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19 October 2023

REF: SHA/26054

APPEAL AGAINST NHS ENGLAND (BRISTOL, NORTH SOMERSET AND SOUTH GLOUCESTER AREA TEAM) DECISION TO REFUSE AN APPLICATION BY REDCLIFFE HILL PHARMA LTD FOR A RELOCATION THAT DOES NOT RESULT IN A SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION UNDER REGULATION 24 FROM 8 WARING HOUSE, REDCLIFFE HILL, BRISTOL, BS1 6TB TO BEDMINSTER FAMILY PRACTICE, REGENT ROAD, BEDMINSTER, BRISTOL, BS3 1AS

1 Outcome

1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of NHS England and redetermines the application.

1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:

Redcliffe Hill Pharma Ltd (represented by Healthcare Plus Consulting Ltd)
NHS England

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APPEAL AGAINST NHS ENGLAND (BRISTOL, NORTH SOMERSET AND SOUTH GLOUCESTER AREA TEAM) DECISION TO REFUSE AN APPLICATION BY REDCLIFFE HILL PHARMA LTD FOR A RELOCATION THAT DOES NOT RESULT IN A SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION UNDER REGULATION 24 FROM 8 WARING HOUSE, REDCLIFFE HILL, BRISTOL, BS1 6TB TO BEDMINSTER FAMILY PRACTICE, REGENT ROAD, BEDMINSTER, BRISTOL, BS3 1AS

NHS Resolution

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1 The Application

By application dated 12 December 2022, Redcliffe Hill Pharma Ltd ("the Applicant") applied to NHS England for a relocation that does not result in a significant change to pharmaceutical services provision under Regulation 24 from 8 Waring House, Redcliffe Hill, Bristol, BS1 6TB to Bedminster Family Practice, Regent Road, Bedminster, Bristol, BS3 1AS. In support of the application, it was stated:

In response to why the application should not be refused pursuant to Regulation 31 the Applicant stated:

1.1 There is currently no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply.

1.2 Healthcare Plus Consulting Ltd is instructed by the Applicant to submit this supporting information for the above application on its behalf. Healthcare Plus Consulting Ltd enclose a letter of authority from the Applicant.

Background

1.3 The Applicant owns and operates the Redcliffe Pharmacy on Redcliffe Hill, dispensing c13,500 items per month. The pharmacy is located on a tertiary parade with very limited footfall.

1.4 The Applicant has agreed terms to relocate a short distance to the Bedminster Family Practice on Regent Road. The surgery previous [sic] had a pharmacy co-located (Lloydspharmacy) which has now closed. The practice has a list size of over 12,000 patients and is well utilised. It is proposed the Applicant would occupy the same space as the previous pharmacy within the surgery.

1.5 The most practical route from the current to proposed site is along Redcliffe Hill, across the Bedminster bridge and down New Charlotte Street, along wide, flat terrain and well-lit pavements. There are no obvious barriers in the area preventing people from moving around the area, with all roads that require crossing traffic light controlled.

1.6 Please see map below for the location of the existing and proposed sites. [Appendix A for NHS Resolution Committee]

Regulation 24

1.7 Regulation 24(1)(a) requires NHS England to consider whether:

1.8 “for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible”

1.9 The Applicant notes ‘patient groups that are **accustomed to accessing** pharmaceutical services’ and ‘**not significantly** less accessible’ [emphasis added by Applicant].

1.10 The proposed premises are located within a short distance of the existing premises c. 0.2 miles distant (www.nhs.uk).

1.11 The Applicant defines the Patient Groups that use the pharmacy as below:

1.11.1 Patients that utilise the free collection and delivery service

1.11.2 Patients that originate from local GP surgeries requiring accessing [sic] to Pharmaceutical Services

1.11.3 Patients that require access to Pharmaceutical Services other than after a visit to a GP surgery

1.11.4 Patients whose mobility is impaired.

Patients that utilise the free collection and delivery service

1.12 It must be noted that the pharmacy is a high volume business (13,954 Rx items dispensed in May 22 [sic]) with 97% of Rx sent to the pharmacy by EPS with a significant number (c85%) delivered to patients. This is by far the largest patient group which can be split in to 3 subsets:

1.12.1 The pharmacy serves 32 care homes (c920 beds) over a substantial geographic area, across Bristol, Bath and Wiltshire. They account for c75% of the total items. The pharmacy operates these homes with dedicated staff and 3 delivery vehicles.

1.12.2 The pharmacy serves c100 Community Dossette Patients, providing monthly medication in compliance aids, accounting for c6% of items.

1.12.3 Other patients of the pharmacy also utilise the delivery service accounting for c4% of total items.

1.13 Therefore, the number of patients accessing the existing premises is minimal, and these patients will see no change in their provision of pharmaceutical services. These patients are not accustomed to accessing pharmaceutical services at the premises and therefore they would not find that the new premises [sic] less accessible. The delivery arrangements and the advice given to this patient group would remain exactly the same in the new location, irrespective of subset above. [Emphasis added by the Applicant.]

1.14 The Applicant can also confirm that those other essential services that can be carried out through the delivery service (such as the collection of unwanted medication) will continue to be provided at the new premises, as will services such as telephoning for public health, signposting or self-care advice.

Patients that originate from the Local GP surgeries in the area requiring access to Pharmaceutical Services

1.15 Table below shows items breakdown at the current location from the various GP surgeries (Source: Pharmadata May 2022) [Appendix B for NHS Resolution Committee.]

1.16 Given the volume of care home items dispensed (as above) it can be seen that items originate from practices significant distances away, with a number over 10 miles away.

1.17 The pharmacy actually only dispenses to 2 local surgeries within 1 mile, namely Bedminster Family Practice (proposed site) and Bridge View Medical. Both the practices combined account for over 28% of items dispensed.

1.18 Based on these distances it can be seen the proposed locations would not be significantly less accessible for these patients.

Access on Foot

1.19 For those who will be accessing on foot, and for clarity those patients who are accustomed to accessing the existing premises (the Regulations don't allow for an assessment of future patients only those accustomed to accessing the existing premises):

1.19.1 The distance is relatively short at 0.2 miles.

1.19.2 The route from existing to proposed location is directly via main roads which are well lit, and flat terrain with no barriers to movement.

1.20 The route on foot from the current site to the proposed site is approximately a 5 minute walk, and the route is easy to navigate, as shown on the google map before [Appendix B for NHS Resolution Committee], along Redcliffe Hill & New Charlotte Street over the River Avon via the bridge.

1.21 Patients of Bedminster Family Practice account for c16% of prescriptions dispensed at Redcliffe Pharmacy. Given this is the proposed site, the change of premises for these patients mean the proposed location is actually more accessible for those requiring access to pharmaceutical services after accessing GP services at this surgery, avoiding an additional 5 minute walk to the proposed location.

1.22 As stated above, the remainder of prescriptions originate from a number of other surgeries which are all over 1 mile distant from the existing premises. The Applicant would conclude that overall the patients coming from these surgeries would be less likely to arrive on foot, because of the distance of either location from their surgery, and would therefore not find the proposed site significantly less accessible. Majority of these patients would belong to Patient Group 1 anyway.

By Car

1.23 For patients accessing the proposed premises having visited surgeries, will not find the proposed premises significantly less accessible. The journey by car between the 2 sites is only 2 minutes with better car parking available at the proposed site, where majority of patients would use the Asda car park opposite or on road parking near the proposed site.

1.24 It should also be noted that Bristol operates a Clean Air Zone, so patients wanting to accessing [sic] the existing location would have to pay the £9 charge given it is located within the zone, whereas the proposed site is outside the zone, so no charges apply.

