some not-so-positive experiences. For example, she had taken her repeat prescription to Lloyds as it was near the GP surgery. However, every time she went to collect her prescription, there were items missing and it meant that she would need to wait for the items to be rechecked. As a result, she had taken her repeat

prescription from Lloyds to Omnicare and had received an even worse service, so had returned to Lloyds and felt she was stuck with that. Mrs Gibson added she also worked in Pumpherston and if she had someone local with whom she could speak and ask questions, she would be happy, as she did not have time to go to all the pharmacies.

- 6.43.19. The Applicant referred to Mrs Gibson's comments that 1000 homes were being built and asked what impact this would have on the existing community and the existing pharmacies.
- 6.43.20. Mrs Gibson said it would have a massive impact. The primary school was also going to be extended. Mrs Gibson objected to the neighbourhood defined by the Interested Parties. Under the Local Authority, Uphall and Pumpherston were incorporated into one area, or else the school would be Pumpherston (and not Pumpherston and Uphall Station) Community School.
- 6.43.21. The Applicant referred to earlier assertions by the Interested Parties that he would not offer the methadone dispensing service since he wanted to appease the Community Council and asked for Mrs Gibson's opinion.
- 6.43.22. Mrs Gibson said that the Community Council were actively engaging with West Lothian Council to ensure there was a community space to set up a programme for support for substance abuse, and also for the mothers and toddlers group. Mrs Gibson added it was up to the West Lothian Council to divulge whether there was a current or future need for this service; however the Community Council had not been notified of any requirement and added that she had been told that there was no issue with people requiring methadone in the village.
- 6.43.23. The Applicant referred to the neighbourhood and the population figures which had been quoted and asked Mrs Gibson for her estimate of the population.
- 6.43.24. Mrs Gibson said that for the Applicant's defined neighbourhood, the population was at least 2000, possibly 2500 due to the new planned development and influx of people into the community from the new housing.
- 6.43.25. The Applicant asked if Uphall Station residents relied on services in Pumpherston.
- 6.43.26. Mrs Gibson affirmed, and added that she had engaged with the Uphall Station Community Council on previous joint initiatives and had also engaged with parents outside the school when she had handed out the questionnaires; parents had walked from Uphall Station to Pumpherston to drop off their children at school and Mrs Gibson said she had asked whether it would be a benefit to have a pharmacy in Pumpherston and parents had affirmatively, and cited reasons for going, might be to obtain Calpol or nit treatment or dropping off/collecting prescriptions, since everything could then be accomplished in one journey rather than involving an additional journey to Livingston after having dropped off the children at school. Mrs Gibson added that this was a young demographic.
- 6.43.27. The Applicant referred to previous discussions relating to the application for the pharmacy in Mid Calder and asked, if the application was granted, would

residents be easily able to access the new pharmacy in Mid Calder.

- 6.43.28. Mrs Gibson replied that residents would not be able to do so because the gradient of the walk to Mid Calder was quite steep, and therefore the pharmacy was not easily accessible and there was no direct transport and it would take two buses to get there.
- 6.43.29. The Applicant asked whether Mrs Gibson believed that any of the pharmacies represented at the hearing offered a decent pharmaceutical service to the community.
- 6.43.30. Mrs Gibson said that they did not, which was an injustice to small communities. Although the nearest pharmacy might be 1.1 miles away, if a person was ill, or had mobility issues or young children, then it might as well be 1000 miles away, as they had no time to access those services. However, if the pharmacy was on the doorstep, then she believed that mental health and physical health would improve and said that building a relationship with a pharmacy was a force to be reckoned with. Perhaps 5 years down the line, this is how communities would work – going back to basics with a community pharmacy fulfilling the needs of the community area.
- 6.43.31. The Applicant had no further questions.
- 6.44. **The Chair invited Mr Arnott to question Mrs Gibson.**
- 6.44.1. Mr Arnott asked if Mrs Gibson lived and worked in Pumpherston.
- 6.44.2. Mrs Gibson confirmed she did.
- 6.44.3. Mr Arnott asked if it would be more convenient to have a pharmacy in Pumpherston.
- 6.44.4. Mrs Gibson confirmed it would.
- 6.44.5. Mr Arnott referred to Mrs Gibson's comments on a poor bus service and asked if Mrs Gibson agreed that that bus companies needed to operate on a profit and therefore if a route was unprofitable, this was why a bus company would stop that service.
- 6.44.6. Mrs Gibson said she was unable to answer as she was not a member of the transport forum, but commented that Scottish Government paid a grant to the bus companies and that subsidies to the local authorities such as Edinburgh and Fife had been cut by 64%, although Mrs Gibson noted that she could not be 100% sure of this fact.
- 6.44.7. Mr Arnott asked whether Mrs Gibson agreed that if enough people used the bus services in Pumpherston then the bus services would continue to run.
- 6.44.8. Mrs Gibson replied that she agreed with the economics, but stated that the many people who used the buses were elderly or young people, but admitted she could not answer how many people used the buses.

- 6.44.9. Mr Arnott asked how often a reasonably healthy person would be expected to access pharmaceutical services.
- 6.44.10. Mrs Gibson said that she believed it would be a couple of times a month, maybe more.
- 6.44.11. Mr Arnott asked whether Mrs Gibson agreed that the majority of residents of Pumpherston left the neighbourhood in order to access banks, supermarkets and the GP surgery.
- 6.44.12. Mrs Gibson said that residents had no choice, but acknowledged that people with young families, and the elderly, still used ScotMid as their daily shop.
- 6.44.13. Mr Arnott asked whether Mrs Gibson accepted that residents who left the area to go to work would also be likely to access pharmaceutical services near where they worked.
- 6.44.14. Mrs Gibson said it depended where the people worked, as there were many people who worked in the Industrial Estate which had large factories, and that workers in those factories would also use the pharmacy in Pumpherston. However, Mrs Gibson did not dispute that people working out with the area would also likely use a pharmacy out with the neighbourhood.
- 6.44.15. Mr Arnott asked if Mrs Gibson was aware that there were 8-9 pharmacies already within a 3 mile distance of the neighbourhood.
- 6.44.16. Mrs Gibson confirmed she was aware.
- 6.44.17. Mr Arnott asked if the Applicant had informed Mrs Gibson that he would be the pharmacist if his application was successful.
- 6.44.18. Mrs Gibson confirmed that the Applicant had informed her that he would be one of the pharmacists.
- 6.44.19. Mr Arnott had no further questions.
- 6.45. **The Chair invited Mr Connolly to question Mrs Gibson.**
- 6.45.1. Mr Connolly referred to Mrs Gibson's story of an 80 year old who had to get the bus to Broxburn or ask someone else to collect a prescription on their behalf and asked if that person could also phone the existing pharmacies to ask for the prescription to be collected and delivered.
- 6.45.2. Mrs Gibson said that asking an independent 80 year old to ask for help from someone else was difficult. This person got the bus to the GP to collect the prescription and was told they had to wait 45 minutes, realised they could not wait, and then went home because they did not wish to burden their family and friends because they were so independent. Mrs Gibson commented everyone had a granny and ask them to phone the pharmacy and they would not do so.
- 6.45.3. Mr Connolly asked if Mrs Gibson agreed that utilising the phone service for collection and delivery could actually help a patient retain their independence.



