

24 July 2024

FILE REF:

SHA/26204

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London
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Tel: 0203 928 2000
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DECISION MAKING BODY:

**HAMPSHIRE AND ISLE OF WIGHT
ICB
("the Commissioner")**

PHARMACIST:

**LP SD ONE HUNDRED TWENTY FOUR
LIMITED
("the Applicant")**

PREMISES:

**KINGSLAND PHARMACY
76 ST MARY'S STREET,
SOUTHAMPTON,
SO14 1NY**

**THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL AND LOCAL PHARMACEUTICAL
SERVICES) REGULATIONS 2013 ["THE REGULATIONS"]**

**SCHEDULE 4 [Terms of Service of NHS Pharmacists]
PART 3 [Hours of Opening]**

Outcome

- 1.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I am satisfied that maintaining the current level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 1.2 The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:

LP SD One Hundred Twenty Four Limited
Hampshire and Isle of Wight ICB

Advise / Resolve / Learn

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PART 3 [Hours of Opening]**

1 Introduction

- 1.1 The Applicant has applied to the Commissioner to change the days and times at which it is obliged to provide pharmaceutical services at the above premises. The Applicant seeks to keep the total number of core opening hours the same while offering a different distribution of these hours during the week.
- 1.2 The Commissioner has refused the application. The Applicant seeks to appeal to NHS Resolution.

Rights of appeal

- 1.3 Where the Commissioner has determined an application under paragraph 26 of Schedule 4 of the Regulations and has granted it in part only or has taken an action that has the effect of refusing it, paragraph 26(9) provides a right of appeal to the Secretary of State for Health and Social Care ("the Secretary of State").
- 1.4 The Secretary of State has directed NHS Resolution to determine such appeals. As an authorised officer of NHS Resolution, I have considered the appeal and have determined it, in accordance with my delegated powers.

Opening hours

- 1.5 A pharmacy's opening hours may be categorised as:
 - 1.5.1 "core opening hours" (at the hours during which the pharmacy must be open by virtue of paragraph 23(1) of Schedule 4 of the Regulations), which may incorporate a direction of the Commissioner requiring fewer or greater than 40 hours and at set times and days; or

- 1.5.2 “supplementary” opening hours (other hours during which the pharmacy premises are open which are in addition to the core hours), pursuant to paragraph 23(3) of Schedule 4 of the Regulations.

Alteration of core opening hours

- 1.6 In accordance with paragraphs 1(7)(c) and 1(7)(d) of Schedule 2 of the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list:
- 1.6.1 the proposed core opening hours in respect of the premises; and
- 1.6.2 the total proposed opening hours for the premises (having regard to both the proposed core opening hours and any supplementary opening hours).
- 1.7 The Commissioner maintains pharmaceutical lists that include the days on which and times at which, at those premises, the listed person is to provide those services during the core opening hours and any supplementary opening hours of the premises.
- 1.8 The days on which or times at which a pharmacy is obliged to provide pharmaceutical services at the premises may only be altered by the pharmacy on application under paragraph 26(1) of Schedule 4 of the Regulations, so long as the effect of that application is to reduce the total number of hours for which a pharmacy is obliged to provide, or keep the total number of hours the same.

Alteration of supplementary opening hours

- 1.9 Supplementary opening hours may be altered by the pharmacy giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner.
- 1.10 There is no specific right of appeal to NHS Resolution in respect of notices given under paragraph 23(6)(a).

The Applicant's proposals

- 1.11 The Applicant in its letter of appeal indicates that it currently has core opening hours totalling 40 hours per week.
- 1.12 The Applicant wishes to:
- 1.12.1 Open until 2:30pm Monday to Friday rather than closing at 2pm, and
- 1.12.2 Close on a Saturday morning rather than open from 9:30am to 12noon.