1.25 Therefore, for this patient group, the journey by car cannot be considered significantly less accessible.

By Public Transport

1.26 For patients using public transport, the proposed location is well connected by the local bus network with the number 52 bus in particular operating along Redcliffe Hill (Bus stop opposite pharmacy) and down to Bedminster Parade (Bus stop opposite the proposed site).

1.27 This is a short journey between the 2 sites (approx. 2 mins in total) with a very short walk if required. The area as you would expect in a major conurbation is well served by bus routes is patients choose to utilise, although the Applicant is not aware of patients that currently access the pharmacy by public transport.

1.28 Bus stops in the area are shown in grey below (Blue Star is existing site & Red star proposed site)

1.29 [Appendix B for NHS Resolution Committee.]

Patients that require access to Pharmaceutical Services other than after a visit to a GP surgery

1.30 Given that approx. 85% of patients belong to Patient Group 1 described above, and allowing for patients in Patient Group 2, it is reasonable to conclude that only a small number of patients belong to this group.

1.31 The Applicant has considered where this patient group may start their journey. The consideration is equivalent to those patients who are accessing pharmaceutical services with a prescription but not coming directly from the surgery, so the comments at Patient Group 2 should also be considered.

1.32 The patients could be arriving at the pharmacy from home, work or in connection with a visit to other services within the locality, although the pharmacy is located on what could be classed as a tertiary parade with little supporting retail.

1.33 In relation to patients visiting from home, the Applicant has gathered data relating to the postcodes of patients using their pharmaceutical services and an analysis of the data shows that the patients are geographically spread out around the area and will make a variety of choices on access relating to the distance that they live and their level of mobility. This is not surprising given the uptake on the extensive delivery service and care homes served. This means that although some patients will have a longer journey, for others the journey will be shorter. The distance of the relocation is not great, and transport options by foot, by car and by public transport are good, with a number of bus routes covering the area as stated above. Therefore, the proportion of patients who have a significantly longer journey is not likely to be high.

1.34 In any event the maximum additional journey for any patient would be 5 minutes on foot, 2 minutes on public transport or 2 minutes by car, which cannot be considered significant irrespective of mode of transport. [Emphasis added by the Applicant.]

1.35 Given the central city centre location, the population is more mobile and younger compared to national averages.

Patients whose mobility is impaired

1.36 Having assessed the Applicant's patients, there are none that are accustomed to accessing the current premises that have Equality Act 2010 Protected Characteristics. Age and gender are not on their own a barrier to access – what is relevant having examined current patients is whether are any patients in any protected characteristic, that would have an issue accessing the new premises. The Applicant can confirm that it is not aware of any.

1.37 Patients that have significant mobility impairment do not access the pharmacy at its current location, and instead use the comprehensive delivery service which the

Applicant provides to its patients, or alternatively rely on carers and family members to access the pharmacy on their behalf.

1.38 Typically, those patients with moderate mobility impairment accessing the pharmacy, will have access to better car parking facilities near the proposed site.

1.39 The above demonstrates that no patient group would find the new premises significantly less accessible.

1.40 In addition, the Committee [of NHS England] will also consider the other matters required under Regulation 24:

1.41 In the opinion of NHS England, granting the application would not result in a significant change to the arrangements that are in place for the provision of pharmaceutical services.

1.41.1 There is no evidence that granting the application would result in a significant change to the arrangements that are in place for the provision of pharmaceutical services. The same services will be provided from both sites.

1.42 NHS England is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the HWB's area.

1.42.1 The Applicant is not aware of any plans in respect of the provision of pharmaceutical services to which significant detriment would be caused should its application be granted. The area is already well served by a number of pharmacies.

1.43 The services the Applicant undertakes to provide at the new premises are the same as the services the Applicant has been providing at the existing premises.

1.43.1 The Applicant undertakes to provide the same services at the new premises as are provided at the existing premises.

1.44 The provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow)

1.44.1 The Applicant confirms that the provision of pharmaceutical services will not be interrupted during the proposed relocation (except for such period as NHS England may for good cause allow).

Conclusion

1.45 In conclusion, it is clear that regardless of how patient groups are defined, and regardless of how these patients access the existing pharmacy; the proposed location will not be significantly less accessible; and will actually be more accessible to large numbers of patients.

1.46 Given majority of patients [sic] choose to use the delivery service (including care home patients) there is no change for these patients as the service will continue.

1.47 The Applicant invites NHS England to approve this application as all parts of Regulation 24 & 31 are met.

2 The Decision

NHS England considered and decided to refuse the application. The decision letter dated 12 June 2023 states:

2.1 NHS England has considered the above application and are writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

NHS ENGLAND SOUTH WEST PHARMACEUTICAL SERVICES REGULATIONS COMMITTEE (PSRC) DECISION REPORT DATED 6 APRIL 2023

2.2 The PSRC noted that:

2.3 The distance between the current pharmacy location and the proposed new location is approx. 0.2 miles.

2.4 The prosed [sic] location was previously occupied by a Lloyds Pharmacy (100 hour) until they closed 30 May 2022 due to Market Exit.

PRELIMINARY ISSUES

2.5 Controlled locality status

2.5.1 This is not a controlled locality.

2.6 Nature of the application

2.6.1 This is an application 'for a relocation of pharmacy premises that does not result in significant change to pharmaceutical services provision' and is an excepted application and considered under Regulation 24(1).

2.7 Regulation 24(1) states:

2.7.1 *Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB(HWB1) if –*

(a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;

(b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list –

(i) in any part of the area of HWB1, or

(ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the application is seeking to relocate;

(c) the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;

(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB choose to commission them); and

(e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow).

Public Involvement

2.8 Full details of the Applicant's proposals had been notified to various parties in accordance with the Regulations.

2.9 Representations had been received from:

2.10 Boots UK Ltd, who acknowledge the application but neither support nor oppose it.

2.11 Superdrug Stores plc state:

2.11.1 "We wish to ask that NHS England validate that the Applicant has fulfilled the criteria for an application under this excepted category under Regulation 24(2) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

2.11.2 We wish to object to this relocation as there are already two pharmacies – Asda Pharmacy which is a 100 hour pharmacy and Superdrug within Savers which are very close to the proposed premises and, therefore, there is no need for another pharmacy in such close location. Indeed, there was a Lloyds Pharmacy at this location, which has now closed, proving that there are adequate facilities within the local area.

2.11.3 We trust that should the application be approved to the [sic], it will be clear to patients that even though there is a pharmacy is within [sic] the Bedminster Family Practice, they are still free to choose from which pharmacy to have their prescribed medicines dispensed. We are concerned that if this relocation is approved it will cause detriment to other pharmacies in this area."

2.12 The Applicant submitted a counter response:

2.12.1 "Superdrug make reference to nearby pharmacies to the proposed premises and therefore contend there is no need for another pharmacy in such close location, and that there are adequate facilities within the area. However, we would contend that these comments are unhelpful and have no bearing on the requirements and regulatory test under Regulation 24 of the NHS Pharmaceutical Services Regulations 2013, which focus on specific impact on existing Patient Groups which were highlighted within the application. It should be noted they have made no objection/comment to those Patient groups and impact on those patients; indeed has no other contractor including the nearest pharmacy to the proposed premises (Asda).

2.12.2 The general lack of comments from contractors would suggest that there is no real objection to this relocation and all criteria under Regulation 24 are met, and therefore the application should be granted."

2.13 Regulation 31 (same or adjacent premises) states:

2.13.1 *31 – (1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies*

(2) This paragraph applies where –

(a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services ("the existing services") from –

(i) the premises to which the application relates, or

(ii) adjacent premises; and

(b) the NHSCB is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).