- 6.45.4. Mrs Gibson said it was up to the judgement of the individual on how they felt about their independence.
- 6.45.5. Mr Connolly asked whether the Community Council had reached out to any pharmacies – either to ask for ways to improve their services or to raise any issues or concerns in relation to the existing pharmaceutical services.
- 6.45.6. Mrs Gibson said that she had sat on the Community Council for 6 years and had engaged with some pharmacies, but not Ladywell, since the main pharmacies used were Omnicare in Uphall and Lloyds in Broxburn.
- 6.45.7. Mr Connolly referred to the Community Council minutes and said he could not see any mention of issues relating to access to pharmacies, although he could see reference to other services such as GP surgeries and asked whether the reason why no issues had been raised regarding a lack of pharmacy or complaints to the health board, and queried whether the reason this had not been documented in the minutes and suggested that it was a last minute idea that it would be nice to have a pharmacy in the area.
- 6.45.8. Mrs Gibson said that this subject had previously been mentioned in the minutes and had been taken to the local Councillors – including Frank Anderson – who had agreed to take this forward. Mrs Gibson confirmed that it had been minuted that the Community Council had engaged with the Councillors.
- 6.45.9. Mr Connolly queried on the timeline for the inclusion of this reference in the minutes.
- 6.45.10. Mrs Gibson replied that discussions had started 3-4 years ago that the Councillors would raise it. They were a new Community Council and had asked the Councillors to take the issue to the Health Board on their behalf, and added that it was daunting to approach the Health Board which is why they had opted to do so via the Councillors.
- 6.45.11. Mr Connolly asked if Mrs Gibson had a figure for the daytime population in Pumpherston.
- 6.45.12. Mrs Gibson said she did not know.
- 6.45.13. Mr Connolly said that from his experience when visiting the area, many people were not around in the day time as there had not been many people going about their daily business and asked Mrs Gibson if this was a fair summation.
- 6.45.14. Mrs Gibson said that there were no amenities in the area – there had previously been a mother and toddlers group which had provided some hustle and bustle.
- 6.45.15. Mr Connolly asked if the local Mothers and Toddlers Group members went to a neighbouring Mothers and Toddlers Group.
- 6.45.16. Mrs Gibson said that the Community Council had conducted research and it was why they had requested funding in order to get a grant for a community space, and added that it was needed as a heart of the community since, currently, there

were no amenities currently available. As a result, people felt isolated in their own homes – young mothers and the elderly – and did not get together as a community.

- 6.45.17. Mr Connolly asked if Mrs Gibson saw a pharmacy as a focal point for the community.
- 6.45.18. Mrs Gibson said yes she saw the pharmacy as a focal point as a starting point – in addition to the school and pensioner club, space for a part time library and the Applicant would also be able to assist running some well clinics, and providing education to stop smoking, and also providing hearing aids. Mrs Gibson added that it was about the bigger picture.
- 6.45.19. Mr Connolly asked whether pharmaceutical services were necessary.
- 6.45.20. Mrs Gibson confirmed it did.
- 6.45.21. In relation to Mrs Gibson's comment that a pharmacy 1.1 miles away might as well be 1000 miles away, Mr Connolly agreed with this point if someone was infirm and unable to get out of the house, but stated that this was not the same if people were already in the neighbourhood and had to travel 1.1 miles to access other services, and said that there were also home visits and delivery services available.
- 6.45.22. Mrs Gibson said that when someone lived in the local area, 1.1 miles became smaller – as there would be someone you recognised who worked in the community, and then it was possible to build relationships. Because there was a high turnaround of staff in different pharmacies, residents would never see the same person and if there was a local pharmacy with a local pharmacist, that would become a trusted individual.
- 6.45.23. Mr Connolly had no further questions.
- 6.46. **The Chair invited Mr Freeland to question Mrs Gibson.**
- 6.46.1. Mr Freeland asked how many people in Pumpherstons worked outside the area.
- 6.46.2. Mrs Gibson said that some worked in the Industrial Estate which had a large factory that employed 100s of people, so people in the Industrial Estate tended to be residents from the village.
- 6.46.3. Mr Freeland asked if Mrs Gibson agreed that people who did not work in the Industrial Estate might access a pharmacy out with the area.
- 6.46.4. Mrs Gibson agreed that if people worked outside the area, they would access a pharmacy that was closest to them, but added that if the patient needed to visit the Medical Centre in East Calder or Broxburn, they would prefer to use someone local to them to issue their prescription.
- 6.46.5. Mr Freeland referred to Mrs Gibson's comment relating to two buses and queried the times of the buses.

- 6.46.6. Mrs Gibson confirmed there were two buses, which were 5 minutes apart – one at 10 minutes past the hour, and another at 15 minutes past the hour.
- 6.46.7. Mr Freeland had no further questions.
- 6.47. **The Chair invited Mr Sagoo to question Mrs Gibson.**
- 6.47.1. Mr Sagoo referred to the previous pharmacy in Pumpherston which had been 25 years ago and asked why another pharmacy had not opened in the intervening period.
- 6.47.2. Mrs Gibson replied that the property had been sold and there had not been anyone else to take over the business. It had previously been a family run community pharmacy, and the family had tried to sell it, and then the landlord had turned into a hairdressing salon.
- 6.47.3. Mr Sagoo repeated his question: why had nobody taken on the pharmacy in 25 years.
- 6.47.4. Mrs Gibson replied that there had not been any premises available, and that all the units in Pumpherston and Uphall Station had changed hands.
- 6.47.5. Mr Sagoo had no further questions.
- 6.48. **The Chair invited Ms Clubb to question Mrs Gibson.**
- 6.48.1. Mr Clubb referred to Mrs Gibson's comments relating to sharing information and an online survey which the Health Board used and asked why there had not been more electronic returns of the Consultation survey considering the active Facebook Group.
- 6.48.2. Mrs Gibson replied that many people did not trust survey monkey. The elderly people with whom she had spoken had said that they preferred to fill in a paper copy, and did not wish to burden their children and grandchildren helping them fill it in.
- 6.49. **The Chair then invited questions from the Committee to Mrs Gibson**
- 6.49.1. Questions from the Chair to Mrs Gibson.
- 6.49.1.1. The Chair asked how long Mrs Gibson had served on the Pumpherston Community Council.
- 6.49.1.2. Mrs Gibson stated six years.
- 6.49.1.3. The Chair asked if Uphall and Pumpherston had ever had a single Community Council.
- 6.49.1.4. Mrs Gibson confirmed they had not.
- 6.49.1.5. The Chair referred to an earlier comment by Mrs Gibson that it would be good to have a pharmacy on the doorstep and clarified that the test that the Committee

had to undertake related to adequacy and not having a pharmacy on one's doorstep. The Chair asked whether the services provided by the existing pharmacies were adequate.