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 20 December 2023:

- 2.1 “This is an application to permanently change core opening hours.
- 2.2 Current opening hours for these premises:

Monday	08:30 – 14:00 16:30 – 18:30
Tuesday	08:30 – 14:00 16:30 – 18:30
Wednesday	08:30 – 14:00 16:30 – 18:30

Thursday	08:30 – 14:00 16:30 – 18:30
Friday	08:30 – 14:00 16:30 – 18:30
Saturday	09:30 – 12:00
Sunday	Closed

2.3 Proposed core opening hours for these premises:

Monday	08:30 – 14:30 16:30 – 18:30
Tuesday	08:30 – 14:30 16:30 – 18:30
Wednesday	08:30 – 14:30 16:30 – 18:30
Thursday	08:30 – 14:30 16:30 – 18:30
Friday	08:30 – 14:30 16:30 – 18:30
Saturday	See supplementary hours
Sunday	Closed

2.4 If this is a permanent change, please state below the date from which you would like the change to take effect: 1 April 2024.

2.5 The pharmacy is redistributing its hours and amended core and supplementary hours. We have attached information on GPs and pharmacies within a 1 mile radius and Boots pharmacy is open longer on most days. Due to a change of ownership we are aligning core and supplementary hours with local surgeries and the needs of patients based on our review since Oct 2023 to Dec 2023.

2.6 SK Roy Chemist SO14 0BG opens Mon – Fri 9:30am-6pm

2.7 Boots SO14 7DX open Mon-Sat exc Thurs 8am – 7pm, Thurs 8am-7:30pm and Sunday 10:30am-4:30pm.

2.8 Boots – data attached

2.9 Based on the above to maintain a sustainable level of adequate service provision for the people in the area of the pharmacy, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome. It can be seen that the service is unnecessary or not realistically achievable as there is adequate provisions and patient cares are met. The requirement to access a pharmacy within 20mins of their home/surgery is met and service provision is available 7 days a week between all the pharmacies within a 1 mile radius inc Boots.

2.10 https://cpsc.org.uk/application/files/7714/9088/4831/Southampton_PNA_Final_V1.3_PB.pdf

2.11 <https://data.southampton.gov.uk/media/xv3pn2kv/pna-2022-part-1-final-july2022.pdf>

3. The Decision

In a letter to the Applicant dated 15 April 2024 the Commissioner decided to refuse the application. The Commissioner stated:

3.1 “I write with reference to your application to permanently change the core and supplementary opening hours for LP SD One Hundred Twenty Four Limited t/a Kingsland Pharmacy, 76 St Mary’s Street, Southampton, SO14 1NY received on 26th February 2024.

3.2 Hampshire and Isle of Wight Integrated Care Board (ICB), has considered the above application and I am writing to confirm that it has been refused.

Reason for the decision

3.3 Your application has been refused on the grounds that you have not met the requirements set out in paragraph 24, Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

- *The Committee first considered that to assess the application against Paragraph 24(1)(a), it needed to determine the existing level of service provision. It could then consider whether it is necessary to maintain the existing level of service provision and if so, whether the proposed change would maintain the existing level of service provision. Matters to consider in relation to the level of service provision would include days and times services are provided, the types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.*
- *There was no information provided as part of the application to describe the existing level of service provision on Saturdays. Therefore, the Committee agreed that it could not conclude that the change in core hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises.*
- *The Committee then went on to consider Paragraph 24(1)(b). Given that there was no information provided as part of the application to describe the current level of service provision, the Committee could not conclude that the change in core hours would maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.*
- *The application to change core hours was therefore refused.*

3.4 Following the refusal of the core hours application, the supplementary hours notification will be recorded as withdrawn.

Right of appeal

3.5 You have a right of appeal to the Secretary of State against the decision of Hampshire and Isle of Wight Integrated Care Board (ICB). Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:

3.6 NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU or email: nhsr.appeals@nhs.net”

4. The Appeal

In an email to NHS Resolution of 10 May 2024 the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

4.1 “We are writing to appeal Hampshire and Isle of Wight Integrated Care Board’s (ICB) refusal to allow the redistribution of hours application made on 20 December 2023.