2.14 The Committee [of NHS England] noted there are currently no other contractors providing pharmaceutical services from the premises to which the application relates, or from adjacent premises. The nearest pharmacy is 78 yards away and this is operated by an unrelated company. The PSRC was satisfied that it was not required to refuse the application by virtue of Regulation 31.

REGULATION 24(1) – RELOCATION

2.15 Reg 24(1)(1) – Patient Groups

2.16 The Applicant defines individual patient groups as:

2.16.1 Patients that utilise the free collection and delivery service.

2.16.2 Patients that originate from local GP surgeries requiring access to pharmaceutical services.

2.16.3 Patients that require access to pharmaceutical services other than after a visit to a GP surgery.

2.16.4 Patients whose mobility is impaired.

2.17 The PSRC noted the supporting information offers reasoning to demonstrate that each of the identified patient groups will not find the proposed new premises significantly less accessible.

2.18 The PSRC noted Superdrug's comments but placed little weight on them as, while true, they had little to say about the accessibility of the proposed site for patients who use the current site.

2.19 The PSRC noted the Applicant's comments addressing access to the pharmacy on foot, by car and by public transport including bus route and bus stop information. Information. [sic]

2.20 The PSRC noted the suggested patient groups. The PSRC did not identify any additional groups but did not that patients [sic] with mobility impairments would also be part of the other identified groups. The PSRC was also of the view that model [sic] of travel is an important factor.

2.21 The PSRC noted the proportion who had their medicines delivered. The PSRC was aware that delivery is not an essential service and could be withdrawn at any time. Additionally, pharmaceutical services are not just the dispensing of medicines. Other services such as support for self-care, signposting and NMS may well require attendance at the pharmacy premises.

2.22 The PSRC observed that while the walking route between the 2 sites was relatively flat, it did include crossing the river and negotiating a large roundabout on a busy road. For patients travelling on foot with toddlers or prams the PSRC was concerned this would render the proposed site less accessible than the existing site. The PSRC was also of the view that this would likely present difficulties for patients with impaired mobility who seek to travel on foot.

2.23 For those travelling by car the PSRC noted that there are designated “disabled” parking spaces to the front of the existing premises. It was not apparent that similar arrangements would be available at the proposed site. The PSRC accepted that the Asda car park the Applicant mentions does have disabled parking, but it is not immediately outside the proposed premises.

2.24 The PSRC was also mindful that supermarket carparks are often only for the use of the customers at the store. The Applicant suggests that patients would likely use the Asda car park, but no assurance is given that there is an arrangement that allows those not using the store to use the car park. Without being sure this was a public car park the PSRC was cautious about how much weight to place on the availability of the Asda car park. This could affect all patients arriving by car, but it particularly could affect those with disabilities.

2.25 Generally, the PSRC was of the view that the Applicant had made a number of broad statements about patients with impaired mobility but they lacked specificity.

2.26 The PSRC was not confident that the new premises would not be significantly less accessible for those with disabilities, impaired mobility or travelling on foot with toddlers or prams.

2.27 The PSRC was not satisfied that for the patients that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible.

Reg 24(1)(b)(i) and (ii) – (b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list

2.28 No evidence has been presented that suggests the relocation would result in a significant change to arrangements for the provision of local pharmaceutical services or of pharmaceutical services in any part of the HWB area.

2.29 The PSRC was satisfied that granting the application would not result in a significant change to the arrangements in place for the provision of pharmaceutical services.

Reg 24(1)(c) the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1

2.30 No evidence has been presented that suggests the relocation would cause significant detriment to proper planning.

2.31 The PSRC was satisfied that granting the application would not cause significant detriment to proper planning of pharmaceutical services.

Reg 24(1)(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB chooses to commission them); and

2.32 The PSRC noted the Applicant has confirmed that the same services will be available at the new premises that are available at the current premises.

2.33 The PSRC was satisfied that the same services would be available at the proposed premises.

Reg 24(1)(e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow)

2.34 The Applicant has confirmed that there will be no interruption to services.

2.35 The PSRC was satisfied that there will be no interruption to services.

Reg 24(3)(a-d) an application pursuant to this regulation must be refused if the existing pharmacy premises from which the applicant is seeking to relocate

Is in an approved retail area (24(3)(a)

Is part of a one-stop primary care centre (24(3)(b)

Has relocated in the last 12 months (24(3)(c)

This is not a distance selling premises (24(3)(d)

2.36 Regulation 24(3)(a-d) is not applicable in this case.

Decision

2.37 The PSRC determined that the application should be REFUSED because:

2.38 It is not necessary to refuse the application under Regulation 31.

2.39 The PSRC is not satisfied the new premises are not significantly less accessible for those accustomed to using the existing premises.

2.40 Granting the application would not result in a significant change to arrangements.

2.41 Granting the application would not result in significant detriment to proper planning in respect of the provision of pharmaceutical services.

2.42 The services to be provided will be the same.

2.43 There will be no interruption of services.

Appeal rights

2.44 As the application is refused only the Applicant has a right of appeal.

3 The Appeal

In a letter dated 10 July 2023 addressed to NHS Resolution, Healthcare Plus, on behalf of the Applicant, appealed against the NHS England's decision. The grounds of Appeal are:

3.1 The Applicant writes to appeal the decision of NHS England in rejecting the above NSCR application, this was communicated by letter dated 12 June 2023 – the Applicant includes the decision summary below (and full report attached) for completeness. Healthcare Plus are instructed by the Applicant to represent them for this appeal.

3.2 The application was refused as summarised in the decision report below:

3.3 "Decision

3.3.1 The PSRC determined the application should be REFUSED because:

3.3.2 It is not necessary to refuse the application under Regulation 31.

3.3.3 The PSRC is not satisfied the new premises are not significantly less accessible for those accustomed to using the existing premises;

3.3.4 Granting the application would not result in a significant change to arrangements.

3.3.5 Granting the application would not result in significant detriment to proper planning in respect of the provision of pharmaceutical services.

3.3.6 The services to be provided will be the same; and

3.3.7 There will be no interruption of services."

3.4 As is the Applicant's understanding and can be seen from this summary the decision for refusal entirely falls on the second bullet point: "• The PSRC is not satisfied the new premises are not significantly less accessible for those accustomed to using the existing premises;"

Grounds for Appeal

3.5 The Applicant's Grounds for appeal focus on this point for refusal, which the Applicant strongly dispute given NHSE has provided limited rationale within the decision report and provided limited weight to the supporting information provided with the application. The Applicant contends the new premises are not significantly less accessible for those accustomed to using the existing premises under Regulation 24(1)(a) as per below (extracted from NHSE decision report).

3.6 Regulation 24 (1) states:

3.7 Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB (HWB1) if—

3.7.1 (a) (for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;

3.8 As listed in the decision report and is the Applicant's understanding, points 20 and 21 (see below) best explain the reason to refuse the relocation under Regulation 24(1)(a) as decided by NHSE:

3.9 "20 The PSRC was not confident that the new premises would not be significantly less accessible for those with disabilities, impaired mobility or travelling on foot with toddlers or prams.

3.10 21 The PSRC was not satisfied that for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible."

3.11 Similarly, point 16 as below highlights NHSE's scepticism on the walking route between the 2 sites:

3.12 "16 The PSRC observed that while the walking route between the 2 sites was relatively flat, it did include crossing the river and negotiating a large roundabout on a busy road. For patients travelling on foot with toddlers or prams the PSRC was concerned this would render the proposed site less accessible than the existing site. The PSRC was also of the view this would likely present difficulties for patients with impaired mobility who seek to travel on foot."