- 6.49.1.6. Mrs Gibson confirmed that pharmaceutical services were adequate, however the issue related to difficulty to access the services.
- 6.49.1.7. The Chair asked whether a better bus service would assist accessing the services.
- 6.49.1.8. Mrs Gibson said that in her opinion, the population preferred to remain local.
- 6.49.1.9. The Chair referred to future developments and stated that in her role as a Councillor, under the Section 75 agreements which related to funding applications for community gain, asked whether the Pumpherston Community Council had not yet received anything, for example, for the community room.
- 6.49.1.10. Mrs Gibson acknowledged that, as yet, the Community Council had not received any funds. They had asked about an extension for the Community Room but, due to the fact that the Community Room was used by school pupils for breakfast, lunch and after school activities, no community space was available. An application had been lodged to request community funding, and noted that in some areas, although the developers would say that a certain number of social houses would be built, some of them tended not to build those.
- 6.49.1.11. The Chair asked if any bus routes were subsidised.
- 6.49.1.12. Mrs Gibson confirmed they were.
- 6.49.1.13. The Chair asked if Mrs Gibson had applied for funding from West Lothian Council for the community transport service.
- 6.49.1.14. Mrs Gibson stated that she had not and the Chair agreed to send information to Mrs Gibson relating to this.
- 6.49.1.15. The Chair asked whether any Councillors had taken forward the Community Council's concerns on the lack of provision of a community room.
- 6.49.1.16. Mrs Gibson said that the Councillors did not usually attend the Community Council meetings, but would normally attend twice a year.
- 6.49.1.17. The Chair had no further questions.
- 6.49.2. Questions from Mr Niven to Ms Gibson.
- 6.49.2.1. Mr Niven had no questions.
- 6.49.3. Questions from Mr Kirkwood to Ms Gibson
- 6.49.3.1. Mr Kirkwood had no questions.
- 6.49.4. Questions from Embrey to Ms Gibson.

- 6.49.4.1. Mr Embrey asked for further detail of Councillor attendance at Community Council meetings.
- 6.49.4.2. Mrs Gibson explained that the Pumpherston Community Council consisted of 8 community councillors with many residents attending, and added that other people were also invited to attend from time to time.
- 6.49.4.3. Mr Embrey referred to the earlier comment that it had not been clear when the pharmacy had been mentioned in the minutes and asked when this had last been discussed.
- 6.49.4.4. Mrs Gibson confirmed that it had been discussed on Monday 30<sup>th</sup> September under Any Other Business.
- 6.49.4.5. Mr Embrey had no further questions.
- 6.49.5. Questions from Mr Beattie to Ms Gibson.
- 6.49.5.1. Mr Beattie referred to Mrs Gibson's comments on different staff in the various pharmacies and asked if she was aware of national recruitment problems, as the industry was losing staff to primary care and other sectors, and asked what Mrs Gibson's feelings would be if there were regular staff changes to the Applicant's pharmacy.
- 6.49.5.2. Mrs Gibson said that the Applicant had alluded to a family run pharmacy, so it would be a community pharmacy operated by a family. Likewise, if people worked in the pharmacy and came from the local area within walking distance, people would be more likely to take them to heart, as it was also a low unemployment area.
- 6.49.5.3. Mr Embrey interjected and asked Mrs Gibson to clarify that Pumpherston was a low unemployment area.
- 6.49.5.4. Mrs Gibson confirmed the point.
- 6.49.5.5. Mr Beattie had no further questions.
- 6.49.6. This concluded the representations and question.

**There was a short comfort break at 17:45-17:50.**

## **7. Summing Up**

The Chair therefore asked all parties to sum up starting with Mr Arnott.

### **7.1. Mr Arnott on behalf of Lloyds Pharmacy Ltd**

- 7.1.1. Mr Arnott stated that although the pharmacy in Mid Calder had not yet opened, it would have a dramatic effect on the viability of the Applicant's pharmacy in Pumpherston when the Mid Calder application was granted.

- 7.1.2. Mr Arnott noted that the pharmacy would be convenient for many residents in Pumpherston and highlighted that there were 8-9 pharmacies within a 3 mile radius.
- 7.1.3. Mr Arnott stated that although he did not know the BVI statistics that had been quoted, the SIMD figures had shown that Pumpherston was not a deprived area.
- 7.1.4. Mr Arnott acknowledged the passion of the Pumpherston Community Council representative and her comment that the current services were indeed adequate.
- 7.1.5. Mr Arnott referred to the future housing developments, and noted this was likely to take years to complete.
- 7.1.6. Mr Arnott urged the committee to refuse the application as it was neither necessary nor desirable to secure pharmaceutical services in or to the neighbourhood in which the premises were located.
- 7.2. **Mr Connolly on behalf of Deans Pharmacy**
- 7.2.1. Mr Connolly stated that there were a large number of pharmacies in the area that provided an excellent service to the residents of Pumpherston and although services and inadequacies had been mentioned which were not pharmacy issues – such as local transport, these could be remedied.
- 7.2.2. Mr Connolly acknowledged that residents would love to have a pharmacy easily accessible and convenient to them.
- 7.2.3. Mr Connolly stressed that the daytime population needed to be considered. There were currently 8 pharmacies providing pharmaceutical services into the neighbourhood, including a pharmacist who would conduct house visits if required, which was definitely adequate. Mr Connolly added that the bar for adequacy was not high, and referred to a point made by the Chair which the Community Council had acknowledged.
- 7.2.4. Mr Connolly stated that the application failed the legal test as there was an adequate service being provided and invited the panel to reject the Application.
- 7.3. **Mr Freeland on behalf of Omnicare Pharmacy**
- 7.3.1. Mr Freeland said that viability was a concern; due to the application for the Mid Calder pharmacy which he believed would be granted. In addition all the pharmacies were providing services into the neighbourhood.
- 7.3.2. Mr Freeland stated that the Applicant had not demonstrated any inadequacies other than access to services, and requested that the panel reject the application.
- 7.4. **Mr Sagoo on behalf of Boots UK Ltd**
- 7.4.1. Mr Sagoo said that many pharmacies provided services to the neighbourhood and were accessible.