Core hours

- 4.2 Kingsland Pharmacy's present hours are M-F 8.30am – 2pm, 4.30pm – 6.30 pm, Sat 9.30am-12 pm, closed on Sunday.
- 4.3 The application seeks to change the hours to M-F 8.30am – 2.30pm, 4.30pm – 6.30 pm, Sat see below, closed Sunday.

Supplementary hours

- 4.4 Kingsland Pharmacy's present hours are M-F 2pm – 4.30pm, none on weekends.
- 4.5 The application seeks to change the hours to M-F 2.30 pm – 4.30 pm, Saturday 9:30-12:00, Sunday closed.
- 4.6 There is overall no actual change to the opening hours and services being provided.
- 4.7 The Pharmacy premises provides the following services:
- 4.8 Services with activity

- 4.8.1 Emergency Hormonal Contraception Combined Supply

- 4.8.2 Hypertension Case Finding

- 4.8.3 Pharmacy First (from 31 January 2024)

- 4.8.4 Acute Otitis Media

- 4.8.5 Acute Sinusitis

- 4.8.6 Acute Sore Throat

- 4.8.7 Impetigo

- 4.8.8 Minor Illness NHSmail

- 4.8.9 Shingles

- 4.8.10 Uncomplicated UTI

- 4.8.11 Urgent Supply

- 4.8.12 Supervised consumption

- 4.9 The data relates to a period of three and a half months.
- 4.10 We enclose the Pinnacle (Pharmoutcomes) reports which set out the details of the activities for the services with activity set out above.
- 4.11 As can be seen, the demand is low across the board save for the following services: Acute Sore Throat and Minor Illness NHSmail. Acute Sore Throat data is for February – 30 April 2024. Minor Illness NHSmail is for the period February 2024 – 30 April 2024. These are during current work hours, the platform does not provide a more detailed breakdown.
- 4.12 A print out of pharmacies nearby was provided with the application.
- 4.13 The nearest pharmacies include:

Pharmacy	Opening Hours	Services
Spiralstone Pharmacy 0.3 miles away from Kingsland Pharmacy	M-F 9-5pm Closed weekends	• Emergency contraception (NHS) • Emergency contraception (paid for) • NHS Pharmacy Contraception service • NHS Blood Pressure check service
SK Roy Late Night Dispensing Chemists 0.3 miles away from Kingsland Pharmacy	M-F 9:30 – 6pm Closed weekends	• Emergency contraception (paid for)
Boots 0.4 miles away from Kingsland Pharmacy	M-W, F&Sat 8am -7pm T 8am -7:30pm Sunday 10:30 – 4:30-pm	• Emergency contraception (NHS) • NHS Pharmacy Contraception service
Boots 0.6 miles away from Kingsland Pharmacy	M-Sat 8am – 9pm Sunday 11am – 5pm	• Emergency contraception (NHS) • Emergency contraception (paid for) • NHS Blood Pressure check service
Telephone House Pharmacy 0.6 miles away from Kingsland Pharmacy	M-F 9 – 5:30pm Sat 9-1pm Sunday closed	• Emergency contraception (NHS) • Emergency contraception (paid for) • NHS Pharmacy Contraception service • NHS Blood Pressure check service • Supervised consumption

- 4.14 There is no actual change of opening hours, this is an application to redistribute core and supplementary hours maintaining the existing service provisions. In any event, there are nearby chemists providing the same services.
- 4.15 A survey was not carried out because we felt this was not a reduction in hours, this was a redistribution of hours so there is no loss of opening hours or services (the opening and closing times of the pharmacy remain the same). The pharmacy will continue to maintain the existing level of service provision for the people in the area or other likely users of the pharmacy premises for the same hours as now.
- 4.16 There is no change in hours and therefore the pharmacy would maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises and therefore the need to consider whether maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome is not a necessary or required consideration.
- 4.17 The ICB was therefore incorrect in refusing the application for a change of core and supplementary hours in circumstances where for all practical purposes the opening and closing hours were not changing and the services being provided would continue to be provided in those opening hours.
- 4.18 It is therefore our submission that the requirements of paragraph 24 (of Schedule 4 to The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013) are met. In particular:
- 4.18.1 24(a) “to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises” – the existing level of service provision is being maintained either because the applicant pharmacy remains open at those times and/or there are other provides within a reasonable distance who provide those services in any event.
- 4.18.2 In the alternative this application succeeds under paragraph 24(b) of the Regulations in that there are other pharmacies which are within a reasonable distance of the applicant pharmacy providing like services.”