3.13 Although the walking route includes crossing the river via a bridge and negotiating a roundabout, the Applicant strongly believes that the walk is viable to be completed by patients travelling with toddlers or prams and by patients with impaired mobility. The pavement leading up to Bedminster Bridge is very wide and features guard rails along

the riverside (see image 1 below); furthermore, Bedminster Bridge features guard rails along both sides of the pavement, ensuring the safety of patients when crossing the river. As stated in the application, the terrain is flat and has numerous traffic light crossings, allowing for ease when negotiating the roundabout. There is a traffic light crossing at the end of the bridge which patients can take before turning right onto the A370. After a short distance, patients will take a left turn onto New Charlotte St and walk up this road to the proposed premises. It is of note that this short 5-minute walk can be deemed suitable for patients travelling on foot with toddlers or prams, contrary to the committee's concerns as seen from Image 2 below.

3.14 Image 1 – Featuring dedicated crossing points & Guard Rails, wide pavement over bridge crossing between current & proposed site.

3.15 Image 2 - A woman with a young child and toddler in a pram walking along the pavement leading up to the proposed premises. Source: Google maps street view

3.16 [images as described above provided in Appendix C for Committee.]

3.17 The Applicant also believes that the proposed site has better accessibility for patients (particularly with impaired mobility) compared to the current site. Patients of Bedminster Family Practice account for c16% of prescriptions dispensed at Redcliffe Pharmacy. Given this is the proposed site, the change of premises for these patients means the proposed location is actually more accessible for those requiring access to pharmaceutical services after accessing GP services at this surgery, avoiding an additional 5-minute walk to the existing location.

3.18 The decision committee of NHSE also raised concern regarding parking in their decision report:

3.19 "17 For those travelling by car the PSRC noted that there are designated "disabled" parking spaces to the front of the existing premises. It was not apparent that similar arrangements would be available at the proposed site. The PSRC accepted that the Asda car park the applicant mentions does have disabled parking, but it is not immediately outside the proposed premises.

3.20 18 The PSRC was also mindful that supermarket carparks are often only for the use of customers of the store. The Applicant suggests that patients would likely use the Asda car park, but no assurance is given that there is an arrangement that allows those not using the store to use the car park. Without being sure this was a public car park the PSRC was cautious about how much weight to place on the availability of the Asda car park. This could affect all patients arriving by car, but it particularly could affect those with disabilities."

3.21 The current site features limited pay and display parking outside the pharmacy, with one disabled bay and approximately enough space for a further 3 cars. However, these spaces are used by members of the public to access all 11 retail stores on the tertiary parade of shops as well as for the residents in the flats above the retail units.

3.22 As can be seen by this, access to parking is an inherent issue to patients accessing pharmaceutical services at the current site. Conversely, as stated in the supporting letter from Bedminster Family Practice (which is co-located with the new proposed site), there is a disabled bay available specifically for patients of the GP surgery and this bay could be utilised by patients of the pharmacy (as permitted by Bedminster Family Practice in the supporting letter). This would prove highly beneficial for patients with impaired mobility and will be an improvement from the access to disabled parking at the current site. Similarly, the proposed site features a greater access to parking in the short vicinity compared to the current site. There is ample roadside pay and display parking available on New Charlotte St and as reiterated by the attached supporting letter from Bedminster Family Practice:

3.23 “There is accessible parking near to the Practice and we are liaising with Asda Bedminster to investigate a formalised parking arrangement for patrons of the pharmacy. Even if this was not to be formalised the parking at Asda is free to use for up to 2.5 hours and is not bound by an in-store purchase. There is already a formal arrangement in place for staff from the pharmacy to use parking bays.”

3.24 Additionally, the proposed site is better suited to patients with impaired mobility as it is co-located with Bedminster Family Practice. Patients with impaired mobility will benefit from the disabled parking space provided by the GP surgery; however, patients of the pharmacy will also directly/indirectly benefit from the step free access, easy wheelchair access and disabled toilet already in place at the proposed site. The existing site has 2 patients that utilise electric scooters that visit on a monthly basis – the proposed location will have improved access for these patients.

3.25 As reiterated by the supporting letter from Bedminster Family Practice, the need for a pharmacy co-located with the GP surgery is apparent. Granting this application would allow the GP surgery to collaborate with the pharmacy (as per the extract from the supporting letter below):

3.26 “Indices of Deprivation (IDACI) show that Bedminster Family Practice is amongst the 20% most deprived neighbourhoods in the country. It is an area of high demand, and health inequalities are rife. If we can successfully refer patients to an effective CPCS scheme, we could free up appointments for patients who really need to see a GP or other member of the practice team. By having the pharmacy in the building who offer CPCS we could liaise more closely thus providing a better service and reducing the number of patients who are bounced back, as not every pharmacy can accommodate CPCS patients the same day.

3.27 Having an on-site Pharmacy will, therefore, facilitate greater liaison between the clinicians, and the Pharmacy staff, to enhance patient care and improve access to appropriate services. A closer working relationships and partnership would be particularly beneficial for vulnerable patients, including those accessing Bristol Drugs Project and controlled medication.”

3.28 The Applicant strongly believes, based on the above, that granting this relocation would strengthen the ICS (integrated care system), thus better serving the NHS Bristol, North Somerset and South Gloucestershire ICB and will contribute towards the best clinical care being provided and will best meet the health needs of the local population whilst improving the arrangement for provision of health services in the area. Therefore, the Applicant asks NHS Resolution to consider its reasons for appeal and look forward to any responses or comments you may have on this appeal.

3.29 The above demonstrates that no patient group would find the new premises significantly less accessible. It is worth noting the identified Patient Groups below were not disputed by any party. For ease the following Patient Groups identified are as below

3.29.1 Patients that utilise the free collection & delivery service

3.29.2 Patients that originate from local GP surgeries requiring access to Pharmaceutical Services

3.29.3 Patients that require access to Pharmaceutical Services other than after a visit to a GP surgery

3.29.4 Patients whose mobility is impaired.

3.30 In addition, the committee will also consider the other matters required under Regulation 24:

3.31 In the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of pharmaceutical services. There is no evidence that granting the application would result in a significant change to the arrangements that are in place for the provision of pharmaceutical services. The same services will be provided from both sites.

3.32 The NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the HWB's area.

3.33 The Applicant is not aware of any plans in respect of the provision of pharmaceutical services to which significant detriment would be caused should their application be granted.

3.34 The services the Applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises.

3.35 The Applicant undertakes to provide the same services at the new premises as are provided at the existing premises.

3.36 The provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow)

3.37 The Applicant confirms that the provision of pharmaceutical services will not be interrupted during the proposed relocation (except for such period as the NHSCB may for good cause allow).

3.38 Above parts of Regulation 24 were confirmed as being 'met' in the decision by NHS England

Conclusion

3.39 In conclusion, it is clear that for the patient groups defined, and regardless of how these patients access the existing pharmacy; the proposed location will not be significantly less accessible.

3.40 The Applicant's trust that the above provides clarity specifically in relation to the single point whereby NHS England felt they could not support the application.

3.41 The Applicant therefore respectfully invites NHS Resolution to uphold this appeal and approve this application, as all parts of Regulation 24 & 31 are met.

3.42 The Applicant looks forward to hearing further in due course.

LETTER FROM BEDMINSTER FAMILY PRACTICE, DATED 3 JULY 2023

3.43 Bedminster Family Practice ("BFP") write with relation to the above case where the decision for relocation has been refused on the grounds that NHS England was not satisfied that the location of the new premises is not significantly less accessible for patient groups accustomed to accessing pharmaceutical services at the existing premises.

3.44 As mentioned in the decision letter, BFP had a pharmacy on site between 2005 and 2022. There were no issues raised with regards [sic] to parking and/or accessibility during this time. Patients are also able to access the Practice safely and easily, including those travelling from surrounding areas including Redcliffe.

3.45 BFP writes in support of the appeal for relocation due the [sic] numerous benefits associated with having a pharmacy on site working closely with the practice for the patients registered at the surgery and the surrounding area.