7.4.2. The Applicant had not identified any services that could not be met by the existing contractors who all provided the core services.

7.4.3. Mr Sagoo stated that the current services provided to the neighbourhood were adequate and that it was neither necessary nor desirable for the proposed application to be granted in order to secure adequate provision in or to the neighbourhood, and urged the Committee to reject the application.

7.5. **Mr Clubb on behalf of Lindsay and Gilmour Chemist**

7.5.1. Mr Clubb said that the Applicant had not proven any inadequacies in the provision of the existing services into the neighbourhood.

7.5.2. Mr Clubb urged the panel to disregard the CAR based on what had been heard at the hearing, as he did not believe it was desirable or necessary to grant the application in order to secure adequate services.

7.6. **Mrs Gibson on behalf of Pumpherston Community Council**

7.6.1. Mrs Gibson appealed to the panel to think what a community mean and what services a new pharmacy would bring to the Community and neighbourhood.

7.6.2. Mrs Gibson acknowledged the comments relating to transport links and that there were 9 pharmacies within a 3 mile radius, which was fine if people were fit and had financial and physical means to access the pharmacies. However, if they were unwell, they could feel isolated which could spiral into anxiety and meant that the residents could feel neglected.

7.6.3. Mrs Gibson believed that a pharmacy would bring so much to the local area – not just Pumpherston but also the Industrial Estate, travelling community and immigrants, who were often ostracised from communities. If there was a service provider who could listen to their needs and build trust, this was a very strong case for the need for a pharmacy.

7. The Applicant

7.7.1. The Applicant said that a lot of focus of the Interested Parties at the hearing had related to the responses to the Consultation which had been conducted a long time ago and there had been comments that many of the responses were invalid or should be disregarded.

7.7.2. The Applicant offered another perspective and said that there was a passionate community who had been rallying for a new pharmacy for decades. When he had approached the Community Council as the Applicant, they had been keen to be fully involved in engaging with the community through the public consultation. They had grabbed the bull by the horns.

7.7.3. The Applicant said that the number of 575 responses received were as a result of a passionate grass-roots movement through the Community Council.

7.7.4. The Applicant said that he had decided not to conduct a second consultation as

he felt it would have let the people down who had already taken part in the consultation that had already been conducted, and decided not to start the process again as it would simply have delayed the process further and reduced the chances of getting a pharmacy, which is why he had stuck to his guns with the original CAR. The Applicant acknowledged that there were other legal and valid reasons for doing so.

- 7.7.5. The Applicant stated that the CAR was valid as there was no expiration date to any CAR in the past, present or future. The Regulations did not state that respondents' views could or would expire.
- 7.7.6. The Applicant asked the panel to acknowledge that the CAR for the Mid Calder application was two years older than his CAR, and that expiry was not mentioned by either the PPC or the NAP.
- 7.7.7. The Applicant stated that the CLO had been in direct correspondence with the Health Board and indirectly with himself and had categorically stated that the CAR was valid and could not be disregarded, which was important to note.
- 7.7.8. The Applicant emphasised that no pharmaceutical changes had taken place since the Consultation had been undertaken.
- 7.7.9. The Applicant stated that services were not improving and commented that NHS complaints in relation to Lloyds had increased three-fold in three years.
- 7.7.10. The Applicant said that he had ascertained that all the pharmacies were full for blister packs, which also echoed comment from the CAR, which he believed should also be taken into account.
- 7.7.11. The Applicant said that Pumpherston Community Council had identified three core services which were missing – MAS, CMS and PHS and added that recent comments on the Community Council's Facebook page echoed what was happening: that services had not improved and were stretched.
- 7.7.12. The Applicant commented that the Mid Calder CAR echoed the same complaints that had been heard at the hearing today which related to stretched services.
- 7.7.13. The Applicant said that he had recently engaged with residents and business provides and the Head of the School and they all voiced the same concerns.
- 7.7.14. The Applicant commented that Boots were introducing a £5 delivery charge which would have an impact the community over the next 12-24 months.
- 7.7.15. Statistics.  
The Applicant acknowledged that he did not have specific details on the data sources used by the Interested Parties such as the SIMD figures, but believed that they were using information from a defunct website and information was now housed on other websites.
- 7.7.16. The Applicant acknowledged that he had not quoted the source on all his slides during his initial presentation, but confirmed the data sources he had used



(which were freely available to anyone) were:

- Access to Services SIMD (2016), Health SIMD (2016), Elderly (2018), Smoking (2018), Populations (2018) from National Records Scotland
- Car ownership and economic activity from 2011 Scotland Census (post code output area)
- GP and Pharmacy stats (2019) from ISDScotland
- Prescription data (2018/19) from Pharmdata and Adheradata
- Pharmacy Complaints (2018/19) from NHS Lothian

7.7.17. Viability.

The Applicant stated that viability had been secured on a population of his neighbourhood of 2200 and refuted the comments made by the Interested Parties that this population was unviable, since there were 90 viable pharmacies across Scotland that dispensed less than 2600 items per month.

7.7.18. In terms of the impact on the existing contractors, it would not be significant as they were all doing significantly more items than the NHS Lothian average.

7.7.19. Delivery Service

The Applicant stated that a delivery service did not allow residents to access a face-to-face interaction with a professional and although the existing contractors stated that the delivery service was effective, the Applicant believed that it was not.

7.7.20. Evidence

The Applicant said he had provided 7 pieces of evidence:

7.7.21. CAR.

The Applicant said that evidence to support poor access and stretched services were contained in the CAR.

7.7.22. Bus Services

The Applicant stated that bus services were erratic during the day – with people relying on an infrequent 30 minute bus service, and often had to wait an hour or more. If a resident needed to visit Lindsay & Gilmour, this involved two bus journeys, and could take two hours for a round trip. Also, the high cost of bus travel put people off from accessing pharmacies.

7.7.23. Poor Outcomes

The Applicant said that most of his neighbourhood was in the 15% most deprived areas, and that is why Scottish Government recognised the area needed additional services, and the only public agency to address this need was the Health Board.

7.7.24. The Applicant said that there were a high number of elderly residents in the neighbourhood compared to surrounding areas, and also a high number of smokers. However, car ownership was low compared to the surrounding areas, which indicated this was more challenging for residents to travel to the existing pharmacies.

7.7.25. Delivery

The Applicant stated that the delivery service was not well provisioned, with deliveries to patients being missed, new delivery charges being introduced and deliveries not taking place on a weekly basis; therefore the current delivery service provided by the existing pharmacies was ineffective.

7.7.26. Blister Packs.

The Applicant stated that all the existing pharmacies are full for this service.