5. **Representations**

Whilst no representations were made by the Commissioner in response to the appeal, the papers received from the Commissioner were circulated by Primary Care Appeals to the Applicant for information only.

6. **Observations**

The Applicant responded to those papers in an email of 25 June 2024 which stated:

6.1 “Having looked through it, it appears our survey is missing, please find it attached.”

7. **Consideration**

7.1 I note the following:

7.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4. The Applicant seeks to provide services as per its proposed changes in the table at section 2 above.

7.2 The Regulations, which came into force on 1 April 2013, have been amended a number of times. Certain amendments, relating to pharmacy premises opening hours, came into force with effect from 25 May 2023.

7.3 Paragraph 26(1) states:

“26.— (1) An NHS pharmacist (P) may apply to NHS England for it to change the days on which or times at which P is obliged to provide pharmaceutical services during core opening hours at P's pharmacy premises in a way that—

(a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at those premises each week ...; or

(b) keeps that total number of hours the same.”

7.4 I have first considered paragraph 26(2) of Schedule 4 of the Regulations, which reads as follows:

“Except where sub-paragraph (2A) applies, where P makes an application under sub-paragraph (1), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to paragraph 24(1).

7.5 Paragraph 24(1) reads as follows:

“24 (1) Subject to paragraph 26(2A), where NHS England issues a direction for setting any days or times for opening hours under this Part, or determines them without issuing a direction, it must in doing so seek to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as –

(a) to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or

(b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

7.6 Paragraph 24(2) states:

(2) In considering the matters mentioned in sub-paragraph (1), NHS England –

(a) must treat any local pharmaceutical services being provided in its area as if they were pharmaceutical services being so provided, and

(b) may have regard to any pharmaceutical services that are being provided in its area during supplementary opening hours.

- 7.7 I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.
- 7.8 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.
- 7.9 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.
- 7.10 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 7.11 The existing level of service provision has been outlined by the Applicant, in its own core hours provision, and by an indication of the hours that pharmacies in the local area are open.
- 7.12 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.
- 7.13 I note the Applicant's comments that the total number of hours are not changing and that the level of service provision will remain the same. However I am mindful that whilst the overall total number of hours the pharmacy will be open is remaining the same the arrangement of these hours between core hours and supplementary hours is changing. As set out in paragraph 23(6)(a) of Schedule 4 of the Regulations, the Applicant is able to alter supplementary hours by giving notice to the Commissioner, without the need to make an application to the Commissioner. It is open to the Applicant to amend supplementary hours by giving the requisite notice, therefore the Applicant is unable to provide any assurances that they will not, in the future, seek to amend the supplementary hours. As a result of this, I have placed no weight on the supplementary hours as indicated by the Applicant and have proceeded to consider the application for the change of core hours only.