3.46 There is accessible parking near to the Practice and BFP are liaising with Asda Bedminster to investigate a formalised parking arrangement for patrons of the pharmacy. Even if this was not to be formalised the parking at Asda is free to use for up to 2.5 hours and is not bound by an in-store purchase. There is already a formal arrangement for staff from the pharmacy to use parking bays.

3.47 BFP has a disabled space in the staff parking area which could be utilised by patrons of the pharmacy with disabilities.

3.48 The NHS Community Pharmacist Consultation Service (CPCS) was launched in October 2019, to facilitate patients having a same day appointment with their community pharmacist for minor illness or an urgent supply of a regular medicine. The service is helping to alleviate pressure on GP appointments and emergency departments, in addition to harnessing the skills and medicines knowledge of pharmacists. Should the patient need to be escalated or referred to an alternative service, the pharmacist can arrange this. Please see link below:

3.49 https://www.england.nhs.uk/primary-care/pharmacy/pharmacy-integration-fund/community-pharmacist-consultation-service/

3.50 Indices of Deprivation (IDACI) show that BFP is amongst the 20% most deprived neighbourhoods in the country. It is an area of high demand, and health inequalities are rife. If BFP can successfully refer patients to an effective CPCS scheme, BFP could free up appointments for patients who really need to see a GP or other member of the practice team. By having the pharmacy in the building who offer CPCS BFP could liaise more closely thus providing a better service and reducing the number of patients who are bounced back, as not every pharmacy can accommodate CPCS patients the same day.

3.51 Having an on-site Pharmacy will, therefore, facilitate greater liaison between the clinicians, and the Pharmacy staff, to enhance patient care and improve access to appropriate services. A closer working relationship and partnership would be particularly beneficial for vulnerable patients, including those accessing Bristol Drugs Project and controlled medication.

3.52 There is a high incidence of drug misuse amongst the patient population and this patient group have a high incidence of co-morbidity, poor self-care and difficulty in accessing healthcare. Quality of medical care and safety are enhanced by having an on-site pharmacy for this vulnerable group. BFP host 5 sessions a week for Bristol Drugs Project and have more than 80 patients on blue scripts at any one time. Management of blue scrips is safest when clinicians can work directly with an on-site pharmacist providing accurate communication and safe transfer of prescriptions. Drugs project workers make multiple contacts with pharmacists every day. It is also very common for clinicians to need direct contact with the relevant pharmacist owing to erractic [sic] medication pick-ups.

3.53 Local community pharmacists are not always able to commit the resources required to case sharing and this often involves several calls to pharmacies due to the current pressures in sourcing staff. This also means that local pharmacies are not always staffed appropriately and therefore are offering a reduced service. Having a pharmacy on site would negate this issue and enable regular liaison and partnership working between the two services leading to better patient outcomes. Asda Bedminster Pharmacy is currently warning that it may take up to five days to dispense medication.

3.54 Ongoing issues with availability of medications since Covid-19 pandemic means that patients are having to visit multiple pharmacists across Bristol with several patients

advising that they have visited up to eight pharmacies before requesting a medication review to seek an alternative. Ongoing communication between the pharmacy, the Clinical Pharmacists and the Practice would ensure that clinicians had up to date knowledge of unavailable medications so that alternatives can be sourced with little, or no impact, on the patient.

3.55 A pharmacy on site would improve access for all our patients, including those with disabilities.

4 Summary of Representations

This is a summary of representations received on the Appeal.

4.1 NHS ENGLAND

4.1.1 Thank you for the letter, received 18 July 2023, address to Mr Speight at Primary Care Support England (PCSE) enclosing a copy of the appeal as detailed above. The South West Pharmaceutical Services Regulations Committee (SW Committee) [of NHS England] wishes to make the following comments on the appeal.

4.1.2 The SW Committee [of NHS England] met on 6 April 2023. It was noted the premises the pharmacy is proposing to relocate to was previously occupied by a pharmacy, until May 2022.

4.1.3 The SW Committee [of NHS England] noted the distance between to the [sic] two sites is short and flat, however, the route involves crossing busy main roads and walking around the Bedminster Bridge roundabout, which is large and very busy. There is also an exposed footpath bridge across the river Avon. The Committee [of NHS England] was concerned that for patients travelling on foot with toddlers or prams, the busy nature of the road would render the proposed site less accessible than the existing site. The Committee [of NHS England] was also of the view this would likely present difficulties for patients with impaired mobility who seek to travel on foot.

4.1.4 The Applicant states in the appeal that there is a disabled bay for patients of the GP surgery that could be utilised by patients. This would raise the question of whether that space is available to patients of the pharmacy who are not patients of the Bedminster Family Practice. As NHS Resolution will be aware patients often obtain pharmaceutical services without first having attended the surgery. The SW Committee [of NHS England] would also respectfully suggest that the Regulations make no special provision to emphasise or encourage pharmacies to be co-located with surgeries.

4.1.5 The Applicant, in its appeal, states that around 16% of their prescriptions come from the Bedminster Family Practice. This does of course mean that 84% of prescriptions do not.

4.1.6 Generally, the Committee [of NHS England] was of the view that the Applicant had made a number of broad statements about patients with impaired mobility but they lacked specificity and the Committee [of NHS England] was not confident that the new premises would not be significantly less accessible for those with disabilities, impaired mobility or travelling on foot with toddlers or prams. The SW Committee [of NHS England] would respectfully suggest that in the appeal letter the Applicant focuses on patients of the Bedminster Family Practice, which by their own figures, is where only a modest proportion of the prescriptions it receives come from. There is little information regarding the impact on patients who do not use Bedminster Family Practice.

4.1.7 The South West PSRC respectfully requests that the decision to decline the application is upheld.

5 Observations on representations

5.1 THE APPLICANT

5.1.1 The Applicant thanks you for forwarding comments made by NHS England. Below are the Applicant's responses to its comments:

5.1.2 NHS England expressed concerns that "for patients travelling on foot with toddlers or prams, the busy nature of the road would render the proposed site less accessible than the existing site. The Committee [of NHS England] was also of the view that this would likely present difficulties for patients with impaired mobility who seek to travel on foot."

5.1.3 The Applicant respectfully disagrees with this assertion and believe that the proposed site would not be any less accessible for patients travelling on foot with toddlers and prams between the two sites, as for example (as shown in the picture below) [as seen in Appendix D for Committee] a mother can be seen walking part of the route (New Charlotte St) with a toddler and a pram, contradicting NHS England's statement.

5.1.4 NHS England also allude to an exposed footpath bridge across the river Avon and how this could impact both patients travelling on foot with toddlers and pram and patients with impaired mobility. The only possible crossing point of the river Avon for travel on foot between these two sites is shown below. [Appendix D]

5.1.5 As can be seen, the footpath is very wide and boasts guard rails both riverside and roadside along the entirety of the footpath bridge. The Applicant deems this footpath bridge to be suitable and safe to cross and is not a barrier (even though it is described as along a "busy road" by NHS England) for patients both travelling on foot with toddlers and prams and patients with impaired mobility. The Applicant also believes this road/roundabout as busy, the Applicant contends the path is of sufficient safety to make the walk viable for all patients and is therefore not a justified statement to question the difficulty of the walk between the two sites, and indeed have provided no evidence on their assertion. It should also be of note that the rest of the walk following on from crossing this footpath bridge features a double traffic light at the end of the bridge as shown below [Appendix D] (further adding to the safety viability of the walk), a right turn onto a wide footpath on the A370 (Coronation Rd) for approximately 70 metres, followed by a left turn onto a much quieter road (New Charlotte St – this is the street shown above where a mother is walking her toddler and pram on the pavement). The overall journey between the 2 site is short and approximately 5 minutes on foot.