7.7.27. Lothian Contracts.

The Applicant acknowledged that although he was not meant to compare his application with the new contracts for Mid Calder or Kirknewton, his neighbourhood had significantly poorer outcomes in relation to health and car ownership than those for the pharmacies which had been granted a contract.

7.7.28. New Housing

The Applicant said that there were a significant number of new homes being built, and referred to the Community Council representative's statement that 1000 new homes were being built. Many residents were already experiencing long waiting times in the pharmacy, and this was only going to add to the strain on the existing services when the new population came in.

7.7.29. Conclusion.

The Applicant stated that it was for the above reasons why a new pharmacy was absolutely necessary for this community as they would finally be able to access a pharmacy and alleviate the pressure on the existing health care providers.

**8. Retiral of Parties**

8.1. The Chair then invited each of the parties present that had participated in the hearing to individually and separately confirm that a fair hearing had been received and that there was nothing further to be added. Having been advised that all parties were satisfied, the Chairman advised that the Committee would consider the application and representations prior to making a determination, and that a written decision with reasons would be prepared, and a copy issued to all parties as soon as possible. The letter would also contain details of how to make an appeal against the Committee's decision and the time limits involved.

8.2. The Chair repeated that the Committee would not consider the Mid Calder application but would consider the age of the CAR and other concerns that had

been raised in relation to it.

- 8.3. The Chair stated that due to the length of time it had taken to conclude the open session of the hearing, the private deliberations and decision of the Committee would be deferred to a subsequent future date within the next week (date to be determined) and the written decision would be communicated as soon as practicable thereafter, which would contain details on how to appeal and also the time limits for such an appeal to be made.
- 8.4. The Applicant and Interested Parties agreed that due to the length of time the hearing had taken, they would all leave the meeting, accepting that the Committee would defer the decision making process until a suitable date and time could be arranged.
- 8.5. The hearing adjourned at 18:45 hours.

**Following the open session, the PPC Committee members reconvened in a private session.**

It was agreed that as formal deliberations would need to be deferred, the views of the pharmacy members were sought, in the event that they would not be able to attend the reconvened private session of the Committee.

Issues relating to Data Sources

Objections were raised by Mr Kirkwood that in the Applicant's summary, he had added additional information (such as his data sources) and believed that this should be disregarded as invalid. The Chair acknowledged this would be recorded in the deliberations.

Viability

In relation to viability, Mr Embrey acknowledged the variation in pharmacies – some were much busier than others with vibrant over the counter trade and low overheads, and expressed concern that Mr Connolly's pharmacy (which had invested heavily in robotics) would probably need to reduce the number of pharmacist available if the numbers of prescriptions items per month reduced significantly (e.g. 1000-2000).

Bus services / Access

Mr Embrey raised concerns in relation to the bus service – if a service was being utilised, then it would likely be kept as a service, but non-utilised services were withdrawn, therefore it was likely to be a minority complaining about the lack of access.

The Chair noted comments regarding the lengthy waits for a bus and lack of pavements.

Mr Embrey noted the number of pharmacies in the locality (8-9 pharmacies within 2-3 miles), many of which offered extended hours. Pharmacies next to the medical centres would be used by patients as they are convenient.

Mr Embrey noted resident's comments in the CAR seemed muddled as patients confused visiting a GP with visiting a pharmacy.

#### FOI/CAR concerns

Frustrations were expressed that the Interested Parties had more information than the Committee relating to the concerns over the handwritten submissions, under information obtained under FOI request to NHS Lothian. It was agreed to raise issues at the next training that all pertinent information should be submitted to the panel.

Mr Niven noted that the original hearing had been paused following advice (in relation to the queries in relation to the veracity of handwritten responses to the CAR).

It was noted that the Applicant had arrived at NHS Lothian office with 408 paper copies and had also added the information into a spreadsheet (all of which were handed to the team). The handwritten responses had subsequently been manually input into survey monkey and from this the NHS Lothian team had analysed the results.

The FOI documents which had been submitted to Mr Clubb had been omitted from the papers to the Committee because the Applicant had subsequently submitted an FOI request on the original FOI, and the papers were not in the file to be distributed.

It was noted that the process for paper responses had now changed, and all requests needed to be submitted to, and all responses would need to be returned to the Primary Care Team.

#### Neighbourhood/Boundaries

With regard to the local area, Mr Beattie agreed with Ms Gibson's comment that the Houston Industrial Estate should be disregarded. Uphall Station and Pumpherston served as one community. They shared a school (Pumpherston and Uphall Station Community School) and he also agreed that there was a big hill, and acknowledged that the path to Uphall was not well lit or maintained. Although this did not affect pharmaceutical provision, it would affect a person's ability to access the services.

#### Dosette Boxes

Mr Beattie referred to the challenges raised in relation to Dosette Boxes, and noted wider reports of similar issues. Although Mr Arnott had noted that dosette boxes were no longer being promoted, no genuine alternative were available for the population in West Lothian.

#### Deliveries / Charges

Mr Beattie noted that Boots delivery charges were already having an impact on services in West Lothian, and enquiries for alternative providers had been

sought via the Primary Care team.

### Community Hub

Mr Beattie noted that the Community Council wanted a partnership centre, creating and providing a community hub of which the applicant's pharmacy would be part of.

However Mr Embrey noted that the issue of pharmacy provision had not been a substantive item on the Community Council's agenda, only under AOB. If it had been a substantive issue, it would be a standing item on the agenda.

### Methadone Dispensing

It was acknowledged that methadone dispensing and supervision were locally enhanced services and discussed the Applicants decision to not offer this service.

The Chair advised that both she and the Lay members (Mr John Niven and Mr Keith Kirkwood) would meet on Tuesday 15<sup>th</sup> October to review the CAR and make a decision regarding this application. The Chair requested that all copies of the Applicant and Interested Parties presentations be provided on the day as reference and as the minute taker (Ms Stone) was unavailable, requested that Liz Livingstone take the decision notes. The Chair confirmed that if required, contact would be made with the Committee pharmacists for professional guidance.

## 9. **RECONVENED CLOSED PPC HEARING – TUESDAY 15<sup>TH</sup> OCTOBER @ 1PM**

- 9.1. The Chair, Mr Niven and Mr Kirkwood (the Committee) met to consider the application and representations prior to making a determination.

The Chair acknowledged that the oral hearing was lengthy due to the number of presentations, and the importance of considering all of the information provided.

However, it was also noted that this application has been particularly challenging for both the applicant and NHS Lothian. It was noted that:

- Delays to the process have occurred, with the first PPC hearing being abandoned because the postcode on the application form was incorrect.
- NHS Lothian decided to take the application back to the joint consultation stage and a new Form A1 was received on 26 July 2018.
- The Applicant indicated that he was not prepared to redo the joint consultation.
- Protracted correspondence between the Board and Applicant and in July 2019 the Board notified the applicant that the least prejudicial position was to move to a hearing.