- 7.14 The Applicant is applying to change the days and times that services are provided. Taking Saturday as an example, the level of service provision at the Applicant's premises on a Saturday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 7.15 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary.
- 7.16 I note the information provided by the Applicant with regard to the other services that they provide including services through Pharmacy First (Urgent supply, minor illness, acute sore throat, impetigo etc), Hypertension and EHC. From the information supplied it shows that there is very limited take up of these services however it does demonstrate that some of the services (Urgent Supply, Hypertension and minor illness) are being used by patients on a Saturday.
- 7.17 I note that the Applicant, at 4.15 states "a survey was not carried out" however at section 6 the Applicant has provided a copy of a survey which they state was missing.
- 7.18 Whilst the title of the survey is "April 2024" the Applicant has provided no information as to when and how this survey was carried out. I note the dates of the responses are from 6 days in May 2024 and only one of these dates (25 May 2024) is a Saturday for which there is only 1 respondent. It was also the start of the Spring bank holiday. Further, I note that the sample size (11 respondents) is extremely small and I am unsure as to whether this is indicative of the number of people using the pharmacy on a regular basis. The title of the survey and the dates provided for those who did respond do not match. Overall, the survey is limited in terms of quality, quantity of responses and there is no indication of when and over what period it was carried out and therefore I have placed very little weight on the survey.
- 7.19 I am also mindful provision of pharmaceutical services is more than just the provision of prescriptions or the Pharmacy First scheme. I have no information before me as to the numbers of patients who may be visiting the pharmacy for general advice which does not fall to be recorded under any of the schemes that the pharmacy has signed up for.
- 7.20 It is difficult to draw conclusions about the necessity of maintaining the existing level of service provision if there is limited or no information on what services persons are using and on/at what days/times, however there does appear to be some persons who are using the pharmacy on the day and time at which they are proposing to close.
- 7.21 Without more detailed information it is difficult to make an assessment of whether it is necessary to maintain the existing level of service provision and this in turn makes it difficult to apply paragraph 24(1)(a). I consider it reasonable to take the position that unless I am provided with sufficient evidence to the contrary, I should consider that it is necessary to maintain the existing level of service provision.
- 7.22 Having determined that it is reasonable to assume that maintaining the existing level of service provision is necessary, I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision. The Applicant cannot maintain this as it is changing its hours but I note the undisputed information from the Applicant with regard to other pharmacies in the area that, between them, have opening hours during the times that the Applicant is proposing to close, namely the two Boots pharmacies and Telephone House Pharmacy.
- 7.23 The Applicant has also provided information from NHS Choices regarding the addresses of medical practices in the area as well as the Urgent Treatment Centres.

In addition the Applicant has provided, also from NHS Choices, overviews of the closest medical practices. I have also been provided with limited information, again from NHS Choices, in respect of the nearest pharmacies to the Applicant's pharmacy as well as overviews of these pharmacies.

- 7.24 If I consider that the characteristics of other pharmacies, e.g. where they are located, their access, the services provided and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 7.25 Within the survey, the Applicant has provided information with regard to how those using the pharmacy access the pharmacy and how they might travel to find alternative pharmaceutical services, albeit the responses are limited due to the very limited sample size of those who were surveyed. As one would expect, those accessing the pharmacy do so by walking, using public transport or driving, however the Applicant has not provided any information as to the location of alternative pharmacies in the area (except for distance as taken from NHS choices) or how people would be able to access these pharmacies. There is no information regarding physical access to alternative pharmacies for those who currently access the Applicant's pharmacy.
- 7.26 I am therefore struggling to be satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies.
- 7.27 I have decided that it is necessary to maintain the current service provision but, due to the cumulative effect of the survey not assuring me that it is representative of the use of the pharmacy and a lack of information about the access to alternative pharmacies in the area, I am not satisfied that there will be maintenance of the existing level of service provision by other pharmacies in the area.
- 7.28 I therefore next consider if I need to have regard to paragraph 24(1)(b) which states that I must seek to ensure that the changed hours are such as to:
- "maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome".*
- 7.29 I have already determined that it is necessary to maintain the existing level of service provision so reference in paragraph 24(1)(b) to *"in circumstances where maintaining the existing level of service provision is ... unnecessary"* is not relevant.
- 7.30 On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, I consider that no evidence has been put forward in respect of this criteria.
- 7.31 The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. I do not consider that sufficient evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 7.32 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned. I am of the view that I have not been provided with sufficient information to demonstrate how the proposed change of hours would maintain, as necessary, the existing levels of service provision.

8. Determination

- 8.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I am satisfied that maintaining the current level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 8.2 The action taken by the Commissioner to refuse the application is confirmed.

**Head of Appeals
NHS Resolution**