5.1.6 The Applicant understands NHS England was concerned about the accessibility, particularly for patients with impaired mobility, of the proposed site compared to the existing site. The Applicant addresses these concerns as follows, which were stated in the original application: "Patients that have significant mobility impairment do not access the pharmacy at its current location, and instead use the comprehensive delivery service which the Applicant provides to its patients, or alternatively rely on carers and family members to access the pharmacy on their behalf."

5.1.7 There are 3 patients with some (not significant) impaired mobility registered to the pharmacy at the current site who access pharmaceutical services on foot (with the help of movement aids such as mobility scooters). 2 of these patients reside in the Bedminster Parade area at postcodes BS3 4AQ and BS3 4HL

and 1 resides on Philip Street BS3 4DZ. As can be seen by the below maps these patients are crossing busy main roads and walking around the Bedminster Bridge Roundabout (as described by NHS England) to access pharmaceutical services at the current site. The location of the proposed site will actually be more accessible for these patients as the route on foot avoids walking around the Bedminster Bridge roundabout and using the "exposed footpath bridge" as stipulated by NHS England.

5.1.8 Above [Appendix D] is a map showing the route on foot from the area that the 2 patients with impaired mobility reside (green triangle) in Bedminster Parade (BS3 4AQ and BS3 4HL) to the current site (blue triangle) and the proposed site (black triangle).

5.1.9 Above is a map showing the route on foot from the area that the 1 patient with impaired mobility resides (green triangle) in Philip Street, BS3 4DZ to the current site (blue triangle) and proposed site (black triangle).

5.1.10 As can clearly be seen from the above maps, the 3 patients with impaired mobility registered to the pharmacy at the current site who access pharmaceutical services on foot will not find the proposed premises any less accessible and will arguably experience a benefit from the shortened journey, particularly as their mobility is impaired. This improvement of accessibility at the proposed site compared to the current site also extends to the accessibility features available. At the current site, these 3 patients have to ring a doorbell before a member of staff comes to assist them when entering the pharmacy (typically by holding the door open). The proposed site features an automatic door, step free access and a disabled toilet nullifying the need for a member of staff to assist them all whilst providing these patients with autonomy and easier access upon entering the pharmacy.

5.1.11 NHS England also: "raise the question of whether that space [customer disabled parking space in Bedminster Family Practice] is available to patients of the pharmacy who are not patients of Bedminster Family Practice". As can be seen from the attached letter from Bedminster Family Practice the parking space can be used by all patients of the pharmacy, regardless of if they are visiting the pharmacy after visiting the GP at Bedminster Family Practice. The Applicant would also like to reiterate the ample availability of parking available at the proposed site, particularly when compared to the parking facilities available at the current site. As stated in the Applicant's original appeal letter: "The current site features limited pay and display parking outside the pharmacy, with one disabled bay and approximately enough space for a further 3 cars. However, these spaces are used by members of the public to access all 11 retail stores on the tertiary parade of shops. As can be seen by this, access to parking is an inherent issue to patients accessing pharmaceutical services at the current site. Conversely, as stated in the supporting letter from Bedminster Family Practice (which is co-located with the new proposed site), there is a disabled bay available specifically for patients of the GP surgery and this bay could be utilised by patients of the pharmacy (as permitted by Bedminster Family Practice in the supporting letter). This would prove highly beneficial for patients with impaired mobility and will be an improvement from the access to disabled parking at the current site. Similarly, the proposed site features a greater access to parking in the short vicinity compared to the current site. There is ample roadside pay and display parking available on New Charlotte St and as reiterated by the supporting letter from Bedminster Family Practice:

5.1.11.1 "There is accessible parking near to the Practice and we are liaising with Asda Bedminster to investigate a formalised parking arrangement for patrons of the pharmacy. Even if this was not to be formalised the parking at Asda is free to use for up to 2.5 hours and is not bound by

an in-store purchase. There is already a formal arrangement in place for staff from the pharmacy to use parking bays."

5.1.12 Henceforth the same disabled parking arrangements are maintained at the proposed site whilst the availability of standard parking greatly increases for patients of the pharmacy, thus the Applicant believes there is no significant change in accessibility for parking arrangements for all patient groups.

5.1.13 NHS England state: "The Applicant, in their appeal, states that around 16% of their prescriptions come from the Bedminster Family Practice. This does of course mean that 84% of prescriptions do not." The Applicant understand the implication of this statement is that accessibility for patients who are not currently patients of Bedminster Family Practice will experience a decrease in accessibility to pharmaceutical services. The Applicant believes that this is not the case because as stated in the original application; c85% of items are delivered.

5.1.14 NHS England suggest the appeal focuses on patients who do not use the Bedminster Family Practice – the Applicant believe this has been done in the original application and appeal letter, as well as largest patient group below.

5.1.15 Regulation 24(1)(a) requires NHS England to consider whether:

5.1.15.1 "for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible"

5.1.16 The Applicant notes 'patient groups that are accustomed to accessing pharmaceutical services' and 'not significantly less accessible' emphasis added [by the Applicant].

5.1.17 These patients are not accustomed to accessing pharmaceutical services at the premises and therefore they would not find that the new premises were less accessible than the existing premises. The delivery arrangements and the advice given to the patient would remain exactly the same in the new location.

5.1.18 The Applicant can also confirm that those other essential services that can be carried out through the delivery service (such as the collection of unwanted medication) will continue to be provided at the new premises, as will services such as telephoning for public health, signposting or self-care advice.

5.1.19 This is a substantial & significant patient group which the NHS England have failed to provide the relevant weight for in their comments, despite the information being detailed in the original application & appeal letter. For avoidance of doubt:

5.1.19.1 The pharmacy serves 32 care homes (c920 beds) over a substantial geographic area, across Bristol, Bath & Wiltshire. They account for c75% of the total items. The pharmacy operates these homes with dedicated staff and 3 delivery vehicles. These patients are served by numerous surgeries significant distances away as shown previously, but repeated below and distances have not been disputed by any party:

Practice Code	Prescribing Organisation	Postcode	Items	% of Pharmacy Items	Distance to current site (miles – NHS choices)

L81082	Bedminster Family Practice	BS3 4AT	2,125	15.63%	0.2
L81007	Bridge View Medical	BS3 1AS	1,728	12.71%	0.4
L81017	Westbury on Trym Primary Care Centre	BS9 3AA	1,135	8.35%	5.5
L81039	Heart of Bath	BA2 3HT	1,117	8.22%	14.1
L81045	St Augustines Surgery	BS31 2GN	1830	6.11%	5.6
L81065	Combe Down Surgery	BA2 5EG	790	5.82%	13.5
L81037	Pioneer Medical Group	BS10 6SP	704	5.18%	7.0
L81026	The Downend Health Group	BS16 5SG	443	3.26%	5.7
L84060	Cam & Uley Family Practice	GL11 5SY	416	3.06%	27.6
L81033	Nightingale Valley Practice	BS4 4HU	394	2.90%	2.5
J83010	Porch Surgery	SN13 9DL	390	2.87%	24.1
L81084	Priory Surgery	BS4 2QJ	379	2.79%	1.4
L81033	Rush Hill Surgery	BA2 2QH	357	2.63%	14.3
L81027	Batheaston Medical Centre	BA1 7NP	276	2.03%	17.4

5.1.19.2 The pharmacy serves c100 Community Dossette Patients, providing monthly medication in compliance aids, accounting for c6% of items.

5.1.19.3 Other patients of the pharmacy also utilise the delivery service accounting for c4% of total items.

5.1.20 Access to the proposed site for patients accessing the 2 nearest surgeries highlighted above has been covered in the original application. As can be seen from distances above the other surgeries account for care home items in the main.