Additionally, the Committee noted that:

- Concern was raised by interested parties regarding responses to the CAR, including the receipt of an anonymous letter to the Board.
- The second application address was different to what was submitted at the joint consultation stage.
- The Chair had received a joint letter from all interested parties to cancel this new hearing.
- Information that had been presented to the Committee at the hearing on 11<sup>th</sup> October gave cause for concerns to the panel, particularly unreferenced statistics and sweeping statements which were not supported by evidence.

The Committee also noted:

- i. That they had jointly undertaken a site visit of 4 Drumshoreland Road, Pumpherston, West Lothian, EH53 0LN and the surrounding area noting the location of the proposed premises, the pharmacies, general medical practices and the facilities and amenities within.
- ii. A map showing the location of the proposed Pharmacy in relation to existing Pharmacies and GP surgeries within Pumpherston and the surrounding area.
- iii. Pharmacy Profiles
- iv. Dispensing Figures
- v. Prescribing Figures
- vi. Pharmacy Service
- vii. Population Numbers
- viii. Deprivation
- ix. Population Heatmap
- x. Pharmacy Layout
- xi. NHS Lothian Pharmaceutical Care Services Plan 2018
- xii. The application and supporting documentation including the Consultation Analysis Report provided by the Applicant.
- xiii. Supporting letters from:
  - Letter dated 7 September 2018 from Pumpherston Dental Surgery
  - Letter dated 4 September 2018 from Craigshill Health Centre
  - Letter dated 27<sup>th</sup> August 2018 from Neil Findlay MSP
  - Letter dated 27<sup>th</sup> August 2018 from Miles Briggs MSP
  - Letter dated 5<sup>th</sup> September 2018 from Kezia Dugdale MSP
  - Letter dated 27<sup>th</sup> August 2018 from Gordon Lindhurst MSP
  - Letter dated 30<sup>th</sup> August 2018 from Angela Constance MSP
  - Letter dated 29<sup>th</sup> August 2018 from Alison Johnstone MSP
  - Letter dated 21<sup>st</sup> August 2019 from Councillor Damian Timson, West Lothian Council (East Livingston & East Calder Ward) (incorrect date on letter)
  - Letter dated 27<sup>th</sup> August 2018 from Depute Provost Dave King, West Lothian Council (East Livingston & East Calder Ward)
  - Letter dated 27<sup>th</sup> August 2018 from Councillor Carl John , West Lothian Council (East Livingston & East Calder Ward)
  - Email dated 27 August 2018 from Councillor Frank Anderson, West Lothian Council (East Livingston & East Calder Ward)

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

### 0.1. Introduction

10.1.1. NHS Lothian undertook a joint consultation exercise with Mr Mohammed Ameen regarding the application for a new pharmacy at 4 Drumshoreland Road, Pumpherston, EH53 0LN

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

### 10.2. Method of Engagement to Undertake Consultation

10.2.1. The consultation was conducted by placing an advertisement in the West Lothian Courier and a link to the consultation document was available on NHS Lothian's website. Respondents could reply electronically via SurveyMonkey or by returning the hardcopy questionnaire to NHS Lothian.

10.2.2. The Applicant additionally arranged to distribute paper copies of the questionnaire to residents of the neighbourhood, leaving copies at various retail premises in the area, by attending local community events and directly to residents' homes. The Applicant collected the completed questionnaires and returned the forms to NHS Lothian.

10.2.3. The Consultation Period lasted for 90 working days and ran from 3 May 2017 until 25 July 2017.

### 10.3. Summary of Questions and Analysis of Responses

10.3.1. The Chair was made aware before the hearing, and the Committee was made aware during the hearing, that concerns were raised by interested parties regarding the authenticity of the responses to the joint consultation. The Committee decided to accept and consider the CAR for the following reasons; firstly, they had received no clear evidence that the integrity of the CAR had been compromised; secondly, the Applicant had not been informed of the arrangements which are now in place for requesting and returning hard copies of the survey; and finally and more broadly, NHS Lothian had produced the CAR for the Committee's consideration and it was reasonable to conclude that they were content that it formed part of the Committee's deliberations.

Whilst the Committee acknowledged that there was an inference from submissions made during the hearing by the interested parties that the applicant had compromised the integrity of the CAR, it was agreed that no corroborating evidence was offered. The Committee also noted that both the Applicant and Ms Gibson confirmed that they had both posted questionnaires through local residents doors, therefore the Committee accepted the findings, welcomed the CAR and did not undervalue the response numbers.

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' response as individuals or from organisations.

10.3.2. In total, 575 responses were received, 167 electronic and 408 paper. All submissions were made and received within the required timescale, thus all were included in the Consultation Analysis Report.

10.3.3. Question 1 – Do you think the neighbourhood described is accurate – REFER TO 11.2.1

In reviewing the CAR, the Committee noted that the vast majority of responses to the CAR - 540 respondents – agreed with the definition of the neighbourhood as described by the applicant. As per paragraph 11.2.3 the committee agreed with the Applicant's definition of neighbourhood.

10.3.4. Question 2 – Do you think there are gap/deficiencies in the existing provision of pharmaceutical services to the neighbourhood

The Committee noted that 524 respondents answered yes, 24 answered no, 24 answered don't know, and 3 skipped the question.

The Committee acknowledged that responses related to waiting times at medical practices and pharmacies, poor public transport system, and costly taxis, absent local services, stock shortages and waiting times.

The Committee noted that when referring to the CAR, the Applicant had stated that "he had talked of the issues, and looked at the evidence; the most definitive is the CAR with 575 responses. There are 1000's of complaints - 59% of which are about access, and 34% about stretched services". On reviewing the CAR, the Committee could not evidence 1000's of complaints, and throughout the hearing, was not provided with any additional evidence of those stated complaints, other than the Applicant reading aloud some respondents comments.

Additionally, the Applicant referred to "around 5000 responses, there were 2000 complaints". The Committee acknowledged that sweeping statements resulted in lack of clarity.

Nevertheless, CAR responses stated that there is no pharmacy within a reasonable walking distance; however the Committee acknowledged that in some areas of the neighbourhood, the travel time to the proposed pharmacy would take longer than using existing services.

It was however, also noted by the Committee that there were some unsuitable walking routes for the elderly. The Committee had established during the hearing that local pharmacies offered a home delivery service.

Additionally the Committee noted that a range of additional opening times were supplied by the surrounding pharmacies, however also noticed that there were no CAR comments to this question requesting longer opening hours.



The Committee members were surprised that the neighbourhood had lost its local pharmacy 25 years ago, and considered whether as it was never replaced it may not have been a viable business option.

The Committee noted responses about waiting times for appointments and delays for repeat prescriptions at the local GP practice, however agree that this is a Primary Care issue and not deficiencies in existing provision.

In general, the Committee noted that the vast majority of comments do not respond to the gaps/deficiencies in the existing pharmaceutical services and instead point to deficiencies in other services.

The Committee noted the Applicant's referral to a recent Community Council meeting where a local resident on the West Lothian Transport Forum, acknowledged that the public transport provision is poor. Ms Gibson also commented that local public transport services were shocking. However the committee noted that there were 7 pharmacies within a 2 mile radius, all providing core services, including a free collection and delivery service with the exception of Boots pharmacy that charges £5.00.

10.3.5. Question 3 – What impact do you think a community pharmacy would have in the neighbourhood

The Committee noted that 554 respondents answered positive, 4 responded negative, 11 did not know, and 6 skipped the question.

The Committee noted that 461 of the 554 who answered positive provided comments, that included not needing to use public transport, community demographics, housing growth, better for the elderly, bring back community spirit, handy, and being able to collect medicines locally, take pressure of GP services, and get advice.

The Committee noted that the vast majority had answered positively with the CAR highlighting that the residents feel like a forgotten community, as many comments reflected this. The Committee acknowledged that the Community Council representative had requested that this application is granted so that there would be a service provider in the community who could listen to their needs and build trust. However, it was also noted that in asking when the issue of a pharmacy in Pumpherston had last been discussed and recorded in the council minutes, the subject was discussed under Any Other Business on Monday 30<sup>th</sup> September 2019. The Committee were surprised to learn that this subject was not a standing item on the agenda, and there was no reference to this subject in previous minutes.

The Committee also noted that when the Chair explained to the Community Council representative that the Committee had to reach a decision based on a threshold of adequacy, she had confirmed that pharmaceutical services were adequate. The Committee noted that this did not support the written submission from the Community Council expressing concerns about the difficulty in accessing pharmaceutical services.

Nevertheless, the Committee felt that links and services could be built with the existing providers of pharmaceutical services; listening to the community needs and building trust. The Committee encouraged existing providers to engage more with the community.

10.3.6. Question 4 – What are your views on the pharmaceutical services being proposed by the applicant

The Committee noted that 525 respondents provided positive responses, 1 provided a negative response and 4 provided other comments.

Of the 525 responses, 375 made comments however only 83 related to the services being proposed by the applicant. The 83 comments were very generic stating that the services offered were very welcome, however only 17 responses relating to specific pharmaceutical services (6 for MAS, 4 for methadone, 2 for travel vaccinations, 2 for Dositte boxes, and 3 for smoking cessation). The remaining 292 comments related to other issues eg. Great for the community, no need to use poor public transport, convenience for the elderly.

Whilst, the Committee acknowledged the large number of positive responses, noted that only (22%), 83 out of 375 comments actually referred to the proposed pharmaceutical services being offered, with 78% of comments relating to other convenience issues rather than specific services that could be provided.

The Committee noted the CAR comments relating to the supply of methadone from the proposed pharmacy. The Committee also noted that the Applicant had advised that it was a collective decision with the Community Council not to offer this service. It was also noted that the Applicant had been told by the Addictions Team that they had not identified any substance misuse patients in the neighbourhood; therefore there was no need to offer this service. However the applicant was not able to provide details of which Drug and Alcohol service he had spoken to and also he had not provided any corroborating evidence on this matter. Additionally he was not able to provide any information on methadone prescriptions dispensed by any of the other pharmacies in the area. The Committee recognises that this is not a core service, but the dispensing of a prescription is.

The Committee noted that the Applicant stated that for blister packs, all the current pharmacies are full and that he made calls to each pharmacy on 25<sup>th</sup> September at 12 noon to establish the current position.

The Committee noted all of the responses by the interested parties, who each denied that this was correct. One interested party, who was so surprised to hear this account, called his pharmacy and reported he was told that no member of staff had received a call from an unidentified customer and given a response. The Committee noted that the Applicant had confirmed that he had not introduced himself on each call, or asked for the name of the person that he spoke to. The Committee had further reason to doubt the significance of his evidence as each pharmacy visited as part of the hearing had stated that they had capacity. The Committee also noted that Omnicare and Lindsay & Gilmour had invested in Robotics. It was agreed by the Committee that they would not consider this evidence provided by the Applicant as it was unproven by the

Applicant.

The Committee acknowledged that a reference was made by the Applicant about a previous PPC granting a pharmacy to a similar sized village, and the interested parties referring to the recent appeal to the Mid Calder application. The Committee acknowledged that they would not take either application into consideration whilst making their decision for the Pumpherston application.

The Committee, having considered existing provision of services at each locale, did not consider that the pharmaceutical service being offered by the applicant was filling any gap in the provision that is currently being offered.

10.3.7. Question 5 – Do you think there is anything missing from the list of services to be provided

The Committee noted that there were 51 respondents answered yes, 428 answered no, 83 answered don't know, and 13 skipped the question.

The Committee noted that of the 51 comments stating that they thought something was missing, 15 requested a new health centre and 2 stated that they wanted drug user facilities. Respondents who stated that nothing was missing from the list highlighted that they were satisfied with the variety of services on offer.

The Committee acknowledged that most respondents were happy with what was being offered but noted that the Applicant had made some unsubstantiated remarks about existing pharmacies not offering 3 core services – Minor Ailment Service, Chronic Medication Services, and Public Health Service. The Applicant had claimed that Pumpherston Community Council had stated that the residents were voicing concerns in relation to accessing these services. The Committee agreed that this was incorrect as they are fully aware that all of the core services are being provided by the existing pharmacies however were very surprised to note that residents' concerns relating to pharmaceutical services were not recorded in the Pumpherston Community Council minutes and therefore questioned the authenticity of the claims.

The Committee acknowledged that the Applicant had confirmed that he would not be providing a methadone dispensing service. The Committee although acknowledging that this is not a core service, was unclear why the Applicant could not provide details of the Drug and Alcohol Group that he had spoken to, and who gave him information not to offer this service.

10.3.8. Question 6 – Do you think a community pharmacy in the neighbourhood will work with other NHS health services such as GP practices

The Committee noted that 529 respondents answered yes, 5 answered no, 30 responded don't know, and 11 skipped the question.

The Committee acknowledged that the majority of responses provided a positive comment and accepted that partnership working is standard practice and that all NHS health services would work together.

10.3.9. Question 7 – Do you believe the proposed pharmacy would have been a positive or negative impact on existing NHS services

The Committee noted that 528 respondents answered positive, 8 answered negative, 33 answered don't know, and 6 skipped the question.