5.1.21 Further to all of the above, the Applicant inherently believes that the proposed site is not significantly less accessible for patients with impaired mobility or patients who travel on foot with toddlers or prams (which are the concerns stated and summarised by NHS England). The Applicant has acknowledged all of the comments stipulated by the SW Committee in this response to comments letter and hope to have provided clarity on these comments, particularly the comments regarding changes in accessibility for patients with impaired mobility, which we understand to be a concern of the SW Committee.

Conclusion

5.1.22 In conclusion, it is clear that regardless of how patient groups are defined, and regardless of how these patients access the existing pharmacy; the proposed location is only a short distance from the current site and will not be significantly less accessible; and will actually be more accessible to the majority.

5.1.23 Given majority of patients (including care homes) choose to use the delivery service there is no change for these patients as the service will continue.

5.1.24 It should also be noted no other objections were received by the numerous contractors in the area, who would have had the opportunity to raise any objections.

5.1.25 The Applicant invites NHS England [sic] to approve this application as all parts of Regulation 24 & 31 are met.

LETTER FROM BEDMINSTER FAMILY PRACTICE, DATED 31 AUGUST 2023

5.1.26 BFP write with relation to the above case where the decision for relocation has been refused.

5.1.27 BFP can confirm that there is a disability space at the Practice which patients/customers of the Pharmacy can access.

6 Consideration

6.1 The Pharmacy Appeals Committee ("Committee") appointed by NHS Resolution had before it the papers considered by NHS England, together with a plan of the area showing existing pharmacies and doctors' surgeries and the location of the proposed pharmacy.

6.2 It also had before it the responses to NHS Resolution's own statutory consultations.

6.3 Since 1 April 2023, Integrated Care Boards have taken on delegated responsibility for the commissioning of pharmaceutical services. NHS England made the decision which is the subject of this Appeal. NHS Resolution will issue this decision to NHS England and it is for NHS England to inform the relevant Integrated Care Board.

6.4 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.

6.5 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

6.6 The Committee first considered Regulation 31 of the Regulations which states:

(1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies.

(2) This paragraph applies where -

(a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services ("the existing services") from -

(i) the premises to which the application relates, or

(ii) adjacent premises; and

(b) the NHSCB is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).

6.7 The Committee noted that the Applicant had stated, in the application form, that "there is currently no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply". In its decision, NHS England had stated that it was not required to refuse the application by virtue of Regulation 31. The Committee noted that this had not been disputed by any party either on appeal or in subsequent representations. The Committee was not required to refuse the application under the provisions of Regulation 31.

6.8 The Committee had regard to Regulation 24(1) which requires the following five conditions to be met:

(a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;

(b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—

(i) in any part of the area of HWB1, or

(ii) in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;

(c) the NHSCB is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;

(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB chooses to commission them); and

(e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow).

6.9 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:

6.9.1 confirm NHS England's decision;

6.9.2 quash NHS England's decision and redetermine the application;

6.9.3 quash NHS England's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to NHS England.

6.10 The Committee considered the position in relation to each condition.

6.11 In relation to condition (a), the Committee considered the map submitted by NHS England which clearly show the locations of the existing pharmacies as well as the proposed site and medical practices within the area.

6.12 The Committee considered the information before it with regard to the patient groups who are accustomed to accessing pharmaceutical services at the existing premises. The Committee considers that it must seek to identify the patient groups who would potentially be affected by the relocation based upon the information provided by the parties. This information is most commonly going to be provided by the Applicant but others may also be able to contribute to the information on which the Committee will proceed to determination.

6.13 In this case, the Applicant has identified the patient groups as:

6.13.1 Patients that utilise the free collection and delivery service;

6.13.2 Patients that originate from local GP surgeries requiring access to pharmaceutical services;

6.13.3 Patients that require access to pharmaceutical services other than after a visit to a GP surgery; and

6.13.4 Patients whose mobility is impaired.

6.14 The Committee also noted that the Applicant further identified that the number of patients that utilise the free delivery service is so large that there is a subgroup within this selection of patients, comprising of:

6.14.1 Care home users (approximately 75% of total items);

6.14.2 Community Dossette Patients (approximately 6% of total items); and

6.14.3 Other patients of the pharmacy that utilise the delivery service (approximately 4% of total items).

6.15 The Committee concludes that the patient groups who are accustomed to accessing pharmaceutical services from the existing premises are those set out below.

Patients that utilise the free collection and delivery service

6.16 The Committee noted the comments from the Applicant that 85% of prescriptions are delivered to patients. The Committee was of the view that if patients were not accustomed to accessing pharmaceutical services at the premises, then they were not subject to the test under condition (a). The Committee, however, was particularly mindful that the provision of essential services is not limited to the dispensing of prescriptions.

6.17 The Committee noted that the Applicant, in the application form, confirmed that essential services that can be carried out through the delivery service (such as the collection of unwanted medication) will continue to be provided at the proposed premises. The Committee was of the opinion that any patient who received other essential services at the pharmacy would fall into a patient group as described below. For any patient who received essential services that do not involve attending the pharmacy in person, the Committee was of the view that they were not accustomed to accessing pharmaceutical services at the premises, irrespective of the reason, then they were not subject to the test under condition (a).

Patients that originate from local GP surgeries requiring access to pharmaceutical services

6.18 The Committee noted that the Applicant was proposing to move to premises located within Bedminster Family Practice and patients registered at the surgery would be accessing pharmaceutical services at the same time as accessing services from the surgery and would therefore not find the proposed premises significantly less accessible.

6.19 The Committee was mindful that there were other GP surgeries in the area and consideration of access for these patients also needed to be taken into account.

6.20 The Committee noted the prescription numbers as provided by the Applicant states that 12.71% of pharmacy items (compared with the 15.63% for Bedminster Family Practice) originate from Bridge View Medical which was stated to be "within 1 mile" of the Applicant's pharmacy. Whilst the Committee noted the information provided by the Applicant with regard to dispensing numbers, there was no information to demonstrate that these patients were accessing pharmaceutical services after a visit to their GP surgery however considered it reasonable to consider this possibility. The Committee therefore considered the accessibility of the proposed site.

6.21 The Committee noted the lack of information provided regarding car ownership however, it was of the view that there would be persons with access to private transportation. The Committee noted information provided by the Applicant as well as Bedminster Family Practice to confirm that parking spaces would be made available to patients at the surgery if travelling by car, and that there was an Asda supermarket a short distance away with free parking for up to 2.5 hours without an in-store purchase necessary. Whilst the Committee considered the comment by NHS England regarding restrictions on parking at the nearby Asda supermarket, it was of the view that the letter of support by Bedminster Family Practice as produced by the Applicant was sufficient to demonstrate that patients would be able to park in the practice's car park regardless of whether they were registered there to utilise the pharmacy and could park at Asda.

6.22 The Committee went on to consider those who access pharmaceutical services following a visit to Bridge View Medical and other surgeries. The Committee noted information provided by the Applicant in its application relating to the local bus network and the bus service that operates from the current and proposed premises. The Committee noted the undisputed information provided by the Applicant, in particular the maps of the local area in Appendix B, that detail where the bus stops are in the local area and therefore was of the view that patients would not encounter any barriers to accessing pharmaceutical services if they chose to visit the Applicant's proposed premises via public transport.

6.23 The Committee noted that the information on travelling by foot was predominantly focused on how patients would travel from the current pharmacy premises to the proposed site at Bedminster Family Practice (crossing the bridge over the River Avon). That route did, however, appear to be the main one for persons in the area of the current premises although no details had been provided on any other routes that would need to be taken from elsewhere in the local area, or details of the terrain on these routes, although the distance between the two sites is minimal and for some would mean a shorter journey especially if coming from the other side of the River Avon. The Committee noted that the information provided by the Applicant depicts well maintained, well lit, paths with no natural barriers to travelling by foot.