The Committee also noted that 241 (46%) of the positive responses provided a comment. Comments were mainly focused on relieving pressures on existing Primary Care services, no existing service in the area, benefiting local community.

The Committee noted that the Applicant stated that he will dispense 2600 items per month and this will be viable. The figure of 2600 has been calculated by the Applicant based on the average yearly prescription per patient which is 14.5. Therefore  $14.5 \times 2157$  (number of Pumpherstons residents) divided by 12 months = 2600.

The Applicant had advised the Committee that there were 90 viable pharmacies in Scotland that dispense less than 2600 items per month, therefore if 2600 items were taken off each of the existing pharmacies, no site would need to close and all would be viable. The Committee were unhappy that the Applicant had provided such unqualified expectations and also noted that the Applicant was unclear about the neighbourhood demographics as he was unsure how many people were aged between 60 and 64. The Committee also noted that the Applicant had quoted a figure of 500 elderly people who would be moving – or had moved – into the area, and that these people were already established in the area and the population was growing. The Committee acknowledged that sweeping statements resulted in lack of clarity; nevertheless, there are 7 pharmacies in a 2 mile radius and whilst it was recognised by the Committee that there are some unsuitable walking routes for the elderly, it was noted that all seven of the existing pharmacies offer a collection and delivery service.

Additionally, it was noted by the Committee that Deans Pharmacy provided home visits by a pharmacist if required.

10.3.10. Question 8 – What do you think about the location of the proposed pharmacy

The Committee noted that 472 respondents answered positive, 2 answered negative and 14 made other comments.

The Committee reviewed the positive comments and noted that the responses were pleased with the location of the pharmacy and how good it would be for the community. The Committee also noted that there were some responses that were confused as to the actual location.

The Committee acknowledged that the proposed pharmacy was very central for Pumpherstons residents, good parking, near the primary school; however noted Uphall Station residents may be closer to existing provision.

Although the Committee agreed to accept the finding in the CAR, and not undervalue the response numbers, the Committee notes that the address provided at the time of the joint consultation was Uphall Station Road, Pumpherstons; between Drumshoreland Place and Drumshoreland Road. A

precise location was not provided at this time therefore the Committee acknowledged that there may have been confusion as per some responses.

10.3.11. Question 9 – What do you think about of the proposed opening hours

The Committee noted that 510 respondents provided positive comments, 2 provided negative comments, and 17 provided other comments.

The Committee acknowledged that respondents were happy with the proposed times, however noted a few comments that suggested later opening hours for commuters who get back late would be appreciated.

It was noted that the Applicant had not offered anything different from that already offered by the existing providers.

**11. Decision**

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

**11.2. Neighbourhood**

11.2.1. 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 resident in it, natural and physical boundaries, general amenities such as schools/shopping areas, the mixture of public and private housing, the provision of parks and other recreational facilities, the distances and topography residents had to travel to obtain pharmaceutical and other services and also the availability of public transport.

11.2.2. The Committee agreed that the neighbourhood should be defined as follows:

North: M8 motorway

East: A899 Livingston Road until it meets A705

South: Cousland Road, and along the tree belt that encases Craigshill, then following it down to River Almond to head eastward

West: To meet pathway/cycle track that heads up to M8 motorway

11.2.3. The Committee noted that the vast majority in the CAR - 540 respondents – agreed with the definition of the neighbourhood as described by the applicant.

The Committee also noted that the Community Council agrees with the definition.

The Committee noted that Pumpherston and Uphall Station share a primary school and as there is no GP practice in the neighbourhood, residents will travel out with the area to either Strathbrock Medical Practice or Craigshill Medical practice.

The Committee also noted that Uphall Station does not have a local shop and therefore the residents will use either Pumpherston or Uphall for local provisions.

The Committee noted that both Uphall Station and Pumpherston share a primary school and is a hub for the area, however are surprised that both villages have separate community councils.

The Committee noted that the industrial estate formed part of the clear boundary between Pumpherston and the rest of Livingston.

The Committee accepted the Applicant's definition of neighbourhood.

11.3. **Adequacy of existing provision of pharmaceutical services and necessity or desirability**

11.3.1. Having reached a conclusion as to neighbourhood, the Committee was then required to consider the adequacy of pharmaceutical services to that neighbourhood and, if the committee deemed them inadequate, whether the granting of the application was necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood.

11.3.2. The committee noted there were no pharmacies within the neighbourhood and there were seven existing pharmacies within a 3 mile radius from the Applicant's proposed pharmacy. The Committee also noted the specific investment made into the future proof existing pharmacies.

The Committee noted that the Lothian Area Pharmaceutical Committee and the Lothian Medical Council did not object to the application.

The Committee noted that the increase in population will not be impacted for some time as there is a large part of the proposed development to be completed, therefore this did not impact on the current provision of pharmaceutical services.

The Committee noted that the NHS Lothian Provision of Pharmaceutical Care Services Delivered via Community Pharmacy 2018 document does not specify a requirement for pharmaceutical services in Pumpherston.

11.3.3. The Committee noted that the community of Pumpherston and Uphall Station feel unsupported. In particular, the Committee recognised that there are very few services within the community, very poor bus service, no community hall, and no mother and toddler group. The Committee recognised that having GP facilities out with the village provides challenges for residents and notes that the

Community Council is trying to improve services locally. Nevertheless, the Committee noted that the issue of GP surgeries had been recorded in the Community Council minutes, but pharmaceutical services had not. The Committee heard from the Community Council representative that 3-4 years ago local councillors were asked to raise issues relating to access to pharmaceutical services with the Health Board. No response was received and the Community Council did not pursue this matter.

The Committee noted that Ms Gibson stated that the current pharmaceutical services were adequate.

The Committee noted that letters provided by councillors in support of this application appear to have a good knowledge of the neighbourhood, and whilst they say that a pharmacy will be a benefit, none acknowledges deficiencies of pharmaceutical provision. The Committee recognises that the letters date back to the middle of 2018, when support was given at the time of the abandoned first hearing, however note that two letters refer to premises at Uphall Station Road instead of Drumshoreland Road.

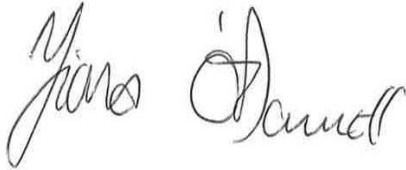
The Committee noted that the Applicant made a contentious comment regarding all of the existing pharmacies being full and having no space for dosette boxes. The Committee noted that the Applicant could not substantiate this claim.

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

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

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

**The meeting closed at 16.15pm**

A handwritten signature in black ink, appearing to read 'Fiona O'Donnell', written in a cursive style.

**Signed:**

**Ms Fiona O'Donnell**  
**Chair – Pharmacy Practices Committee**

**Date: 11 November 2019**