6.24 Based on the information before it, the Committee was satisfied that for those that accessing pharmaceutical services after a visit to a GP surgery, the proposed site would not be significantly less accessible.

Patients that require access to pharmaceutical services other than after a visit to a GP surgery

6.25 The Committee noted that, by the Applicant's own admission, there was a high proportion of patients that used the delivery service or accessed the pharmacy after a visit to their GP surgery, however there would also be a number of patients who access the pharmacy otherwise than after a visit to their GP surgery. The Committee considered that for these patients there will be different starting points for their journey to the pharmacy. The Committee noted, from the maps provided both from NHS England and the Applicant, that there was no specific place or area from which these patients may start their journey. As such, the Committee felt that it was appropriate to assess accessibility for these patients by their method of transport.

6.26 The Committee considered that application of the test in condition (a) to this patient group required it to consider issues raised in the application and appeal that could impact on the accessibility of the new premises. This includes consideration of the other potential patient group or sub-groups as set out in paragraph 6.13 above.

6.27 The Committee noted that whilst the Applicant had not identified patient groups by method of transport, they had considered access by foot, private and public transport in their various submissions.

6.28 The Committee noted numerous references by both the Applicant and NHS England to the terrain between the current and proposed premises to be "relatively flat" with maintained pavements as well as pedestrian crossings. The Committee further noted the reference to the bridge covering the River Avon that features in the local area along with descriptions of "busy" roads.

6.29 The Committee noted the Applicant's statement that, for patients who travelled on foot, the proposed premises is approximately a 5 minute walk from the current premises. The Committee further noted the conflicting statements from the Applicant and NHS England with regard to the route to walk from the current premises to the proposed site and whether this would be deemed as accessible to all patients, including those with a protected characteristic. The Committee was of the view that the presence of busy roads in itself was not a barrier to accessing pharmaceutical services and, as depicted in the information submitted by the Applicant, provided a well-lit, flat terrain with pedestrian crossings which would assist in patients travelling on foot.

6.30 The Committee was mindful that those patients who live in very close proximity to the current premises may choose to travel on foot to the proposed site. For those who preferred not to walk, there was an undisputed statement from the Applicant that there is a bus stop outside the premises and another bus stop directly opposite the proposed site. The Committee noted the Applicant's statement in the application that the number 52 bus travels from outside the current pharmacy to the proposed site. Whilst there was no information about the frequency of these buses or wider details of the bus route which would serve patients not coming from the current site, patients would be aware of these and factor into their journey.

6.31 The Committee was therefore of the view that for those who did access the existing site by public transport would be aware of the bus routes within the area and would be able, by using a combination of routes as well as walking, to access the proposed site.

6.32 Based on the information before it, the Committee was satisfied that those that accessing pharmaceutical services other than after a visit to a GP surgery the proposed site would not be significantly less accessible.

Patients whose mobility is impaired

6.33 The Committee noted that the Applicant had considered this patient group and had stated that "patients that have significant mobility impairment do not access the pharmacy at its current location, and instead use the comprehensive delivery service which the Applicant provides to its patients, or alternatively rely on carers and family members to access the pharmacy on their behalf".

6.34 The Committee noted the information provided by the Applicant detailing the likely routes that three individuals with mobility impairments take to access the current premises by foot however the Committee was mindful that there might be patients whose mobility is impaired that access the site but that the Applicant may not be aware of the impairment.

6.35 The Committee was of the view that for those whose mobility is limited that the accessibility of the proposed site would depend on how they access the existing site.

Again, the Committee considered that this patient group will access the new site by foot, car, or public transport.

6.36 For the reasons given at 6.21, the Committee was of the view that if they accessed the existing pharmaceutical provision by car then the proposed site would not be significantly less accessible. If they access by public transport and lived in the vicinity of the existing site then the proposed site would not be significantly less accessible.

6.37 For those that access by foot then it would depend on where they were starting from. The Committee again noted the information provided by the Applicant relating to the three mobility impaired patients it currently serves and was of the view that, for these three patients and for any other users that live in the vicinity, that the proposed site would not be significantly less accessible.

6.38 Based on the information before it, the Committee was satisfied that the proposed site would not be significantly less accessible for those patients whose mobility is impaired.

Other groups

6.39 The Committee considered whether the information provided showed that there were patients accustomed to accessing pharmaceutical services at the existing premises for whom the new premises would be less accessible because of reasons related to a protected characteristics under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation).

6.40 The Committee noted that the Applicant had stated, in its application, that "there are none [patients] that are accustomed to accessing the current premises that have Equality Act 2020 Protected Characteristics". The Applicant went on to state "age and gender are not on their own a barrier to access".

6.41 The Committee noted the letter of support from Bedminster Family Practice as submitted with the Applicant's Appeal which stated that it has a "high incidence of drug misuse amongst its patient population" and that this patient group would highly benefit from having a co-located pharmacy with the GP surgery. The Committee considered that whilst this patient group was indeed a vulnerable group, they are not, for the purposes of the Equality Act 2010, defined as a patient group with protected characteristics and that the benefits of the relocation was not something it could have regard.

6.42 The Committee identified that patients with the protected characteristics of age and gender may be accustomed to accessing pharmaceutical services at the existing premises. Therefore, in considering condition (a), the Committee took into account these patients and had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristic(s).

Overall assessment

6.43 The Committee took into account all of the above patient groups in reaching its decision in respect of condition (a).

6.44 The Committee was therefore of the view that condition (a) is met.

Regulation 24(1)(b)

6.45 The Committee noted the decision of NHS England in respect of condition (b), that the granting of this application would not result in a significant change to the arrangements that are in place, and that this had not been disputed by any party. On the information provided the Committee was of the opinion that the granting of the application would

not result in a significant change to the arrangements in place for the provision of local pharmaceutical services or of pharmaceutical services in any part of the area of HWB1 or in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate. The Committee concluded that condition (b) is met.

Regulation 24(1)(c)

6.46 The Committee noted the decision of NHS England in respect of condition (c) that the granting of the relocation would not lead to significant detriment to proper planning in respect of the pharmaceutical services in the area. The Committee noted that this had not been disputed by any party either on appeal or in subsequent representations. On the information provided the Committee was of the opinion that the granting of the application would not cause a significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of HWB1 and therefore concluded that condition (c) is met.

Regulation 24(1)(d)

6.47 The Committee noted that the Applicant had given an undertaking, in their original application form, that the same services will be provided at the proposed site. On the information provided, the Committee determined that condition (d) is met.

Regulation 24(1)(e)

6.48 In relation to condition (e), the Committee noted the Applicant had confirmed in their application, and subsequent representations, that there will be no interruption to service provision. On the information provided the Committee determined that condition (e) is met.

Overall

6.49 As the Committee has reached a different decision to that of NHS England partly on the basis of additional information which had not been made available when NHS England made its initial decision, the Committee determined that the decision of NHS England must be quashed.

6.50 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to NHS England) or whether it was preferable for the Committee to redetermine the application.

6.51 The Committee noted that representations on Regulation 24 had already been made by parties to NHS England, and these had been circulated and seen by all parties who made representations on the application, as part of the processing of the application by NHS England. The Committee further noted that when the Appeal was circulated representations had been sought from parties on Regulation 24.

6.52 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

7 Decision

7.1 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.

7.2 The Committee quashes the decision of NHS England and redetermines the application.

7.3 The Committee has determined that conditions (a), (b), (c), (d) and (e) are satisfied.

7.4 The application is granted.

Case Manager
Primary Care Appeals